

LEASE AGREEMENT

By and between

THE INDUSTRIAL DEVELOPMENT BOARD OF  
THE TOWN OF PELHAM

and

WALKER DRUG COMPANY

Dated as of February 1, 1991

The interest of The Industrial Development Board of the Town of Pelham in any rents, revenues and receipts derived by it under this Lease Agreement has been assigned to AmSouth Bank, National Association, as Trustee under the Mortgage and Indenture of Trust, dated as of February 1, 1991 from The Industrial Development Board of the Town of Pelham.

This Lease Agreement was prepared by R. H. Walston of Cabaniss, Johnston, Gardner, Dumas & O'Neal, 1700 AmSouth-Sonat Tower, Birmingham, Alabama 35203

Cabaniss Johnston

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LEASE AGREEMENT

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STATE OF ALABAMA  
SHELBY COUNTY

LEASE AGREEMENT dated as of February 1, 1991, between THE INDUSTRIAL DEVELOPMENT BOARD OF THE TOWN OF PELHAM, a public corporation and instrumentality under the laws of the State of Alabama, party of the first part, and WALKER DRUG COMPANY, a general partnership organized under the laws of the State of Alabama, party of the second part,

W I T N E S S E T H:

In consideration of the mutual covenants and agreements hereinafter contained, the parties hereto hereby covenant, agree and bind themselves as follows, to-wit:

#### ARTICLE I

##### DEFINITIONS, REPRESENTATIONS AND DEMISE CLAUSE

Section 1.1 Definitions. In addition to the definitions in Section 7.8 hereof, the following words, terms or phrases, when used in this Lease Agreement, have the following meanings, unless the context clearly indicates a different meaning:

"Authorized Investments" shall have the meaning ascribed in the Indenture.

"Basic Rent" means that portion of the rent payable under Section 3.2(a) hereof.

"Bond" means the Industrial Development Revenue Bond (Walker Drug Project) of the Lessor issued pursuant to the Indenture in the principal amount of \$7,360,000.

"Bond Fund" means the fund established under Section 4.1 of the Indenture.

"Bondholder" or "holder" or "owner of the Bond" means the registered owner of the Bond.

"Buildings" means (i) the buildings, structures and fixtures constructed or installed on the Leased Realty pursuant to the Inducement Agreement, and (ii) all other buildings, structures and fixtures now or hereafter located on the Leased Realty, as they may at any time exist.

"Construction Fund" means the fund established under Section 3.2 of the Indenture.

"Enabling Law" means Article 4 of Chapter 54 of Title 11 of the CODE OF ALABAMA 1975 (Section 11-54-80 et seq.).

**"Equipment"** means (i) the machinery, equipment and personal property acquired and installed in or about the Buildings or on the Leased Realty pursuant to the Inducement Agreement, including without limitation any machinery, equipment and personal property acquired with the proceeds from the sale of the Bond and the machinery, equipment and personal property described in Exhibit B attached hereto and made a part hereof, and (ii) any machinery, equipment or personal property acquired in substitution therefor or as a renewal or replacement thereof pursuant to the provisions hereof.

**"Guarantors"** means (i) Walker Enterprises, Inc., a corporation organized under the laws of the State of Alabama, and (ii) any surviving, resulting or transferee corporation as permitted in the Guaranty Agreement, and (iii) James O. Walker, James O. Walker, Jr., and William W. Walker, III, their heirs, successors and assigns.

**"Guaranty Agreement"** means the Guaranty Agreement dated as of February 1, 1991, between the Guarantors and the Trustee.

**"Indenture"** means the Mortgage and Indenture of Trust (including any indenture supplemental thereto) between the Lessor and AmSouth Bank, National Association, as trustee, of even date, which will be filed for record in the office of the Judge of Probate of Shelby County, Alabama, at the same time this Lease Agreement is so filed in said office.

**"Independent Architect"** means a person registered and qualified to practice as an architect under the laws of the State, not unsatisfactory to the Trustee, and not in the full-time employment of either the Lessor or the Lessee.

**"Independent Engineer"** means a person registered and qualified to practice as an engineer under the laws of the State, not unsatisfactory to the Trustee, and not in the full-time employment of either the Lessor or the Lessee.

**"Inducement Agreement"** means the agreement between the Lessor and Lessee dated April 3, 1990, whereby the Lessor agreed to issue the Bond to finance the cost of the Project.

**"Irondale Facility"** means the real property described in Exhibit C attached hereto and made a part hereof by this reference and all buildings, structures and improvements thereon and therein, and all machinery, equipment and personal property therein.

**"Lease Agreement"** means these presents as supplemented and amended by the Lessor and the Lessee.



"Lease Term" means the duration of the leasehold estate granted in Section 3.1 of this Lease Agreement.

"Leased Realty" means the real estate referred to in Section 1.4 hereof less any such real estate, interests in real estate and other rights as may be taken by the exercise of the power of eminent domain.

"Lessee" means the party of the second part hereto.

"Lessor" means (i) the party of the first part hereto, and its successors and assigns and (ii) any public corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party as permitted in Section 6.3 hereof.

"Municipality" means the City of Pelham, Alabama.

"Net Proceeds", when used with respect to any insurance or condemnation award, means the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all reasonable expenses (including reasonable attorneys' fees and any extraordinary fee of the Trustee) incurred in the collection of such gross proceeds.

"Project" means the Leased Realty, the Buildings, and the Equipment, as they may at any time exist, and all other property and rights referred to, or intended so to be, in the demising clauses hereof.

"Project Costs" means (i) the costs incurred in connection with the issuance and sale of the Bond and (ii) all costs of acquiring and constructing the Project.

"State" means the State of Alabama.

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

Section 1.2 Representations by the Lessor. The Lessor makes the following representations:

(a) The Lessor is duly incorporated under the provisions of the Enabling Law and has the power to enter into the transactions contemplated by this Lease Agreement and to carry out its obligations hereunder. The Lessor is not in default under any of the provisions contained in its certificate of incorporation, its by-laws, or in the laws of the State. By proper corporate action the Lessor has duly authorized the execution and delivery of this Lease Agreement.

(b) The Lessor has determined that the issuance of the Bond, the acquisition and construction of the Project and the leasing of the Project to the Lessee will promote industry, develop trade and further the use of the agricultural products and natural and human resources of the State and the development and preservation of said resources.

(c) The Bond will be issued and delivered contemporaneously with the delivery of this Lease Agreement.

Section 1.3 Representations by the Lessee. The Lessee makes the following representations:

(a) The Lessee is duly organized under the laws of the State and is duly authorized to do business in the State, is not in violation of any provisions of its articles or agreement of partnership, or the laws of the State, has power to enter into this Lease Agreement, and by proper action has duly authorized the execution and delivery of this Lease Agreement.

(b) The financing of the Project through the issuance of the Bond and the leasing of the Project to the Lessee has induced the Lessee to enlarge, expand and improve existing operations in the State.

(c) The Lessee intends to operate the Project for the storing, warehousing and distribution of (i) drug and sundry products or (ii) such other products of agriculture, mining and industry as the Lessee may deem appropriate.

(d) Substantially all of the proceeds of the Bond will be used to pay an obligation incurred to pay for the acquisition, construction, or improvement of land or property of a character subject to the allowance for depreciation, and costs in connection therewith.

Section 1.4 Demise of the Project. The Lessor, for and in consideration of the rents, covenants and agreements hereinafter reserved, mentioned and contained on the part of the Lessee to be paid, kept and performed, does hereby demise and lease to the Lessee, and the Lessee does hereby lease, take and hire from the Lessor, the real property and interest in real property located in the City of Pelham, Shelby County, Alabama, described on Exhibit A attached hereto and made a part hereof by this reference, together with the Buildings and the Equipment, as they may at any time exist, and all other properties which, under the terms hereof, are or subsequently become a part of the Project.



## ARTICLE II

### ACQUISITION OF THE PROJECT

Section 2.1 Agreement to Acquire. From the principal proceeds derived from the sale of the Bond, the Lessor will, to the extent moneys are available, pay the principal of and interest on the Note of the Lessee to AmSouth Bank N.A. incurred to: (a) pay the costs incurred in connection with the issuance of the Bond and the said Note; (b) pay the costs of acquiring the Leased Realty; (c) pay the costs of constructing or installing buildings, structures and fixtures on the Leased Realty; and (d) pay the costs of acquiring and installing in or about such buildings and structures or on the Leased Realty the machinery, equipment and personal property generally described in Exhibit B attached hereto and made a part hereof.

Pursuant to the Inducement Agreement the Lessor agreed to issue the Bond to finance the cost of the Project, to proceed, or permit the Lessee to proceed, pending the issuance of the Bond, with the acquisition and construction of the Project with funds advanced by the Lessee, and to reimburse the Lessee for funds so advanced from the proceeds of the Bond when issued. In accordance with the Inducement Agreement, the Lessee and the Lessor have proceeded to completion with the acquisition and construction of the Project. The Lessor shall cause withdrawals to be made from the Construction Fund to reimburse the Lessee for funds advanced to the Lessor on behalf of the Lessee or expended by the Lessee for such purpose, subject to the requirements of the Indenture with respect to withdrawals from the Construction Fund.

The Lessor will not execute any construction contract or purchase orders for the Project without the prior written consent of the Lessee.

