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LEASE AGREEMENT

between

**THE INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF PELHAM**

and

EUGENE WILKERSON

Dated December 17, 1993

Inst # 1994-01495
01/13/1994-01495
03:16 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
054 HCD 141.00

Relating to

\$750,000

**THE INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF PELHAM**

**First Mortgage Industrial Revenue Bond
(Wilkerson Project)
Series 1993**

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to
LEASE AGREEMENT
between
THE INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF PELHAM
and
EUGENE WILKERSON

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LEASE AGREEMENT between **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF PELHAM**, a public corporation organized and existing under the laws of the State of Alabama (herein called the "Board"), and **EUGENE WILKERSON**, an individual resident of the State of Alabama (herein called the "Lessee"),

RECITALS

Pursuant to this Lease Agreement the Board will acquire, improve and equip the "Project" hereinafter defined and the Lessee will lease said Project from the Board for use as a rental facility for the general warehousing and storage of products of industry and agriculture. In order to finance the costs of acquiring, improving and constructing the said Project, the Board will issue its single First Mortgage Industrial Revenue Bond (Wilkerson Project), Series 1993, to be dated the date of its issuance, in the principal amount of \$750,000 (herein called the "Series 1993 Bond"), and, as security for the payment of the principal of and the interest on the Series 1993 Bond, (i) will mortgage said Project under the Mortgage hereinafter referred to and (ii) will pledge and assign under said Mortgage the Board's interest in this Lease Agreement (other than its reimbursement and indemnification rights hereunder), including particularly the "Basic Rent" payable hereunder by the Lessee for the use of said Project.

NOW, THEREFORE, THIS LEASE AGREEMENT

WITNESSETH:

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

ARTICLE I

DEFINITIONS AND USE OF PHRASES

Section 1.1 Definitions. The following words and phrases and others evidently intended as the equivalent thereof shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

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

"Additional Bonds" means bonds of the Board authorized in Article VIII of the Mortgage to be issued thereunder and to be secured thereby on a parity of lien and pledge with the Series 1993 Bond.

"Affiliate" of any designated person means any person which, directly or indirectly, controls, or is controlled by, or is under common control with, such designated person.

"Authorized Board Representative" means the person or persons at the time designated as such by written certificate furnished to the Lessee and the Bank, containing the specimen signature or signatures of such person or persons and signed on behalf of the Board by the Chairman or the Vice Chairman of its Board of Directors; provided however, that neither the Lessee nor any employee of the Lessee or any Affiliate of the Lessee may also be designated as an Authorized Board Representative.

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

"Bank" means National Bank of Commerce of Birmingham, a national banking association, or its successor as the mortgagee under the provisions of the Mortgage.

"Basic Rent" means (i) the moneys payable by the Lessee pursuant to the provisions of Section 5.2 hereof, (ii) any other moneys payable by the Lessee hereunder to provide for the payment of the principal of and the interest on the Series 1993 Bond (other than the aforesaid moneys payable pursuant to Section 5.2 hereof), and (iii) any other moneys payable by the Lessee hereunder that are herein referred to as Basic Rent.

"Board" means (i) the party of the first part hereto and its successors and assigns, or (ii) any public corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party as provided in Section 11.6 of the Mortgage.

"Bond Fund" means the Wilkerson Bond Principal and Interest Fund created in Section 10.1 of the Mortgage.

"Bonds" means all Bonds of the Board issued under the Mortgage (viz., the Series 1993 Bond and all Additional Bonds).

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

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

"Construction Fund" means the Wilkerson Construction Fund created in Section 9.2 of the Mortgage.

"Counsel" means any attorney duly admitted to practice before the highest court of any state of the United States of America or of the District of Columbia (including any director, officer or full-time employee of, or an attorney regularly employed or retained by, the Board, or the Lessee or an Affiliate of either thereof who is so admitted to practice), it

being understood that "Counsel" may also mean a firm of attorneys any of whose members is so admitted to practice.

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

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

"fully paid", "payment in full", or any similar expression with respect to the Mortgage Indebtedness, means that the entire Mortgage Indebtedness has been paid in full or duly provided for pursuant to Section 15.1 of the Mortgage and that the lien of the Mortgage has been cancelled, satisfied and discharged in accordance with the provisions of said Section 15.1 thereof.