Section 2.2 No Warranty of Suitability by Lessor; Lessee Required to Complete Project in Certain Events. The Lessee recognizes that since the plans and specifications for constructing and installing such buildings, structures and fixtures were furnished by it, and since the machinery, equipment and personal property acquired was selected by it and has been installed in accordance with its directions, THE LESSOR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, NOR OFFERS ANY ASSURANCES THAT THE PROJECT WILL BE SUITABLE FOR THE LESSEE'S PURPOSES OR NEEDS OR THAT THE PROCEEDS DERIVED FROM THE SALE OF THE BOND WILL BE SUFFICIENT TO PAY IN FULL ALL PROJECT COSTS. In the event the proceeds derived from the sale of the Bond are insufficient to pay in full all Project Costs, the Lessee shall be obligated to complete the acquisition and construction of the Project at its own expense

and the Lessee shall pay any such deficiency and shall save the Lessor whole and harmless from any obligation to pay such deficiency. The Lessee shall not by reason of the payment of such deficiency from its own funds be entitled to any diminution in the payment of the rents hereunder or to any lien on the Project.

Section 2.3 Lessor to Pursue Remedies Against Vendors, Contractors and Subcontractors and Their Sureties. In the event of default of any vendor, contractor or subcontractor under any contract or purchase order or warranty made by it for acquisition, construction or installation of the Project, the Lessor will promptly proceed (subject to the Lessee's advice to the contrary), either separately or in conjunction with others, to exhaust the remedies of the Lessor against the vendor, contractor or subcontractor so in default and against his surety (if any) for the performance of such contract or warranty or purchase order. The Lessor will advise the Lessee of the steps it intends to take in connection with any such default and the Lessee will pay all costs, fees and expenses incurred in connection therewith. If the Lessee shall so notify the Lessor, the Lessee may, in its own name or in the name of the Lessor, prosecute or defend any action or proceeding or take any other action involving any such vendor, contractor, subcontractor or surety which the Lessee deems reasonably necessary, and in such event the Lessor will cooperate fully with the Lessee and will take all action necessary to effect the substitution of the Lessee for the Lessor in any such action or proceeding. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing shall be paid to the Lessee.

Section 2.4 Investment of Construction Fund and Bond Fund Moneys. The Lessor shall cause any moneys held as a part of the Construction Fund and the Bond Fund to be invested or reinvested by the Trustee in Authorized Investments at the request of, and as directed by, the Lessee. Any interest bearing deposits, including certificates of deposit, issued by or deposited with the Trustee shall be deemed to be investments and not trust deposits. The Trustee may make any and all such investments through its own investment services department.

### ARTICLE III

#### DURATION OF LEASE TERM AND RENTAL PROVISIONS

Section 3.1 Duration of Term. The term of this Lease Agreement and of the lease herein made shall begin on the date of the delivery of this Lease Agreement and, subject to the provisions of this Lease Agreement, shall continue until

midnight of February 28, 2006. The Lessee is in possession of the Project pursuant to the Inducement Agreement. The Lessor will deliver to the Lessee possession of the Project pursuant hereto on the commencement date of the Lease Term, subject to the inspection and other rights reserved in this Lease Agreement, and the Lessee will accept such possession thereof at such time; provided, however, the Lessor will be permitted such possession of the Project as shall be necessary and convenient for it to construct or install any additions or improvements and to make any repairs or restorations required or permitted to be constructed, installed or made by the Lessor pursuant to the provisions hereof.

Section 3.2 Rental Provisions. (a) Basic Rent. The Lessee does hereby covenant and agree to pay to the Lessor Basic Rent in installments as follows:

(i) On April 1, 1991, and on the first day of each calendar month thereafter an amount equal to interest accrued on the unpaid principal amount of the Bond to such date;

(ii) On June 1, 1991, and on the first day of each March, June, September and December thereafter, to and including December, 2005, or until the Bond is paid in full, the sum of \$122,667, subject to the third paragraph of Section 6.4 hereof; and

(iii) On February 28, 2006, unless sooner paid, an amount equal to the entire unpaid principal amount of the Bond plus the interest accrued thereon to the date of payment.

All Basic Rent payments shall be made directly to the Trustee for the account of the Lessor and shall be deposited in the Bond Fund. The Lessee recognizes, understands and acknowledges that it is the intention hereof that this Lease Agreement be a net lease and that until the Bond is fully paid Basic Rent shall be in such amounts and shall be due at such times as shall be required to pay the installments of principal and interest on the Bond as the same become due and payable. This Lease Agreement shall be construed to effectuate such intent. If on any installment payment date the balance in the Bond Fund is insufficient to pay the installments of principal and interest on the Bond due and payable on such date, the Lessee will forthwith pay any such deficiency. Any installment of Basic Rent not paid on the due date thereof shall bear interest until paid at the Prime Rate (as defined in the Bond) plus 2% per annum, or the maximum rate of interest allowed by law, whichever is less.

The Lessor shall cause all moneys deposited in the Bond Fund to be applied to the payment of principal of or interest on the Bond.

(b) Additional Rent. The Lessee shall pay as additional rent to the Trustee (i) an amount equal to the annual fee of the Trustee for the ordinary services of the Trustee rendered and its ordinary expenses incurred under the Indenture, as and when the same becomes due, (ii) the reasonable fees and charges of the Trustee as bond registrar and paying agent as provided in the Indenture, as and when the same become due, and (iii) the reasonable fees, charges and expenses of the Trustee for necessary extraordinary services rendered by it and extraordinary expenses incurred by it under the Indenture, as and when the same become due; provided, that the Lessee may, without creating a default hereunder, contest in good faith the necessity for any such extraordinary services and extraordinary expenses and the reasonableness of any such fees, charges or expenses.

The Lessee further agrees to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of the trusts under the Indenture, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers and duties under the Indenture.

Section 3.3 Obligations of Lessee Unconditional. The obligation of the Lessee to pay Basic Rent and additional 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 Lessor or the Trustee or the Bondholder. The Lessee will not suspend or discontinue any such payment or fail to perform and observe any of its other agreements and covenants contained herein or terminate this Lease Agreement for any cause whatsoever, including, without limiting the generality of the foregoing, failure of the Lessor to complete the Project, any acts or circumstances that may constitute an eviction or constructive eviction, failure of consideration or commercial frustration of purpose, the invalidity of any provision of the Lease Agreement, 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 or administrative rulings, actions or regulations of the United States of America or of the State or any political or taxing subdivision of either thereof, or any failure of the Lessor to perform and observe any agreement or covenant, whether express or implied, or any duty, liability or obligation rising out of or in connection with this Lease Agreement. Notwithstanding the foregoing, the Lessee may, at its own cost and expense and



in its own name or in the name of the Lessor, prosecute or defend any action or proceeding, or take any other action involving third persons which the Lessee deems reasonably necessary in order to secure or protect its rights of use and occupancy and the other rights hereunder. The Provisions of the first and second sentences of this Section shall apply only so long as any part of the principal of and the interest on the Bond remains outstanding and unpaid.

#### ARTICLE IV

#### MAINTENANCE, ALTERATIONS, REPLACEMENTS, TAXES AND INSURANCE

Section 4.1 Maintenance and Repairs, Alterations and Improvements to Buildings, Party Walls, and Liens. (a) The Lessee will, at its own expense, (i) keep the Project in as reasonably safe condition as its operations permit, (ii) from time to time make all necessary and proper repairs, renewals and replacements thereto, including external and structural repairs, renewals and replacements, and (iii) pay all gas, electric, water, sewer and other charges for the operation, maintenance, use and upkeep of the Project.

(b) The Lessee may, at its own expense, and with the prior written consent of the Bondholder, make structural changes, additions, improvements, alterations or replacements to the Buildings that it may deem desirable; provided such structural changes, additions, improvements, alterations or replacements do not change the character of the Project as a "project" under the Enabling Law; and provided further that the Lessee files with the Lessor and the Trustee a certificate of an Independent Engineer or an Independent Architect that such additions, improvements, alterations or replacements will not adversely affect the utility of the Project or substantially reduce its value. In lieu of making such additions, improvements or alterations itself, the Lessee may, if it so desires, furnish to the Lessor the funds necessary therefor, in which case the Lessor will proceed to make such additions, improvements, alterations or replacements. All such additions, improvements, alterations and replacements whether made by the Lessee or the Lessor shall become a part of the Project and shall be covered by this Lease Agreement and the Indenture.

(c) With the prior written consent of the Bondholder, the Lessee may connect or "tie-in" walls of the Buildings and utility and other facilities located on the Leased Realty to other structures and facilities owned or leased by it on real property adjacent to the Leased Realty. With the prior written consent of the Bondholder, the Lessee may use as a party wall any wall of the Buildings which is on or contiguous

to the boundary line of real property owned or leased by it, and in the event of such use, each party hereto hereby grants to the other a ten-foot easement adjacent to any such party wall for the purpose of inspection, maintenance, repair and replacement thereof and the tying-in of new construction. If the Lessee so utilizes any wall of the Buildings as a party wall for the purpose of tying in new construction that will be utilized under common control with the Project, the Lessee may also remove any non-loadbearing wall panel in the party wall; provided, however, if the adjacent property ceases to be operated under common control with the Project, the Lessee will at its expense, install wall panels similar in quality to those that have been removed. Prior to the exercise of any one or more of the rights granted by this subsection (c), the Lessee shall furnish the Lessor and Trustee a certificate of an Independent Engineer or an Independent Architect that the operation of the Project will not be adversely affected by the exercise of such rights.

(d) The Lessor will also, upon request of the Lessee, and with the prior written consent of the Bondholder, grant such utility and other similar easements over, across or under the Leased Realty as shall be necessary or convenient for the furnishing of utility and other similar services to real property adjacent to or near the Leased Realty and owned or leased by the Lessee; provided that such easements shall not adversely affect the operation of the facilities forming a part of the Project.

(e) The Lessee will not permit any mechanics' or other liens to stand against the Project for labor or material furnished it. The Lessee may, however, in good faith contest any such mechanics' or other liens and in such event may permit any such liens to remain unsatisfied and undischarged during the period of such contest and any appeal therefrom unless the Bondholder is of the opinion, after notice thereof, that by such action the lien of the Indenture on the Project or any part thereof, or the Project or any part thereof shall be subject to loss or forfeiture, in either of which events such mechanics' or other liens shall be promptly satisfied.

Section 4.2 Removal of, Substitution and Replacement for Equipment. The Lessor and the Lessee recognize that portions of the Equipment may from time to time become inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary in the operation of the Project, but the Lessor shall not be under any obligation to renew, repair or replace any such Equipment. If the Lessee in its sole discretion determines that any item of Equipment has become inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary in the operation of the Project, the Lessee may, with the prior written consent of the Bondholder, remove such Equipment from



the Buildings or the Leased Realty and (on behalf of the Lessor) sell, trade in, exchange or otherwise dispose of it without any responsibility or accountability to the Lessor or the Trustee therefor, provided that

(i) the Lessee shall substitute and install in the Buildings or on the Leased Realty (either by direct payment of the costs thereof or by advancing to the Lessor the funds necessary therefor) other machinery, equipment or personal property having equal or greater value and utility (but not necessarily the same function) in the operation of the Project, which such substituted machinery, equipment or personal property shall be free of all liens and encumbrances, shall be the sole property of the Lessor, shall be and become a part of the Equipment subject to the demise hereof and to the lien of the Indenture, and shall be held by the Lessee on the same terms and conditions as the items originally comprising the Equipment;

(ii) such removal and substitution shall not impair the operating unity of the Project; and

(iii) such removal and substitution shall not change the nature of the Project as a "project" under the Enabling Law.

**Section 4.3 Installation By Lessee of Its Own Machinery and Equipment.** The Lessee may, at its own expense, install in the Buildings or on the Leased Realty any machinery, equipment or personal property which in the Lessee's judgment will facilitate the operation of the Project. Any such machinery, equipment or personal property which is installed at the Lessee's expense and does not constitute a substitution or replacement for the Equipment pursuant to Section 4.2 hereof shall be and remain the property of the Lessee and may be removed by the Lessee at any time and from time to time while it is not in default under the terms of this Lease Agreement; provided, however, that any damage to the Project occasioned by such removal shall thereupon be repaired by the Lessee at its own expense. At the time of the installation by the Lessee of any items of its own machinery, equipment or personal property in the Buildings or on the Leased Realty, the Lessee shall plainly, distinctly, permanently and conspicuously place and fasten on each item a metal plate (or other practicable identification) readily visible identifying the item as the property of the Lessee. In case any such plate shall at any time be removed, defaced or destroyed, the Lessee shall immediately cause the same to be restored or replaced. All machinery, equipment and personal property located on the Leased Realty and not so identified shall be conclusively presumed to be a part of the Equipment.

**Section 4.4 Taxes, Other Governmental Charges and Utility Charges.** The Lessor and the Lessee acknowledge (a) that under present law no part of the Project will be subject to ad valorem taxation by the State or by any political or taxing subdivision thereof and that under present law the income and profits (if any) of the Lessor from the Project are not subject to either federal or state taxation, and (b) that these factors, among others, have induced the Lessee to enter into this Lease Agreement. However, the Lessee will pay, as the same respectively become due, (i) all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project or any other property installed or brought by the Lessee on the Leased Realty, including without limitation any taxes levied on or with respect to the revenues, income or profits of the Lessor from the Project and any other taxes levied upon or with respect to the Project which, if not paid, will become a lien on the Project prior to or on a parity with the lien of the Indenture or a charge on the revenues and receipts from the Project prior to or on a parity with the charge thereon and pledge or assignment thereof created and made in the Indenture and including any ad valorem taxes assessed upon the Lessee's interest in the Project, and (ii) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Project; provided, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only such installments as are required to be paid during the Lease Term. The foregoing provisions of this Section shall be effective only so long as any part of the principal of or the interest on the Bond remains outstanding and unpaid.

The Lessee may, at its own expense and in its own name and behalf or in the name and behalf of the Lessor, in good faith contest any such taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, if during such period enforcement of such contested items shall be effectively stayed. The Lessor, at the expense of the Lessee, will cooperate fully with the Lessee in any such contest.

**Section 4.5 Insurance Required.** The Lessee will take out and continuously maintain in effect the following insurance with respect to the Project, paying as the same become due all premiums with respect thereto:

(a) Insurance to the extent of the full insurable value of the Project against loss or damage by fire, with uniform

standard extended coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at the time in use in the State;

(b) In time of war in which the United States of America is a belligerent, such insurance to the extent of the full insurable value of the Project as may be available against loss or damage by the risks and hazards of war;

(c) Insurance against liability for bodily injury to or death of persons and for damage to or loss of property occurring on or about the Project or in any way related to the condition or operation of the Project, in the minimum amounts of \$500,000 for death of or bodily injury to any one person, \$1,000,000 for all death and bodily injury claims resulting from any one accident, and \$100,000 for property damage; and

(d) Flood insurance under the national flood insurance program established by the Flood Disaster Protection Act of 1973, as at any time amended, at all times while the Project is eligible under such program, in an amount at least equal to the unpaid principal amount of the Bond or to the maximum limit of coverage made available with respect to the Project under said Act, whichever is less.

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All policies evidencing the insurance required by the terms of the preceding paragraph shall be taken out and maintained in generally recognized responsible insurance companies, qualified under the laws of the State to assume the respective risks undertaken; provided that any policy or policies evidencing the insurance required in clauses (b) and (d) of the preceding paragraph may be taken out from and maintained in the United States of America or an agency thereof. All such insurance policies shall name as insureds the Lessor, the Trustee and the Lessee (as their respective interests shall appear) and shall contain standard mortgage clauses providing for all losses thereunder in excess of \$50,000, to be paid to the Trustee; provided that all losses (including those in excess of \$50,000) may be adjusted by the Lessee, subject, in the case of any single loss in excess of \$50,000, to the approval of the Trustee. The Lessee may insure under a blanket policy or policies.

Each insurance policy required to be carried by this Section shall contain, to the extent obtainable, an agreement by the insurer that (i) the Lessee may not, without the consent of the Lessor and Trustee, cancel such insurance or sell, assign or dispose of any interest in such insurance, such policy, or any proceeds thereof, (ii) such insurer will notify the Lessor and the Trustee if any premium shall not be paid when due or any such policy shall not be renewed prior to the expiration thereof, and (iii) such insurer shall not

cancel any such policy except on thirty days' prior written notice to the Lessor and the Trustee.

All policies evidencing the insurance required to be carried by this Section shall be deposited with the Trustee; provided, however, that in lieu thereof the Lessee may deposit with the Trustee a certificate or certificates of the respective insurers attesting the fact that such insurance is in force and effect. Prior to the expiration of any such policy, the Lessee will furnish to the Trustee evidence reasonably satisfactory to the Trustee that such policy has been renewed or replaced by another policy or that there is no necessity therefor under this Lease Agreement.

Section 4.6 Advances by Lessor or Trustee. In the event that the Lessee fails to take out or maintain the full insurance coverage required by this Lease Agreement, fails to pay the taxes or other charges required to be paid by the Lessee at or prior to the time they are required to be paid, or fails to keep the Project in good order and repair and in as reasonably safe condition as its operations permit, the Lessor or the Trustee, after first notifying the Lessee of any such failure on its part, may (but shall not be obligated to) take out the required policies of insurance and pay the premiums on the same, pay such taxes or other charges, or make such repairs, renewals or replacements as may be necessary to maintain the Project in as reasonably safe condition as the Lessee's operations permit and to keep the Project in good order and repair. All amounts so advanced therefor by the Lessor or the Trustee, together with interest thereon from the date of advancement at the Prime Rate (as defined in the Bond) plus 2% per annum or the maximum rate of interest allowed by law, whichever is less, shall become an additional obligation payable by the Lessee to the Lessor or to the Trustee, as the case may be. Any remedy herein vested in the Lessor or the Trustee for the collection of the rental payments shall also be available to the Lessor and the Trustee for the collection of all such additional obligations for amounts so advanced.

Section 4.7 Indemnity of Lessor. The Lessee agrees to pay, and to indemnify and hold the Lessor harmless against, any and all liabilities, losses, damages, claims or actions (including all reasonable attorneys' fees and expenses of the Lessor), of any nature whatsoever incurred by the Lessor without gross negligence on its part arising from or in connection with its performance or observance of any covenant or condition on its part to be observed or performed under this Lease Agreement or the Indenture, including without limitation, (i) any injury to, or the death of, any person or any damage to property at the Project, or in any manner growing out of or connected with the use, nonuse, condition or occupation of the Project or any part thereof, (ii) any



damage, injury, loss or destruction of the Project, (iii) any other act or event occurring upon, or affecting, any part of the Project, (iv) violation by the Lessee of any contract, agreement or restriction affecting the Project or the use thereof of which the Lessee has notice and which shall have existed at the commencement of the term hereof or shall have been approved by the Lessee, or of any law, ordinance or regulation affecting the Project or any part thereof or the ownership, occupancy or use thereof, and (v) liabilities, losses, damages, claims or actions arising out of the offer and sale of the Bond or a subsequent sale of the Bond or any interest therein, unless the same resulted from a representation or warranty of the Lessor in the Lease Agreement or any certificate delivered by the Lessor pursuant thereto being false or misleading in a material respect and such representation or warranty was not based upon a similar representation or warranty of the Lessee furnished to the Lessor in connection therewith. The covenants of indemnity by the Lessee contained in this Section shall survive the termination of this Lease Agreement.

The Lessee hereby agrees that the Lessor shall not incur any liability to the Lessee, and shall be indemnified against all liabilities, in exercising or refraining from asserting, maintaining or exercising any right, privilege or power of the Lessor under the Indenture if the Lessor is acting in good faith and without gross negligence or in reliance upon a written request by the Lessee.