"Independent Appraiser" means a person, firm or corporation not regularly employed or retained by the Board, the Lessee or an Affiliate of either thereof and regularly engaged in the business of appraising real or personal property (as appropriate to the property being appraised or valued) and otherwise competent, in the opinion of the Bank, to determine the value of the property in question.

"Independent Counsel" means an attorney who is duly admitted to practice before the highest court of any state of the United States of America or the District of Columbia and who is not a partner, director, officer or full-time employee of, or an attorney regularly employed or retained by, the Board, the Lessee or an Affiliate of either thereof, it being understood that "Independent Counsel" may also mean a firm of attorneys any of whose members is so admitted to practice and none of whose members is a partner, director, officer or full-time employee of, or an attorney regularly employed or retained by, the Board, the Lessee or an Affiliate of either thereof.

"Independent Engineer" means an engineer or engineering firm that is licensed to engage in the independent practice of engineering under the laws of the State of Alabama, that is not regularly employed or retained by the Board, the Lessee or an Affiliate of either thereof, and that has no other material connection with the Board, the Lessee or an Affiliate of either thereof.

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

"Lease Term" means the period beginning on the date of the delivery of this Lease Agreement and continuing until 11:59 o'clock, P.M., on December 31, 2008.

"Lessee" means the party of the second part hereto and includes his successors and assigns.

"Mortgage" means the Mortgage Indenture between the Board and National Bank of Commerce of Birmingham, a national banking association, dated December 21, 1993, under which (i) the Series 1993 Bond is authorized to be issued, (ii) the Board's interest in this Lease Agreement and the revenues and receipts to be derived by the Board from any leasing or sale of the Project are to be assigned and (iii) the Project is to be mortgaged, as security for payment of the principal of and the interest on the Series 1993 Bond, as said Mortgage Indenture now exists and as it may hereafter be supplemented and amended.

"Mortgage Indebtedness" means all indebtedness of the Board at the time secured by the Mortgage, including, without limitation, all principal of and interest on the Series 1993 Bond.

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

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

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

mineral rights, covenants running with the land, zoning restrictions, environmental regulations and other restrictions and encumbrances affecting the use of real property, or minor irregularities in the title to real property, none of the foregoing of which, individually or in the aggregate, materially impair the title of the Board to any part of the Project or the use of the Project for the purpose for which it was acquired or is held by the Board.

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

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

"Project Building" means the building to be constructed on the Project Site containing approximately 42,200 square feet of enclosed floor space, as such building and related improvements may at any time exist.

"Project Development Costs" means (i) all costs and expenses incurred in connection with the planning, development and design of the Project Building, including the costs of preliminary investigations, surveys, estimates and plans and specifications, (ii) all costs of acquiring the Project Site, (iii) all costs and expenses of construction of the Project Building, including the cost to the Lessee of supervising construction, payments to contractors and materialmen and fees for professional or other specialized services, (iv) the costs of contract bonds and of insurance of all kinds which may be necessary or desirable in connection with the Project Development Work and which are not paid by any contractor or otherwise provided for, (v) all expenses incurred in connection with the issuance and sale of the Series 1993 Bond, including (without limitation) all legal, accounting, financial, underwriting, printing and recording and filing fees and expenses, (vi) all other costs which the Board shall be required to pay, under the terms of any contract or contracts, in connection with the Project Development Work, and (vii) the reimbursement to the Lessee of all amounts paid directly by the Lessee in respect of any of the aforesaid costs and expenses and of all amounts advanced by either of them to the Board for the payment of such costs and expenses.

"Project Development Work" means all work necessary or useful in connection with the acquisition and construction of the Project for operation as a warehousing and storage facility, including (i) the acquisition of the Project Site, and (ii) the planning, design and construction of the Project Building in accordance with the provisions hereof.

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

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

"Series 1993 Bond" means that certain First Mortgage Industrial Revenue Bond (Wilkerson Project), Series 1993, authorized to be issued under the Mortgage in the principal amount of \$750,000.

Section 1.2 Definitions Contained in the Mortgage. Unless the context clearly indicates a different meaning, other words, terms or phrases which are not defined in the Lease but which are defined in the Mortgage shall have the meanings respectively given them in the Mortgage.

Section 1.3 Use of Phrases. "Herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to the Lease as an entirety and not solely to the particular portion in which any such word is used. The definitions set forth in Section 1.1 hereof include both singular and plural. Whenever used herein, any pronoun shall be deemed to include both singular and plural and to cover all genders.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

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

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

(b) **Litigation; Observance of Orders.** There are no actions, suits or proceedings pending (nor, to the knowledge of the Board, are any actions, suits or proceedings threatened) against or affecting the Board or any property of the Board in any court, or before an arbitrator of any kind, or before or by any governmental body, which might materially and adversely affect the transactions contemplated by this Lease Agreement or which might adversely affect the validity or enforceability of this Lease Agreement or any other agreement or instrument to which the Board is or is to be a party relating to the transactions contemplated by this Lease Agreement. The Board is not in default with respect to any order of any court, arbitrator or governmental body.

(c) **Sale and Other Transactions are Legal and Authorized.** The sale and issuance of the Series 1993 Bond, the execution and delivery of this Lease Agreement and the Mortgage, and the compliance with all the provisions of each thereof and of the Series 1993

Bond by the Board (i) are within the power and authority of the Board, (ii) will not conflict with or result in a breach of any of the provisions of, or constitute a default under, or result in or require the creation of any lien or encumbrance (other than Permitted Encumbrances) upon any property of the Board under, the Act or the certificate of incorporation of the Board, any agreement or other instrument to which the Board is a party or by which it may be bound, or any license, judgment, decree, order, law, statute, ordinance or governmental regulation applicable to the Board, and (iii) have been duly authorized by all necessary corporate action on the part of the Board.

(d) Governmental Consents. There are no circumstances in connection with the offering, sale, issuance or delivery of the Series 1993 Bond that require a consent, approval or authorization of, or filing, registration or qualification with, any governmental body on the part of the Board in connection with the execution, delivery and performance of either this Lease Agreement or the Mortgage or the offering, sale, issuance or delivery of any of the Series 1993 Bond, other than (i) the filing with the Alabama Securities Commission of the notification of the Board's intention to issue the Series 1993 Bond required by Act No. 586 enacted at the 1978 Regular Session of the Legislature of the State of Alabama (codified as Code of Alabama 1975, §§ 8-6-110 to 8-6-122, inclusive) and the issuance by the Director of the Alabama Securities Commission of such Certificate of Notification as may be required by said Act No. 586 in connection with the issuance of the Series 1993 Bond, (ii) recording of the deed by which the Board acquired title to the Existing Project, as well as the Lease and the Mortgage and (iii) the due filing of requisite Uniform Commercial Code financing statements. The Board has filed with the Alabama Securities Commission the notification of its intention to issue the Series 1993 Bond as required by said Act No. 586, and the Director of the Alabama Securities Commission has issued a Certificate of Notification applicable to the issuance of the Series 1993 Bond. The Certificate of Notification has not been revoked or rescinded by the Alabama Securities Commission and continues in full force and effect.

(e) No Default. No event has occurred and no condition exists which would constitute an "Event of Default" under the Mortgage, as "Event of Default" is therein defined, or which would become such an Event of Default with the passage of time or with the giving of notice or both. The Board is not in default under the Act, its certificate of incorporation, its bylaws, or any agreement or instrument to which it is a party or by which it is bound, to the extent in any such case that the default in question would adversely affect the existence of the Board, its corporate power to carry out the transactions contemplated by this Lease Agreement or the validity of the Series 1993 Bond or the security therefor.

(f) The Series 1993 Bond. The Series 1993 Bond, when issued and paid for in accordance with this Lease Agreement and the Mortgage, will constitute a legal, valid and binding special obligation of the Board payable solely from the sources provided in the Mortgage.

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

(h) Nature and Location of Project. The Project will constitute a "project" within the meaning of the Act, as now existing. As of the delivery of this Lease Agreement, the Existing Project is located wholly within the corporate limits of the City.

(i) Fulfillment of Purposes of Act. The Board has determined that the issuance of the Series 1993 Bond, the performance of the Project Development Work and the leasing of the Project to the Lessee will promote industry, develop trade, further the use of the natural and human resources of the State of Alabama and otherwise fulfill the purposes of the Act.

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

(a) Status of the Lessee. The Lessee is an individual resident of the State of Alabama. The Lessee has the power and authority to own properties and assets and to carry on business as now being conducted, and he has all requisite power to enter into this Lease Agreement and to consummate the transactions contemplated hereby.

(b) Authorization and Validity of this Lease Agreement. The Lessee has duly authorized the execution, delivery and performance of this Lease Agreement, and when duly executed and delivered by the Board, this Lease Agreement will constitute a legal, valid and binding obligation of the Lessee.