#### ARTICLE V

##### PROVISIONS RESPECTING DAMAGE, DESTRUCTION AND CONDEMNATION

Section 5.1 Damage and Destruction. If the Project is destroyed or is damaged by fire or other casualty to such extent that the claim for loss resulting from such destruction or damage is not greater than \$50,000, the Lessee will continue to pay the rent required to be paid hereunder and the Lessee, or the Lessor at the Lessee's direction and expense, (i) will promptly repair, rebuild or restore the property damaged or destroyed to substantially the same condition in which it existed prior to the event causing such damage or destruction, with such changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Lessee and as will not impair the operating unity or productive capacity of the Project or its character as a "project" under the Enabling Law, and (ii) will apply for such purpose so much as may be necessary of any Net Proceeds of insurance resulting from claims for such losses, as well as any additional moneys of the Lessee necessary therefor. If the cost of such repairs, rebuilding and

restoration is less than the amount of Net Proceeds of the insurance referable thereto, the Lessee may retain the amount by which such insurance proceeds exceed said total cost.

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If the Project is destroyed (in whole or in part) or is damaged by fire or other casualty to such extent that the claim for loss resulting from such destruction or damage is in excess of \$50,000, the Lessee will continue to pay the rent required to be paid hereunder and will promptly give written notice of such damage and destruction to the Bondholder, the Trustee and the Lessor. All Net Proceeds of insurance resulting from claims for such losses shall be paid to the Trustee and deposited in the Construction Fund, whereupon, with the prior written approval of and at the direction of the Bondholder, (a) the moneys shall be applied to the prepayment of the principal of the Bond, or (b) (i) the Lessee, or the Lessor at the Lessee's direction, will proceed promptly to repair, rebuild or restore the property damaged or destroyed to substantially the same condition in which it existed prior to the event causing such damage or destruction, with such changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Lessee and as will not impair the operating unity or productive capacity of the Project or its character as a "project" under the Enabling Law and (ii) the Lessor will cause withdrawals to be made from the Construction Fund in the manner provided in the Indenture to pay the costs of such repair, rebuilding or restoration, either on completion thereof, or as the work progresses, and (iii) the balance, if any, of insurance proceeds in the Construction Fund remaining after the payment of all of the costs of any such repair, rebuilding or restoration shall be applied to the prepayment of the principal of the Bond on the earliest practicable installment payment date or, if the Bond is fully paid, shall be paid to the Lessee.

In the event the Net Proceeds of insurance are not sufficient to pay in full the costs of repairing, rebuilding and restoring the Project as provided in this Section, and that alternative is selected, the Lessee will nonetheless complete the work thereof and will pay that portion of the costs thereof in excess of the amount of said proceeds or will pay to the Trustee for the account of the Lessor the moneys necessary to complete said work. The Lessee shall not by reason of the payment of such excess costs (whether by direct payment thereof or payment to the Trustee therefor) be entitled to any reimbursement from the Lessor or any abatement or diminution of the rents payable hereunder, or to any lien on the Project.

Anything in this Section to the contrary notwithstanding, if, as a result of such damage or destruction (irrespective of



whether the loss resulting therefrom is greater than \$50,000 or not), the Lessee is entitled to exercise an option to purchase the Project and duly does so in accordance with the applicable provisions of Section 9.2 hereof, then neither the Lessee nor the Lessor shall be required to repair, rebuild or restore the property damaged or destroyed, and so much (which may be all) of any Net Proceeds referable to such damage or destruction as shall be necessary to provide for full payment of the Bond (as specified in Section 6.4 hereof) shall be paid to the Trustee and the excess thereafter remaining (if any) shall be paid to the Lessee.

Section 5.2 Condemnation. In the event that title to, or the temporary use of, the Project or any part thereof shall be taken under the exercise of the power of eminent domain and as a result thereof the Lessee is entitled to exercise an option to purchase the Project and duly does so in accordance with the applicable provisions of Section 9.2 hereof, so much (which may be all) of the Net Proceeds referable to such taking, including the amounts awarded to the Lessor and the Trustee and the amount awarded to the Lessee for the taking of all or any part of the leasehold estate of the Lessee in the Project created by this Lease Agreement, as shall be necessary to provide for full payment of the Bond (as specified in Section 6.4 hereof) shall be paid to the Trustee and the excess of such Net Proceeds remaining (if any) shall be paid to the Lessee.

BOOK 330 PAGE 777 If as a result of such taking, the Lessee is not entitled to exercise an option to purchase the Project under Section 9.2 hereof, or, having such option, fails to exercise the same in accordance with the terms thereof or notifies the Lessor and the Trustee in writing that it does not propose to exercise such option, the Lessee shall be obligated to continue to make the rental payments required to be paid under this Lease Agreement, and the entire Net Proceeds hereinabove referred to shall be paid to the Trustee and applied in one or more of the following ways as shall be directed in writing by the Lessee with the prior written consent of the Bondholder:

(a) To the restoration of the remaining improvements located on the Leased Realty to substantially the same condition in which they existed prior to the exercise of the power of eminent domain.

(b) To the acquisition, by construction or otherwise, by the Lessor of other lands or improvements suitable for the Lessee's operations at the Project, which land or improvements shall be deemed a part of the Project and available for use and occupancy by the Lessee without the payment of any rent other than that herein provided to the same extent as if such land or other improvements were specifically described herein

and demised hereby, and which land or improvements shall be acquired by the Lessor subject to no liens or encumbrances prior to the lien of the Indenture.

(c) To the prepayment of the principal of the Bond.

Any balance of such Net Proceeds remaining after the application thereof as provided in subsections (a) and (b) of this Section shall be applied to the prepayment of the principal of the Bond on the earliest practicable principal installment payment date or, if the Bond is fully paid, shall be paid to the Lessee.

The Lessor shall cooperate fully with the Lessee in the handling and conduct of any prospective or pending condemnation proceeding with respect to the Project or any part thereof and will, to the extent it may lawfully do so, permit the Lessee to litigate in any such proceeding in the name and behalf of the Lessor. In no event will the Lessor settle, or consent to the settlement of, any prospective or pending condemnation proceeding without the prior written consent of the Lessee.

Section 5.3 Condemnation of Lessee-Owned Property. The Lessee shall be entitled to the Net Proceeds of any award or portion thereof made for damage to or taking of its own property not included in the Project, provided that any Net Proceeds resulting from the taking of all or any part of the leasehold estate of the Lessee in the Project created by the Lease Agreement shall be paid and applied in the manner provided in the foregoing Section of this Lease Agreement.

#### ARTICLE VI

#### CERTAIN PROVISIONS RELATING TO ASSIGNMENT, SUBLEASING, MORTGAGING AND THE BOND

Section 6.1 Provisions Relating to Assignment and Subleasing. The Lessee may assign this Lease Agreement and the leasehold interest created hereby and may sublet the Project or any part thereof, subject, however, to the following conditions:

(a) No such assignment or subleasing and no dealings or transactions between the Lessor or the Trustee and any assignee or sublessee shall in any way relieve the Lessee from primary liability for any of its obligations hereunder. In the event of any such assignment or subleasing the Lessee shall continue to remain primarily liable for the payment of all rentals herein provided to be paid by it and for the performance and observance of

the other agreements and covenants on its part herein provided to be performed and observed by it.

(b) The Lessee will not assign the leasehold interest created hereby nor sublease the Project to any person unless the operations of such assignee or sublessee are consistent with, and in furtherance of, the purpose of the Enabling Law. The Lessee shall, prior to any such assignment or sublease, demonstrate to the reasonable satisfaction of the Lessor and the Trustee that the operations of such assignee or sublessee will preserve the character of the Project as a "project" under the Enabling Law.

(c) The Lessee shall within thirty days after the delivery thereof furnish to the Lessor and the Trustee a true and complete copy of each such assignment or sublease.

(d) The Bondholder has consented in writing to such assignment or subleasing.

Section 6.2 Assignment of Lease Agreement and Rents by the Lessor. The Lessor has, simultaneously with the delivery of this Lease Agreement, assigned its interest in and pledged any money receivable under this Lease Agreement to the Trustee as security for payment of the Bond, and the Lessee hereby consents to such assignment and pledge. The Lessor has in the Indenture obligated itself to follow the instructions of the Trustee or the Bondholder in the election or pursuit of any remedies herein vested in it. The Trustee shall have all rights and remedies herein accorded to the Lessor and any reference herein to the Lessor shall be deemed, with the necessary changes in detail, to include the Trustee, and the Trustee and the Bondholder are deemed to be third party beneficiaries of the covenants, agreements and representations of the Lessee herein contained. Prior to the payment in full of the Bond, the Lessor and the Lessee shall have no power to modify, alter, amend or terminate this Lease Agreement without the prior written consent of the Trustee and then only as provided in the Indenture. The Lessor will not amend the Indenture or any indenture supplemental thereto without the prior written consent of the Lessee. Neither the Lessor nor the Lessee will unreasonably withhold any consent herein or in the Indenture required of either of them. The Lessee shall not be deemed to be a party to the Indenture or the Bond and reference in this Lease Agreement to the Indenture and the Bond shall not impose any liability or obligation upon the Lessee other than its specific obligations and liabilities undertaken in this Lease Agreement.

Section 6.3 Restrictions on Mortgage or Sale of Project by Lessor; Consolidation or Merger of, or Transfer of Assets by, Lessor. Except for the mortgage of the Project to the Trustee pursuant to the Indenture, the Lessor will not mortgage, sell, assign, transfer or convey the Project at any time during the Lease Term without the prior written consent of the Bondholder, and the Lessee while the Lessee is not in default hereunder. If the laws of the State at the time shall permit it, nothing contained in this Section shall prevent the consolidation of the Lessor with, or merger of the Lessor into, or transfer of the Project as an entirety to, any public or municipal corporation whose property and income are not subject to taxation and which has corporate authority to carry on the business of owning and leasing the Project; provided, that upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and provisions of this Lease Agreement to be kept and performed by the Lessor shall be expressly assumed in writing by the corporation resulting from such consolidation or surviving such merger or to which the Project shall be transferred as an entirety.

Section 6.4 Prepayment of Bond. The amount necessary to prepay the entire principal balance of the Bond shall be deemed to include, in addition to the unpaid principal amount of the Bond, all interest on the Bond to the date on which prepayment is to be made and all other obligations under the Indenture that shall become due and payable on or prior to the prepayment date, including the Trustee's fees, charges and expenses.

The Lessee may, at its election and at any time while it is not in default hereunder, pay to the Trustee such amount as shall be sufficient to enable the Lessor to prepay, in accordance with its terms, the entire unpaid principal balance of the Bond or any lesser portion thereof in multiples of \$100,000. If less than the entire unpaid principal balance of the Bond is prepaid, the Lessee shall, subject to the next paragraph hereof, continue to pay Basic Rent each month and each quarter in the full amount of each installment provided in Section 3.2 hereof until the principal of and interest on the Bond have been paid in full, it being intended that, subject to the next paragraph hereof, any partial prepayment of principal shall not serve to postpone the due date of any subsequent monthly or quarterly installments nor change the amount of such installments coming due before the principal and interest on the Bond have been paid in full.

Simultaneously with the delivery hereof, the Lessee has delivered to the Trustee a mortgage on the Lessee's leasehold interest in the Irondale Facility as security for the payment of the principal of and interest on the Bond. If the Irondale



Facility is sold, the Lessee covenants and agrees that such sale shall be for cash, and all net cash proceeds of such sale which remain after payment of the first mortgage indebtedness on the Irondale Facility and after provision for payment of the tax liability of the partners of the Lessee arising solely because of such sale, shall be paid to the Trustee for the account of the Lessor and shall be applied to the prepayment of the installments of principal on the Bond so as to reduce such payments pro rata pursuant to the following method: divide the amount so paid to the Trustee by the number of quarterly payments then remaining to be made with respect to the principal of the Bond between the date of such payment to the Trustee and the date of maturity of the final installment of principal on the Bond and apply the quotient to reduce each such quarterly installment by the amount of such quotient. If, with the prior written consent of the Bondholder, such sale is not for cash, the Note in evidence of the unpaid price shall be assigned to the Trustee and the proceeds thereof shall be applied to the principal of the Bond in the inverse chronological order of the maturities thereof.

Any payment made by the Lessee under this or any other section of this Lease Agreement to be applied to the prepayment of the Bond shall be made at least one day prior to the proposed prepayment date and at the time of such payment the Lessee shall notify the Bondholder and the Lessor and the Trustee, in writing, as to the purpose of such payment, and the Lessor, upon receiving such notice, shall be obligated and hereby agrees to take all necessary action to have the payment applied to the prepayment of the principal of the Bond to the extent permitted under the prepayment provisions thereof.

Section 6.5 References to Bond Ineffective After Bond Paid. Upon indefeasible payment in full of the Bond and of all fees and charges of the Trustee, under such circumstances that such sums are not subject to rescission or repayment upon any bankruptcy, insolvency, arrangement, reorganization, receivership, or similar proceeding, all references in this Lease Agreement to the Bond, the Bondholder, the Indenture and the Trustee shall be ineffective and neither the Trustee nor the Bondholder shall thereafter have any rights hereunder, saving and excepting those that shall have theretofore vested.

In the event the Bond is fully paid prior to the termination of this Lease Agreement, the Lessee shall be entitled to the use and occupancy of the Project from the date of such payment until the expiration of the term provided for in Section 3.1 hereof without the payment of any further Basic Rent or additional rent under Section 3.2 hereof but otherwise on all of the terms and conditions hereof, except that the provisions of Sections 5.1, 5.2, 5.3 and 7.2 hereof shall not apply and except further that the Lessee shall not be required

to carry any insurance for the benefit of the Trustee, but shall be required to carry insurance under Section 4.5 hereof for the benefit of the Lessor as its interest may appear. If, after full payment of the Bond, there is any surplus remaining in the Bond Fund or the Construction Fund, the Lessor or the Trustee will promptly pay such surplus to the Lessee.

## ARTICLE VII

### PARTICULAR COVENANTS OF THE LESSEE

Section 7.1 General Covenants. The Lessee will not do or permit anything to be done at the Project that will affect, impair or contravene any policies of insurance that may be carried on the Project or any part thereof against public liability or loss or damage by fire, casualty or otherwise. The Lessee will, in the use of the Project and the public ways abutting the same comply with all lawful requirements of all governmental bodies; provided, however, the Lessee may, at its own expense in good faith contest the validity or applicability of any such requirement.

Section 7.2 Inspection of Project. The Lessee will permit the Lessor, the Trustee, the Bondholder and their duly authorized agents (subject to the restrictions and requirements imposed by regulations of or contracts with the United States of America or agencies thereof, or by subcontracts governed by such contracts, being performed by the Lessee, or its subtenant or subtenants, in any part of the Project) at all reasonable times to enter upon, examine and inspect the Project; and in the event of default as hereinafter provided, the Lessee will permit a public accountant or firm of public accountants designated by the Trustee or the Bondholder to have access to, inspect, examine and make copies of the books and records, accounts and data of the Lessee.

Section 7.3 Financing and Continuation Statements. The Lessee shall file with the Trustee 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), such information as shall be required by the Trustee for the Trustee to continue the security interests created by the Lessee on the date of delivery hereof for the benefit of the Bond.

Section 7.4 General Negative Covenants. The Lessee covenants and agrees that from the date hereof and until payment in full of the Bond, unless the Bondholder shall otherwise consent in writing, the Lessee will not, either directly or indirectly:



(a) Debt Service Coverage Ratio. Permit the ratio of Operating Cash Flow to Current Maturities of Funded Debt to be less than 1.5 to 1 for any Fiscal Year.

(b) Capital Expenditures. Make Capital Expenditures which in the aggregate exceed \$500,000 during any Fiscal Year.

(c) Current Ratio. Permit the Current Ratio to be less than 1.0 to 1 at any time.

(d) Debt to Worth. Permit the ratio of Total Liabilities to Tangible Net Worth to be greater than 3.5 to 1 at any time.

(e) Tangible Net Worth. Permit Tangible Net Worth (i) at the end of the Fiscal Year which ends in 1991 to be less than \$15,000,000, (ii) to increase less than \$1,000,000 by the end of each Fiscal Year thereafter over the Tangible Net Worth at the end of the then preceding Fiscal Year, or (iii) to fall below the level required by this paragraph at the end of any quarterly period after it is attained.

(f) Limitation on Liens. Create or suffer to be created or to exist any Lien upon any of its Property or assets except (i) Liens which arise by operation of law; (ii) Liens with respect to the Project; (iii) Existing Liens; (iv) Liens upon property or assets to secure all or a portion of (or debt incurred to pay all or a portion of) the purchase price thereof, provided that any such Lien shall not encumber any other property; and (v) other Liens upon property or assets the purchase of which is not financed with the proceeds of any loans from the Bondholder.

(g) Disposition of Assets. Sell, lease, transfer or otherwise dispose of assets unless such sale shall be in the ordinary course of business or for a full and fair consideration.

(h) Distributions. Make any distribution of cash or property to any partner of the Lessee, or redeem, retire, purchase or otherwise acquire directly or indirectly any partnership interest of any partner of the Lessee now or hereafter outstanding in an aggregate amount in excess of 75% of Net Income for the Fiscal Year in which the distribution is made.

(i) Management, Ownership and Control. Permit any change in the management, ownership or control of the Lessee that would result in the Walker Family owning less than 50% of the capital, distribution or voting interest in the Lessee.

(j) Business. Engage in, directly or through other Persons, any business other than the business now carried on and other businesses directly related thereto.

(k) Investments and Guaranties. (i) Purchase or hold beneficially stock or other securities or evidence of indebtedness of, or make or permit to exist any loans or advances to, or make any investments or acquire any interest whatsoever in (all of which shall be referred to as "Investments" herein), or (ii) guarantee, endorse, agree to furnish funds for the payment of, or otherwise become or be contingently liable upon the indebtedness of or guarantee the payment of dividends or other distributions upon the stock of (all of which shall be referred to as "Guaranties" herein) any Person except (x) Investments in investment grade marketable securities or full faith and credit obligations of, or obligations unconditionally guaranteed as to principal and interest by, the United States of America, and (y) other Investments and Guaranties, if after giving effect to such other Investment or Guaranty, the aggregate amount of all such other Investments and Guaranties does not exceed \$500,000.

(l) Sales and Leaseback. Enter into any arrangement whereby the Lessee shall sell or transfer all or any substantial part of its property then owned by it and shall thereupon within one year thereafter rent or lease the property so sold or transferred.