(c) Burdensome and Conflicting Agreements. The Lessee is not a party to any agreement or subject to any order, rule or regulation of any court or governmental body which materially and adversely affects, or in the future may (so far as the Lessee can now foresee) materially and adversely affect, the business, prospects, operations, properties, assets or condition (financial or otherwise) of the Lessee. Neither the execution and delivery of this Lease Agreement, nor the offering, sale and issuance of the Series 1993 Bond, nor the consummation of the transactions herein contemplated, nor the fulfillment of or compliance with the terms and provisions hereof conflicts with, or results in a breach of, or constitutes a default under, or results in or requires the creation of any lien in respect of any properties or assets of the Lessee pursuant to, or requires any authorization, consent, approval, exemption or other action by, or any notice to, any Person (other than those already obtained, taken or made and which continue in full force and effect) pursuant to the terms, conditions or provisions of any applicable law, rule, regulation, agreement, instrument, judgment or order by which the Lessee is bound or to which the Lessee or any of his properties is subject.

(d) Governmental Consents. Neither the business or property of the Lessee, nor any relationship between the Lessee and any other Person nor any circumstance in connection with the offering, sale, issuance or delivery of the Series 1993 Bond is such as to require on the part of the any consent, approval, permit, exemption, action, order or authorization of, or filing, registration or qualification with, or with respect to, any court, regulatory agency or other governmental body in connection with the execution and delivery of this Lease Agreement or the offering, sale, issuance or delivery of the Series 1993 Bond (other than those already obtained, taken or made and which continue in full force and effect).

(e) Litigation. There is no action, suit, inquiry, investigation or proceeding pending against the Lessee before or by any court or governmental body (nor, to the best knowledge and belief of the Lessee is there any basis therefor) which might result in any material

adverse change in the business, properties or assets or in the financial condition of the Lessee, or which might materially and adversely affect the transactions contemplated by this Lease Agreement, or which might impair the ability of the Lessee to comply with his obligations hereunder.

(f) No Defaults. No event has occurred and no condition exists which, upon the issuance of the Series 1993 Bond, would constitute an Event of Default or which would become such an Event of Default with the passage of time or with the giving of notice or both. To the best of the knowledge of the Lessee, no event has occurred and no condition exists which would constitute an "Event of Default" under the Mortgage, as "Event of Default" is therein defined, or which would become such an Event of Default with the passage of time or with the giving of notice or both. The Lessee is not in default in any respect under any agreement or other instrument to which it is a party or by which it is bound, or any judgment, order, rule or regulation of any court or other governmental body applicable to it, to the extent in any such case that the default in question would materially and adversely affect the transactions contemplated by this Lease Agreement or would impair the ability of the Lessee to comply with his obligations hereunder.

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

(h) Project's Compliance with Statutes and Regulations. The operations to be conducted by the Lessee at the Project will not conflict with any zoning, planning or similar regulations applicable thereto and will comply in all material respects with all applicable statutes, regulations and restrictions.

(i) Nature and Location of Project. The Project will consist of a "project" within the meaning of the Act, as now existing. As of the delivery of this Lease Agreement, the Existing Project is located wholly within the corporate limits of the City.

(j) Inducement to Develop the Project in Alabama. The undertakings by the Board to acquire, improve and equip the Project and to lease the Project to the Lessee have induced the Lessee to expand and further develop an industrial facility in the State of Alabama.

(k) Full Disclosure. Neither any information furnished by the Lessee to the Bank in connection with the sale and issuance of the Series 1993 Bond and the other transactions contemplated by this Lease Agreement, nor the representations and warranties made by the Lessee in this Lease Agreement contain any untrue statement of a material fact or omit a material fact necessary to make the statements contained therein or herein, in light of the circumstances in which they were made, not misleading at the times they were made. There is no fact known to the Lessee which the Lessee has not disclosed to the Bank prior to the execution and delivery of this Lease Agreement which materially adversely affects the Project, the condition (financial or otherwise) of the Lessee or the ability of the Lessee to perform his obligations hereunder.