Section 7.5 Financial and Business Information. The Lessee shall maintain a standard system of accounting in accordance with GAAP consistently applied, and the Lessee shall deliver to the Bondholder:

(a) Statements. (i) As soon as available but in any event not later than 120 days after the close of each fiscal year of the Lessee, the annual audit report of the Lessee, certified, without qualification, by certified public accountants, selected by the Lessee and acceptable to the Bondholder, in accordance with GAAP and practices applied on a basis consistently maintained throughout the period involved together with relevant financial statements of the Lessee, for the twelve-month period then ended; and (ii) within sixty days after each of the first three quarters of each fiscal year of the Lessee, a similar quarterly report and financial statements, certified by a partner of the Lessee;

(b) Notice of Default or Event of Default. Immediately upon becoming aware of the existence of any condition or event which constitutes a default or an event of default under this Lease Agreement, the Indenture, or the Guaranty Agreement, a written notice specifying the nature and period of existence

thereof and what action the Lessee is taking or proposes to take with respect thereto;

(c) Notice of Claimed Default. Immediately upon becoming aware that the Holder or the holder of any evidence of indebtedness or other security of the Lessee has given notice or taken any other action with respect to a claimed default or event of default thereunder which would cause a default or event of default which would have a Material Adverse Effect, a written notice specifying the notice given or action taken by such holder and the nature of the claimed default or event of default and what action the Lessee is taking or proposes to take with respect thereto;

(d) Requested Information and Audits. With reasonable promptness, such other data and information as from time to time may be reasonably requested;

(e) Notice of Litigation. Immediately upon becoming aware of the existence of any proceedings before any Tribunal involving the Lessee which involves the probability of any final judgment or liability against the Lessee in an amount which would have a Material Adverse Effect, a written notice specifying the nature thereof and what action the Lessee is taking and proposes to take with respect thereto; and

(f) Notice from Regulatory Agencies. Promptly upon receipt thereof, information with respect to and copies of any notices received from federal or state regulatory agencies or any Tribunal relating to an order, ruling, statute or other law or information which might have a Material Adverse Effect on the franchises, permits, licenses, operations, or rights, or the condition, financial or otherwise, of the Lessee.

Section 7.6 Certificates. Each set of financial statements delivered pursuant to Section 7.5(a) hereof shall be accompanied by a certificate of a partner of the Lessee setting forth:

(a) Covenant Compliance. The information (including detailed calculations) required in order to establish whether the Lessee was in compliance with the requirements of Section 7.4 hereof during the period covered by the statements then being furnished; and

(b) Event of Default. That the signer has reviewed the relevant terms of the Guaranty Agreement and this Lease Agreement and has made, or caused to be made, under his supervision, a review of the transactions and condition of the Lessee from the beginning of the accounting period covered by the income statements being delivered therewith to the date of the certificate and that such review has not disclosed the

existence during such period of any condition or event which constitutes a Default or an Event of Default or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action the Lessee has taken or proposes to take with respect thereto.

Section 7.7 Affirmative Covenants. The Lessee covenants that so long as this Lease Agreement is in effect, the Lessee shall:

(a) Partnership Existence, Properties, Etc. (i) Do or cause to be done all things necessary to preserve and keep in full force and effect its existence, rights and franchises and comply with all laws applicable to it where its failure to so comply would have a Material Adverse Effect, and to conduct and operate its business substantially as heretofore conducted and operated; (ii) at all times maintain, preserve and protect all franchises and trade names and preserve all the remainder of its property used or useful in the conduct of its business where the failure to so maintain, preserve and protect would have a Material Adverse Effect, and keep the same in good repair, working order and condition, and from time to time make, or cause to be made, all necessary and proper repairs, renewals and replacements, betterments and improvements thereto so that (y) the business carried on in connection therewith may be properly and advantageously conducted at all times and (z) the failure to so repair or replace would not have a Material Adverse Effect; (iii) at all times comply with the insurance requirements of Article IV hereof and in general keep its insurable properties adequately insured and maintain, where the failure to so keep and maintain would have a Material Adverse Effect, (x) insurance to such extent and against such risks, including fire, as is customary with companies in the same or similar business, (y) necessary worker's compensation insurance, and (2) such other insurance as may be required by law or as may be reasonably required in writing by the Bondholder; and (iv) cause the Trustee to be named as loss payee on each of said policies relating to the Project.

(b) Payment of Indebtedness, Taxes, etc. (i) Pay all of its indebtedness and obligations promptly and in accordance with normal terms where failure to pay would have a Material Adverse Effect, and (ii) pay and discharge or cause to be paid or discharged promptly all taxes, assessments and governmental charges or levies imposed upon it or upon its income and profits, or upon any of its Property, real, personal or mixed, or upon any part thereof, before the same shall become in default, as well as all lawful claims for labor, materials and supplies or otherwise, which, if unpaid, might become a lien upon such properties or any part thereof where failure to pay would have a Material Adverse Effect; provided, however, that



the Lessee shall not be required to pay and discharge any such tax, assessment, charge, levy or claim so long as the validity thereof shall be contested in good faith by appropriate proceedings and the Lessee shall have set aside on its books adequate reserves with respect to any such tax, assessment, charge, levy or claim so contested.

(c) ERISA Reports. Furnish to the Bondholder (i) as soon as possible and in any event within thirty days after the Lessee knows or has reason to know that any Reportable Event with respect to any Plan has occurred, a statement of a partner of the Lessee setting forth details as to such Reportable Event and the action which the Lessee proposes to take with respect thereto, together with a copy of the notice of such Reportable Event given to the Pension Benefit Guaranty Corporation, if a copy of such notice is available to the Lessee; and (ii) promptly after receipt thereof a copy of any notice the Lessee may receive from the Pension Benefit Guaranty Corporation or the Internal Revenue Service with respect to any Plan; provided, however, that this subparagraph (c) shall not apply to notices of general application promulgated by the Pension Benefit Guaranty Corporation or the Internal Revenue Service, nor to notices which are routine in character.

(d) Banking Relationship. Utilize the banking services of the Bondholder to the extent practicable, and otherwise establish and maintain a satisfactory banking relationship with the Bondholder.

(e) Further Assurances. On request of the Bondholder, promptly correct any defect, error or omission which may be discovered in the contents of any of the papers executed in connection with the Bond or in the execution or acknowledgement thereof, and execute, acknowledge and deliver such further instruments and do such further acts as may be necessary or as may be requested by the Bondholder to carry out more effectively the purposes of this Lease Agreement and the papers executed in connection with the Bond.

Section 7.8 Terms Defined. As used in this Article, the following terms have the respective meanings set forth below, unless the context otherwise requires:

"Capital Expenditures" shall mean the aggregate amount of all purchases or acquisitions of items considered to be capital items under GAAP.

"Capitalized Leases" shall mean capitalized leases and subleases, as defined in the Financial Accounting Standards Board Statement of Financial Accounting Standards No. 13, dated November 1976, as amended.

"Current Assets" shall mean current assets of the Lessee determined in accordance with GAAP. "Current Liabilities" shall mean current liabilities of the Lessee determined in accordance with GAAP. "Current Ratio" shall mean the ratio of Current Assets to Current Liabilities.

"Current Maturities" shall mean the current portion payable by the Lessee of (i) principal payments on all Funded Debt, and (ii) the principal portion of lease payments on all Capitalized Leases.

"Default" shall mean an event or condition the occurrence of which would, with or without the lapse of time or the giving of notice or both, be an Event of Default.

"Deferred Costs" shall mean deferred costs, as determined in accordance with GAAP, and shall include other items generally defined under GAAP and designated as good will, intangibles, franchises, deferred development costs (excluding depreciation and amortization, but including deferred loan expense, included therein) deferred charges and other items generally classified as intangibles and other assets and deferred charges.

"Depreciation" shall mean depreciation and amortization expenses and other non-cash charges (excluding from this calculation any change in deferred taxes) as determined in accordance with GAAP.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time.

"Event of Default" shall mean an event as defined in Article VIII hereof.

"Existing Liens" shall mean the Liens on assets of the Lessee existing as of the date hereof.

"Fiscal Year" means the fiscal year of the Lessee.

"Funded Debt" shall mean any indebtedness which is due one year or more from the date of determination or which may be renewed or extended at the option of the obligor to a date one year or more from the date of determination.

"GAAP" shall mean generally accepted accounting principles applied on a consistent basis, set forth in the Opinions of the Accounting Principles Board of the American Institute of Certified Public Accountants and/or in statements of the Financial Accounting Standards Board and/or in such other statements by such other entity as the Bondholder may approve, which are applicable in the circumstances as of the



date in question, and the requirement that such principles be applied on a consistent basis shall mean that the accounting principles observed in a current period are comparable in all material respects to those applied in the preceding period, subject to any change in the method of accounting permitted pursuant hereto. Unless otherwise indicated herein, all accounting terms will be defined according to GAAP.

"Lien" shall mean any interest in Property securing an obligation owed to, or a claim by, a Person other than the owner of the Property, whether such interest is based on the common law, statute or contract, and including but not limited to the security interest or lien arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease assignment or bailment for security purposes. For the purposes of this Lease Agreement, the Lessee shall be deemed to be the owner of any Property which it has acquired or holds subject to a conditional sale agreement, financing lease or other arrangement pursuant to which title to the Property has been retained by or vested in some other person for security purposes.

"Material Adverse Effect" shall mean any act or circumstance or event which (i) causes an Event of Default or a Default, (ii) otherwise might be material and adverse to the financial condition or business operations of the Lessee, or (iii) would adversely affect the validity or enforceability of any of the papers executed in connection with the Bond.

"Net Income" shall mean the excess of income over expenses of the Lessee, or if the Lessee becomes subject to income taxation, its net profit after taxes, both determined in accordance with GAAP.

"Operating Cash Flow" shall mean the sum of (i) Net Income, plus (ii) Depreciation, plus (iii) Deferred Costs, less (iv) cash distributions to partners, for the Lessee.

"Operating Leases" shall mean operating leases, as defined in the Financial Accounting Standards Board Statement of Financial Accounting Standards No. 13, dated November 1976, as amended.

"Person" shall mean and include an individual, a partnership, a joint venture, a corporation, an association, a trust, an unincorporated organization and a government or any department, agency or political subdivision thereof.

"Plan" shall mean any employee benefit plan established or maintained by the Lessee.

"Property" shall mean any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible:

"Reportable Event" shall mean a reportable event as defined in Section 4043 of ERISA, except actions of general applicability by the Secretary of Labor under Section 110 of ERISA.

"Tangible Net Worth" shall mean the following for the Lessee determined in accordance with GAAP:

- (a) The capital account, minus
- (b) The sum of the following (without duplication of deductions in respect of any item already deducted in arriving at capital account): (i) unamortized discounts and expense (ii) goodwill (iii) trademarks (iv) tradenames (v) patents (vi) Deferred Costs (vii) other intangible assets and (viii) any write-up of the value of any assets after the date of the most recent annual audit of the Lessee.

"Total Liabilities" shall mean the amount of total liabilities of the Lessee which would be shown in accordance with GAAP consistently applied on a balance sheet, plus contingent liabilities (arising from guaranties and other forms of contractual commitments, and from the sale with recourse and discount of notes and accounts receivable) of the Lessee for the obligations of any Person.

"Tribunal" shall mean any state, commonwealth, federal, foreign, district, territorial, or other court or governmental department, board, bureau, agency or instrumentality.

"Walker Family" means all of the group comprised of the lineal descendants of W. W. Walker, Jr., his spouse, their spouses, any trust established by or for the benefit of any such person, the estate of any such person, and the estate of Mary B. Walker.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

Section 8.1 Events of Default Defined. The following shall be events of default under this Lease Agreement and the term "event of default" shall mean, whenever used in this Lease Agreement, any one or more of the following events:

- (a) Failure to pay any installment of Basic Rent that has become due and payable by the terms of this Lease

Agreement and such failure continues for a period of three days after such Basic Rent becomes due and payable.

(b) Failure by the Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (a) of this Section, for a period of thirty days after written notice, specifying such failure and requesting that it be remedied, given to the Lessee by the Lessor, the Trustee or the Bondholder, unless the Bondholder shall agree in writing to an extension of such time prior to its expiration, which agreement shall not be unreasonably withheld if corrective action is instituted by the Lessee promptly upon receipt of the written notice and is diligently pursued until the default is corrected.

(c) The dissolution or liquidation of the Lessee or the filing by the Lessee of a voluntary petition in bankruptcy, or failure by the Lessee promptly to lift any execution, garnishment or attachment of such consequence as will impair its ability to carry on its operations at the Project, the Lessee's seeking of or consenting to or acquiescing in the appointment of a receiver of all or substantially all its property or of the Project, or the adjudication of the Lessee as a bankrupt, or any assignment by the Lessee for the benefit of its creditors, or the entry by the Lessee into an agreement of composition with its creditors, or if a petition or answer is filed by the Lessee proposing the adjudication of the Lessee as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within sixty days.

(d) Failure by any Guarantor to observe and perform any covenant, condition or agreement on its or his part to be observed or performed for a period of thirty days after written notice, specifying such failure and requesting that it be remedied, given to the Lessee and such Guarantor by the Lessor, the Trustee or the Bondholder, unless the Bondholder shall agree in writing to an extension of such time prior to its expiration, which agreement shall not be unreasonably withheld if corrective action is instituted by that Guarantor promptly upon receipt of the written notice and is diligently pursued until the default is corrected.

(e) The dissolution or liquidation of the corporate Guarantor or the filing by any Guarantor of a voluntary petition in bankruptcy, or failure by any Guarantor promptly to lift any execution, garnishment or attachment of such consequence as will impair its or his ability to carry on its

or his business, any Guarantor's seeking of or consenting to or acquiescing in the appointment of a receiver of all or substantially all its or his property, or the adjudication of any Guarantor as a bankrupt, or any assignment by any Guarantor for the benefit of its or his creditors, or the entry by any Guarantor into an agreement of composition with its or his creditors, or if a petition or answer is filed by any Guarantor proposing the adjudication of that Guarantor as a bankrupt or its or his reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer shall not be stayed or dismissed within sixty days.

Section 8.2 Remedies on Default. Whenever any such event of default shall have happened and be continuing, the Lessor or the Trustee may take any of the following remedial steps:

(a) Declare all installments of Basic Rent payable under Section 3.2(a) hereof for the remainder of the Lease Term to be immediately due and payable, whereupon the same shall become immediately due and payable;

(b) Reenter the Project, without terminating this Lease Agreement, and, upon ten days' prior written notice to the Lessee, relet the Project or any part thereof for the account of the Lessee, for such term (including a term extending beyond the Lease Term) and at such rentals and upon such other terms and conditions, including the right to make alterations to the Project or any part thereof, as the Lessor may, with the approval of the Trustee, deem advisable, and such reentry and reletting of the Project shall not be construed as an election to terminate this Lease Agreement nor relieve the Lessee of its obligations to pay Basic Rent and additional rent or to perform any of its other obligations under this Lease Agreement, all of which shall survive such reentry and reletting, and the Lessee shall continue to pay Basic Rent and all additional rent provided for in this Lease Agreement until the end of the Lease Term, less the net proceeds, if any, of any reletting of the Project after deducting all of the Lessor's and Trustee's expenses in connection with such reletting, including, without limitation, all repossession costs, brokers' commissions, attorneys' fees, alteration costs and expenses of preparation for reletting;

(c) Terminate this Lease Agreement, exclude the Lessee from possession of the Project and, if the Lessor or the Trustee elect so to do, lease the same for the account of the Lessor, holding the Lessee liable for all rent due up to the date such lease is made for the account of the Lessor; and



(d) Take whatever legal proceedings may appear necessary or desirable to collect the rent then due, whether by declaration or otherwise, or to enforce any obligation or covenant or agreement of the Lessee under this Lease Agreement or by law.

Section 8.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to the Lessor or the Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement 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 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.

Section 8.4 Agreement to Pay Attorneys' Fees and Expenses. In the event the Lessee should default under any of the provisions of this Lease Agreement and the Lessor or the Trustee (in its own name or in the name and on behalf of the Lessor) should employ attorneys or incur other expenses for the collection of rent or the enforcement of performance or observance of any obligation or agreement on the part of the Lessee herein contained, the Lessee will on demand therefor pay to the Lessor or the Trustee (as the case may be) the reasonable fee of such attorneys and such other expenses so incurred.

Section 8.5 No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Lease Agreement 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.

Section 8.6 Remedies Subject to Applicable Law. All rights, remedies and powers provided by this Article VIII may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article VIII are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Lease Agreement invalid or unenforceable.



## ARTICLE IX

### OPTIONS

Section 9.1 Options to Terminate. The Lessee shall have, if it is not in default hereunder, the following options to cancel or terminate the term of this Lease Agreement:

(a) At any time prior to full payment of the Bond, the Lessee may terminate the term of this Lease Agreement by paying to the Trustee for the account of the Lessor such an amount, determined as specified in Section 6.4 hereof, as shall, together with the amount, if any, on deposit in the Bond Fund and available therefor, be required to prepay the entire unpaid principal balance of the Bond.

(b) At any time after full payment of the Bond the Lessee may terminate the term of this Lease Agreement by giving the Lessor notice in writing of such termination and such termination shall forthwith become effective.

Section 9.2 Option to Purchase Project Prior to Payment of the Bond. The Lessee, if not in default hereunder, shall have the option to purchase the Project at any time prior to the full payment of the Bond if any of the following shall have occurred:

(a) The Project or any part thereof shall have been damaged or destroyed (i) to such extent that, in the opinion of the Lessee, it cannot be reasonably restored within a period of four consecutive months substantially to the condition thereof immediately preceding such damage or destruction, or (ii) to such extent that, in the opinion of the Lessee, the Lessee is thereby prevented from carrying on its normal operations at the Project for a period of four consecutive months or (iii) to such extent that the cost of restoration thereof would exceed by more than \$50,000 the Net Proceeds of insurance carried thereon pursuant to the requirements of this Lease Agreement; or

(b) Title to the Project or any part thereof or the leasehold estate of the Lessee in the Project created by this Lease Agreement or any part thereof shall have been taken under the exercise of the power of eminent domain by any governmental authority or person, firm or corporation acting under governmental authority, which taking may result, in the opinion of the Lessee, in the Lessee being thereby prevented from carrying on its normal operations at the Project for a period of four months; or

(c) As a result of any changes in the Constitution of the State or the Constitution of the United States of America

or of legislative or administrative action (whether state or federal), or by final decree, judgment or order of any court or administrative body (whether state or federal) entered after the contest thereof by the Lessee in good faith, this Lease Agreement shall have become void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed herein, or unreasonable burdens or excessive liabilities shall have been imposed on the Lessor or the Lessee, including without limitation, the imposition of taxes of any kind on the Project or the income or profits of the Lessor therefrom, or upon the interest of the Lessee therein, which taxes were not being imposed on the date of this Lease Agreement.

To exercise such option, the Lessee shall, within thirty days following the event authorizing the exercise of such option, give written notice to the Lessor and to the Trustee and shall specify therein the date of closing such purchase, which date shall be not less than forty-five nor more than ninety days from the date such notice is mailed, and shall make arrangements satisfactory to the Trustee for the giving of the required notice of prepayment of the Bond. The purchase price payable by the Lessee in the event of its exercise of the option granted in this Section shall be such an amount determined as specified in Section 6.4 hereof as shall, together with the amount, if any, on deposit in the Bond Fund and available therefor, be required to prepay the entire unpaid principal balance of the Bond. The purchase price shall be paid by the Lessee to the Trustee.

Upon the exercise of the option granted in this Section and the payment of the option price, any Net Proceeds of insurance or condemnation award then on hand or thereafter received shall be paid to the Lessee.