ARTICLE III
DEMISING CLAUSES

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

I

The following described parcel of land located wholly within the corporate limits of Shelby County, Alabama:

Part of Block 4 of Cahaba Valley Park North, as recorded in Map Book 13, Page 140, in the Office of the Judge of Probate of Shelby County, Alabama, situated in the North 1/2 of Section 31, Township 19 South, Range 2 West, and being more particularly described as follows:

Begin at the Northwest corner of Lot 0-14A, Block 4, of Cahaba Valley Business Park, as recorded in Map Book 17, Page 19, in the Office of the Judge of Probate of Shelby County, Alabama, said point being on the East right of way line of Cahaba Valley Parkway and also being the Southwest corner of the property herein described; thence run North along the East line of said Cahaba Valley Parkway for 64.32 feet to the beginning of a curve to the right, said curve subtending a central angle of 89°-09'-21" and having a radius of 223.71 feet; thence run northeasterly along the arc of said curve and along said right of way line for 348.10 feet to the end of said curve; thence at tangent to said curve run Easterly along the South right of way line of said Cahaba Valley Parkway for 374.68 feet to a point at the intersection of the Westerly right of way line of Cahaba Valley Circle, said point being at the beginning of a curve to the right, said curve subtending a central angle of 90°-00'-00" and having a radius of 50.00 feet; thence run Southeasterly along the arc of said curve and along said Westerly right of way line of Cahaba Valley Circle for 78.54 feet to the end of said curve; thence at tangent to said curve run South along the West right of way line of said Cahaba Valley Circle for 200.00 feet to the Northeast corner of said Lot 0-14A, Block 4, Cahaba Valley Business Park; thence 90°-00'-00" right and run West along the North property line of said Lot 0-14A and along the centerline of a 30 foot wide drainage easement for 378.84 feet to a point; thence 07°-18'-59" left and continue along said North property line of Lot 0-14A and along the centerline of said easement for 272.69 feet to the point of beginning.

II

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

ARTICLE IV

CONCERNING THE PROJECT DEVELOPMENT WORK; ISSUANCE OF THE SERIES 1993 BOND

Section 4.1 Performance of the Project Development Work. The Board has heretofore acquired the Project Site. The Board and the Lessee will commence and use their best efforts to complete the Project Development Work, or to cause the same to be completed, as promptly as practicable, delays incident to strikes, riots, acts of God or the public enemy or other acts beyond the reasonable control of the Board or the Lessee only excepted; provided, however, that no liability on the part of the Board nor any reduction in or postponement of any rentals payable by the Lessee hereunder shall result from any delay in the completion of any of the Project Development Work or from the failure of such work to be completed in accordance with the plans and specifications and the directions furnished by the Lessee.

The Board acknowledges that the Project is to be acquired and constructed in accordance with the requirements of the Lessee, and it is therefore agreed and understood that the Lessee, at any time and from time to time after the delivery of this Lease Agreement, may cause such changes to be made in the design of the Project Building or in the design of any of the improvements as he, in the exercise of his sole judgment, may deem necessary or desirable; provided, however, that (i) the Project Building and such other improvements, as finally constructed in accordance with the requirements of the Lessee, shall be of a size and quality substantially equivalent to that contemplated by the Lessee at the time of the delivery of this Lease Agreement and (ii) the nature and character of the Project Building and such other improvements shall be such as is necessary for the Project to qualify as a "project" within the meaning of the Act. Except as provided in the foregoing provisions of this paragraph, neither the Lessee nor the Board will cause or permit any changes to be made in the design of the Project Building.

The Board will execute and deliver, or cause to be executed and delivered, all contracts, orders, requisitions, instructions and other written instruments and do, or cause to be done, all other acts or things that may be necessary or proper to carry out the Project Development

Work and to perform fully its obligations under this Lease Agreement. In no event, however, will the Board hereafter enter into any contract with respect to the Project Development Work or any part thereof unless there is endorsed thereon a legend indicating that the Lessee has approved both the form and substance of such contract and such legend is signed on behalf of the Lessee by an Authorized Lessee Representative.

The Board hereby appoints the Lessee as its agent to act on its behalf in connection with the Project Development Work, and the Lessee hereby accepts such agency to act and do all things on behalf of the Board required to carry out such work to completion. The appointment of the Lessee to act as agent for the Board and the authority thereby conferred on the Lessee shall irrevocably continue in effect until the Project Development Work has been completed; provided, however, that the Board may, upon the occurrence of an Event of Default, terminate the agency relationship created hereby.

The Board and the Lessee shall each appoint by written instrument an agent or agents authorized to act for each respectively in any or all matters arising under the Lease or the Mortgage which, by the terms of the Lease or the Mortgage, require action by such agents. Each agent so appointed to act for the Board shall be designated an Authorized Board Representative, and each agent so appointed to act for the Lessee shall be designated an Authorized Lessee Representative. Either the Board or the Lessee may from time to time, by written notice to the other party hereto and to the Bank, revoke, amend or otherwise limit the authorization of any agent appointed by it to act on its behalf or designate another agent or agents to act on its behalf, provided that with reference to all the foregoing matters there shall be at all times at least one Authorized Board Representative authorized to act on behalf of the Board and at least one Authorized Lessee Representative authorized to act on behalf of the Lessee.

Section 4.2 Agreement to Issue the Series 1993 Bond. In order to finance the Project Development Costs, the Board will, simultaneously with the delivery hereof, issue and sell the Series 1993 Bond and, as security therefor, execute and deliver the Mortgage. All the terms and conditions of the Mortgage (including, without limitation, those relating to the amounts and maturity date or dates of the principal of the Series 1993 Bond, the interest rate or rates thereof and any provisions for redemption thereof prior to maturity) are hereby approved by the Lessee, and to the extent that any provision of the Mortgage is relevant to the calculation of any rent or other sum payable by the Lessee hereunder or to the determination of any other obligation of the Lessee hereunder, the Lessee hereby agrees that such provision of the Mortgage shall be deemed a part hereof as fully and completely as if set out herein.

Section 4.3 Disbursement of Moneys from Construction Fund. Subject to the conditions of Section 4.4 hereof, the Board will pay, or cause to be paid, all Project Development Costs, but such costs shall be paid solely out of the principal proceeds from the sale of the Series 1993 Bond, income earned from the investment of such proceeds and any other moneys which the Lessee may cause to be deposited in the Construction Fund. The Lessee, as agent for the Board, will cause such requisitions to be prepared and submitted to the Bank as shall be necessary to enable the Bank to pay, out of moneys held in the Construction Fund

in accordance with the provisions of Section 9.2 of the Mortgage, all the Project Development Costs.

The Board will, simultaneously with the issuance of the Series 1993 Bond or as soon thereafter as may be practicable, cause the Bank, upon submission of requisitions satisfying the requirements of the Mortgage, to reimburse the Lessee, out of the proceeds of the Series 1993 Bond deposited in the Construction Fund, for (i) all costs and expenses that the Lessee may have heretofore paid or incurred in connection with the Project Development Work, and (ii) all advances and loans to the Board heretofore made by the Lessee in order to enable the Board to pay Project Development Costs. The Lessee hereby acknowledges and agrees that the failure by the Board to reimburse the Lessee, or to cause the Lessee to be reimbursed, in full for all such costs and expenses and all such advances (whether such failure results from insufficient moneys being available in the Construction Fund for such purpose, a decision by the Lessee not to request such reimbursement or any other cause) shall not result in any diminution or postponement of any rentals payable by the Lessee hereunder, or in the vesting of title to any of the Project in the Lessee, or in the imposition of a lien in favor of the Lessee upon any portion of the Project.

Section 4.4 No Warranty of Suitability by the Board. Lessee Required to Make Arrangements for Payment of Project Development Costs. The Lessee recognizes that the Project Development Work has been or is to be planned and carried out under his control and in accordance with his requirements, and the Board can, therefore, make no warranty, either express or implied, or offer any assurances that the Project resulting from the completion of such work will be suitable for the purposes or needs of the Lessee or that the proceeds derived from the sale of the Series 1993 Bond, together with the income (if any) earned from the investment of such proceeds, will be sufficient to pay in full all the Project Development Costs. In the event such proceeds and investment income (if any) are insufficient to pay all the Project Development Costs, the Lessee

(a) will, subject to the provisions of the second paragraph of Section 4.1 hereof, cause such changes to be made in the scope of the Project Development Work as will result in the aggregate Project Development Costs not exceeding such proceeds and investment income, or

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

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

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

all to the end that all obligations incurred by the Board in connection with the Project Development Work shall be paid in full and that the acquisition, restoration, improvement

and installation of the Project shall be completed to the extent necessary for the Project to constitute a "project" within the meaning of the Act. The Lessee shall not, by reason of (1) his direct payment of any excess Project Development Costs, (2) his payment of any moneys into the Construction Fund for the payment of any such costs or (3) any other arrangements made by him for the payment of such costs, be entitled to any reimbursement from the Board or to any diminution or postponement of any rentals payable by the Lessee hereunder. Further, the fact that the Lessee directly pays, or directly or indirectly furnishes money to the Board for the payment of, any part of the Project Development Costs shall not result in the acquisition of title to any part of the Project by the Lessee or in the imposition of a lien in favor of the Lessee upon any portion of the Project, it being understood and agreed (A) that title to all the Project shall, as between the Board and the Lessee, be fully and solely vested in the Board and (B) that any such lien in favor of the Lessee that might so result is hereby expressly waived and released by the Lessee.