Section 9.3 Option to Purchase Project After Payment of the Bond. The Lessee, if not in default hereunder, shall also have the option to purchase the Project at any time during the Lease Term or within one year thereafter following full payment of the Bond for a purchase price of one dollar. To exercise the option granted in this Section, the Lessee shall notify the Lessor of its intention so to exercise such option not less than forty-five days nor more than ninety days prior to the proposed date of purchase and shall on the date of purchase pay such purchase price to the Lessor.

Section 9.4 Conveyance on Exercise of Option to Purchase. At the closing of the purchase pursuant to the exercise of any option to purchase granted herein, the Lessor will upon receipt of the purchase price deliver to the Lessee documents conveying to the Lessee the property with respect to which such option was exercised, as such property then exists,

subject to the following: (i) all easements or other rights, if any, required to be reserved by the Lessor under the terms and provisions of the option being exercised by the Lessee; (ii) those liens and encumbrances, if any, to which title to said property was subject when conveyed to the Lessor; (iii) those liens and encumbrances created by the Lessee or to the creation or suffering of which the Lessee consented; and (iv) those liens and encumbrances resulting from the failure of the Lessee to perform or observe any of the agreements on its part contained in this Lease Agreement.

#### ARTICLE X

##### MISCELLANEOUS

Section 10.1 Covenant of Quiet Enjoyment. So long as the Lessee performs and observes all the covenants and agreements on its part herein contained, it shall peaceably and quietly have, hold and enjoy the Project during the Lease Term subject to all the terms and provisions hereof.

Section 10.2 This Lease a Net Lease. The Lessee recognizes, understands and acknowledges that it is the intention hereof that this Lease Agreement be a net lease and that until the Bond is fully paid all Basic Rent be available for payment of the installments of principal and interest on the Bond and that all additional rent shall be available for the purposes specified therefor. This Lease Agreement shall be construed to effectuate such intent.

Section 10.3 Lessor's Liabilities Limited. This Lease Agreement is entered into under and pursuant to the provisions of the Enabling Law. No provision hereof shall be construed to impose a charge against the general credit of the Lessor or any personal or pecuniary liability upon the Lessor except to apply the proceeds to be derived from the sale of the Bond and the revenues and receipts to be derived from any leasing or sale of the Project or any part thereof as provided herein and in the Indenture.

Section 10.4 Prior Agreements Cancelled. This Lease Agreement shall completely and fully supersede the Inducement Agreement and all other prior agreements, both written and oral, between the Lessor and the Lessee relating to the acquisition of the Leased Realty, the construction of the Buildings, the acquisition and installation of the Equipment, the leasing of the Project and any options to renew or to purchase; excepting however any deed or other instrument by which the Project, any part thereof, or any interest therein has been transferred and conveyed by the Lessee to the Lessor. Neither the Lessor nor the Lessee shall hereafter have any rights under such prior agreements but shall look solely to

this Lease Agreement for definition and determination of all of their respective rights, liabilities and responsibilities relating to the Project.

Section 10.5 Execution Counterparts. This Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.6 Binding Effect; Governing Law. This Lease Agreement shall inure to the benefit of, and shall be binding upon, the Lessor, the Lessee and their permitted respective successors and assigns. This Lease Agreement shall be governed exclusively by the applicable laws of the State.

Section 10.7 Severability. In the event any provision of this 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 hereof.

Section 10.8 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 10.9 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, addressed as follows: if to the Lessor, at City Hall, P. O. Box 277, Pelham, Alabama 35124; if to the Lessee, at 172 Cahaba Valley Parkway, Helena, Alabama 35080, Attention of W. W. Walker, III; if to the Trustee at P. O. Box 11426, Birmingham, Alabama 35202, Attention: Corporate Trust Administration; and if to the Bondholder at P. O. Box 11007, Birmingham, Alabama 35288, Attention: Corporate Banking Department. A duplicate copy of each notice, certificate or other communication given hereunder by either the Lessor or the Lessee to the other shall also be given to the Trustee and the Bondholder. The Lessor, the Lessee and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 10.10 Public Service Payments. The Lessee and the Lessor acknowledge that under present law, the Project is exempt from all taxation in the State. The Lessee further acknowledges that public services rendered by the Municipality benefit the Lessee and enhance the value of the interest of the Lessee in the Project. In order to compensate for the aforesaid services, the Lessee shall pay directly to the



Municipality the following amounts (the "Service Payments") during the Lease Term: (a) on October 1, 1991, and on the first day of each October thereafter during the Lease Term, the sum of \$~~3,000~~; and (b) on the day on which this Lease Agreement is terminated, an amount equal to the Service Payment due on the preceding October 1 multiplied by a fraction, the numerator of which is the number of days which have elapsed since the preceding October 1 and the denominator of which is 365; provided, however, that no such installment under clause (b) shall be payable if this Lease Agreement is terminated on any October 1.

*Done  
11/1/91  
Jast*

If, as a result of a change in law, the Project becomes subject during the Lease Term to ad valorem taxes and if the Lessee shall pay such taxes pursuant to the requirements of the other provisions of this Lease Agreement, then in such case the Lessee shall not be required to pay any Service Payments scheduled with respect to the period for which such taxes are levied. The Service Payments are not and shall not be assigned or pledged by the Lessor to the Trustee for any purpose.

IN WITNESS WHEREOF, the Lessor has caused this Lease Agreement to be executed in its corporate name, has caused its corporate seal to be hereunto affixed and to be attested, all by its duly authorized officers and the Lessee has caused this Lease Agreement to be executed in its name by its duly authorized general partner, and the parties have caused this Lease Agreement to be dated as of February 1, 1991.

THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE TOWN OF PELHAM

By *Doniphan*  
Chairman of its Board of  
Directors

SEAL

Attest: *Laura Willis*  
Its Secretary

WALKER DRUG COMPANY, a general  
partnership

By *William A. Walker III*  
A General Partner

By *James A. Walker*  
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 M. Spitler, Jr., 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 Lease Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said Lease Agreement, 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 22<sup>nd</sup> day of February, 1991.

Robert H. Walston  
Notary Public

NOTARIAL SEAL

My commission expires: 12-30-94

STATE OF ALABAMA

Jefferson COUNTY

I, Carol S. Crenshaw, a Notary Public in and for said County in said State, hereby certify that William W. Walker, III, and James D. Walker, whose name as General Partners of Walker Drug Company, a general partnership, are signed to the foregoing Lease Agreement, and who are known to me, acknowledged before me on this day that, being informed of the contents of said Lease Agreement, they, as such partners and with full authority, executed the same voluntarily for and as the act of said partnership.

Given under my hand this the 22<sup>nd</sup> day of February, 1991.

Carol S. Crenshaw  
Notary Public

NOTARIAL SEAL

My Commission expires: 2-10-92

BOOK 330 PAGE 799

Part of Block 4, of Cahaba Valley Park North as recorded in Map Book 13, page 140 in the Probate Office of Shelby County, Alabama, more particularly described as follows:

Begin at P.T. Station 21 + 32.44 on the Northerly right of way line of Cahaba Valley Parkway; thence run Northwesterly along said right of way line for 515.0 feet; thence 90 degrees 00 minutes right and run Northerly for 311.76 feet; thence 60 degrees 14 minutes right and run Northeasterly for 1,049.77 feet to a point on the Westerly right of way line of Cahaba Valley Parkway; thence 104 degrees 07 minutes 30 seconds right to become tangent to a curve to the left, said curve having a radius of 1,419.64 feet; thence run Southeasterly along the arc of said curve and along said right of way line for 281.53 feet to the end of said curve, said point being further identified as P.C. Station 13 + 54.43 on the Westerly right of way line of said Cahaba Valley Parkway; thence at tangent to said curve run Southeasterly along said right of way line for 214.33 feet; thence 87 degrees 14 minutes 14 seconds right and run Southwesterly for 509.03 feet; thence 35 degrees 13 minutes 39 seconds left and run Southwesterly for 161.67 feet to a point on the Northeasterly right of way line of Cahaba Valley Parkway; thence 90 degrees 00 minutes right to become tangent to a curve to the left, said curve having a radius of 202.39 feet; thence run Northwesterly along the arc of said curve and along said right of way line for 88.33 feet to the point of beginning. Said parcel of land being a part of the West 1/2 of the NE 1/4 of Section 31, Township 19 South, Range 2 West, Shelby County, Alabama.

All desks, credenzas, sofas, chairs, tables, rugs, pictures, paintings, accessories, furniture, furnishings, drapes, draperies, curtains, room dividers, office equipment, lights, lamps, computers, computer systems, computer accessories, computer hardware and software, typewriters, work stations, facsimile and telex and telecopy machines, clocks, copy machines, telephone and telemetry equipment, all wiring, files and filing cases, shelves, shelving, security systems, racks, conveyors, tracking systems, material handling and moving equipment, handtrucks, signs, forklift trucks, cleaning equipment, pads, pallets, alternative energy sources, vacuums, sweepers, printers, radios, electronic equipment, OCR's, scanners, strapping machines, labeling machines, document shredders, dictaphone recorders and transcribers, TV monitors, postage machines, dishes, microwave ovens, refrigerators, ice machines, soft drink machines, air filter machines, miscellaneous office supplies such as staplers, hole punchers, paper, pencil sharpeners, ledgers, books, manuals, label printers, plants, electric hole drillers, electric binders, and all other personal property, other than over-the-road vehicles, inventory items and cash, located on the premises.

STATE OF ALA. SHERIFF  
I CERTIFY THIS  
INSTRUMENT WAS FILED

91 FEB 25 PM 1:08

*Thomas J. Downing, Jr.*  
JUDGE OF PROBATE

**EXHIBIT B**

1. Dead Tax	0
2. Mtg. Tax	0
3. Recording Fee	112.50
4. Indexing Fee	5.00
5. No. 100 Fee	7.00
6. Court Costs	1.00
<b>Total</b>	<b>117.50</b>

BOOK 330 PAGE 801