Section 4.5 Board to Pursue Rights against Suppliers and Contractors, etc.
In the event of default by any supplier, contractor or subcontractor under any contract with the Board for the performance of the Project Development Work or any part thereof, the Board will, upon written request made to it by the Lessee, proceed, either separately or in conjunction with others, to exhaust all remedies the Board may have against such supplier, contractor or subcontractor so in default and against each surety (if any) for the performance of such contract, but all actions taken by the Board to exhaust such remedies shall be at the expense of the Lessee. Further, in the event the Board proceeds in an arbitration proceeding or by an action at law or in equity against any such supplier, contractor, subcontractor or surety pursuant to the provisions of this section or in the event any such supplier, contractor, subcontractor or surety brings any such proceeding or action against the Board in connection with or relating to the Project Development Work, the Board will follow all reasonable directions given to it by the Lessee in connection with such proceeding or action, and the Lessee shall have full and complete control thereof, including (without limitation) the right to select Counsel for the Board, but any Counsel so selected shall be satisfactory to the Board. The net amount recovered by the Board in any such proceeding or action shall be paid into the Construction Fund or, if such amount is recovered after the Completion Date, to the Lessee, unless an Event of Default shall have occurred and be continuing, in which case such amount shall be paid into the Bond Fund.

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

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

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

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

(c) the Project may be used for the purpose for which it was acquired by the Board for lease to the Lessee.

ARTICLE V

DURATION OF LEASE TERM AND RENTAL PROVISIONS

Section 5.1 Duration of Lease Term. The primary term of this Lease Agreement shall begin on the date of the delivery of this Lease Agreement and, subject to the provisions of this Lease Agreement, shall continue until 11:59 o'clock, P.M., on December 31, 2008. The Board will deliver to the Lessee sole and exclusive possession of the Project (or such portion or portions thereof as are then in existence) on the commencement date of the Lease Term, subject to the inspection and other rights reserved in Section 8.3 hereof, and the Lessee will accept possession thereof at such time; provided, however, that the Board will be permitted such access to the Project as shall be necessary and convenient for it to accomplish the undertakings on its part contained in Section 4.1 hereof; and provided further, that the Board will be permitted such possession of the Project as shall be necessary and convenient for it to make any repairs, restorations, additions or improvements required or permitted to be made by the Board pursuant to the provisions of the Lease.

Section 5.2 Basic Rent. For the use and occupancy of the Project during the Lease Term, the Lessee will, on or before the opening of business of the Bank on January 15, 1994, and on or before the opening of business of the Bank on the fifteenth day of each calendar month thereafter, until and including December 15, 2008, pay to the Bank at its principal office, for the account of the Board, installments of Basic Rent. Each installment of Basic Rent shall be paid in immediately available funds and shall be in an amount equal to the sum of

(a) an amount equal to the interest which shall have accrued with respect to the outstanding principal amount of the Series 1993 Bond during the next preceding calendar month, plus

(b) an amount equal to the principal (if any) maturing, or required by the terms of the Mortgage to be redeemed, with respect to the then outstanding principal amount of the Series 1993 Bond on such rental payment date.

Anything to the contrary herein contained notwithstanding, if for any reason, after the payment by the Lessee of such installments of Basic Rent as are required to be paid by it pursuant to any provisions of the Lease the moneys then held by and available to the Bank for payment or redemption of the principal of and the interest on the Series 1993 Bond are not sufficient to pay, on the due or required redemption date thereof, the principal maturing or required to be redeemed with respect to the Series 1993 Bond plus the interest maturing with respect to the Series 1993 Bond, the Lessee will promptly pay to the Bank (for the account of the Board) such additional Basic Rent as, when added to the aforesaid moneys held by and available to the Bank, will equal an amount sufficient to pay the principal and interest so maturing or required to be redeemed with respect to the Series 1993 Bond.

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

The Board will, promptly following the transfer of the Series 1993 Bond, give written notice to the Lessee of the name and location of the principal office of such successor Bank, or it will cause such notice to be promptly given. In the event the due date of any installment of Basic Rent payable hereunder is a Saturday, Sunday or legal holiday in the state in which the principal office of the Bank is located or a day on which the Bank is legally authorized to close, such installment shall be due in immediately available funds no later than the opening of business by the Bank on the first business day next succeeding such due date, and payment of such installment shall be made on such postponed due date with the same effect as if made on the original due date. Any Basic Rent payment due hereunder that is not paid on the due date thereof shall bear interest from such due date until paid at a per annum rate equal to two percent (2%) above the rate of interest that would otherwise apply to the Series 1993 Bond, computed and subject to adjustment as specified in Section 7.2 of the Mortgage.

Section 5.3 Additional Rent — Bank's Fee and Expenses. In addition to the Basic Rent due from the Lessee hereunder, the Lessee will also pay, as additional rent, (i) any periodic or transactional fee of the Bank for its ordinary services as depository, custodian and disbursing agent for the special trust funds created under the Mortgage and (ii) the

reasonable fees, charges and expenses of the Bank for necessary extraordinary services rendered by it and necessary extraordinary expenses incurred by it under the Mortgage. All such fees, charges and expenses shall be paid directly to the Bank, for its own account, upon presentation of its statements therefor, but the Lessee may, without creating a default hereunder, contest in good faith the necessity for any extraordinary services performed by the Bank or the reasonableness of the fees, charges or expenses of the Bank in connection therewith.

Section 5.4 Additional Rent — Board's Fee and Expenses. In addition to the Basic Rent and all other rental payments due from the Lessee hereunder, the Lessee will also pay, as additional rent, the following:

(1) a one-time payment to the Board of \$3,750, which amount is equal to one-half of one percent of the principal amount of the Bonds, to be paid on or before December 15, 1993; and

(2) on or before each October 1, 1995, and on or before each October 1 thereafter during the Lease Term the sum of \$4,300; and

(3) the reasonable and necessary expenses, not otherwise provided for, which may be incurred by the Board, or for which the Board may in any way become liable, as a result of issuing the Series 1993 Bond, acquiring and constructing the Project and leasing the same to the Lessee, or being a party to the Lease or the Mortgage; provided, however, that, as to expenses incurred after the execution hereof, so long as no Event of Default shall have occurred and be continuing, the Lessee's liability under this Section 5.4 shall not include expenses voluntarily incurred by the Board without prior request or approval by the Lessee, unless such expenses are necessary to enable the Board to perform its obligations under the Lease and the Mortgage.

Section 5.5 Optional Prepayment of Basic Rent. The Lessee may, at his option at any time and from time to time, prepay directly to the Bank, for the account of the Board, such amount of Basic Rent as shall be sufficient to enable the Board to redeem and retire, in advance of maturity, any or all of the principal amount of the Series 1993 Bond in accordance with its terms and the terms of the Mortgage. In the event of such prepayment, the Board will cause the amount of Basic Rent so prepaid to be applied to redemption and retirement of the principal of the Series 1993 Bond, in accordance with the provisions of the Mortgage, on the earliest practicable date after receipt of such prepaid Basic Rent on which, under their terms and the terms of the Mortgage, such principal amount of the Series 1993 Bond may be redeemed, and will (upon being notified by the Lessee in writing of the Lessee's intention in this respect and without the necessity of the moneys therefor being deposited with the Bank) take all action necessary under the provisions of the Mortgage to effect such redemption. Prepayments of Basic Rent shall be applied to the redemption of the outstanding principal amount of the Series 1993 Bond at the redemption prices and in accordance with the other terms and conditions set forth in Section 7.3 of the Mortgage.

Section 5.6 General Provisions Concerning Prepayment of Basic Rent. The prepayment of Basic Rent pursuant to any provision of the Lease will result in a total or partial abatement of the Basic Rent that would thereafter have come due had it not been for such prepayment. After the prepayment of Basic Rent sufficient to pay, redeem and retire the entire outstanding principal amount of the Series 1993 Bond together with accrued interest thereon, the Lessee shall be entitled to the use and possession of the Project without the payment of any further Basic Rent but otherwise on all the same terms and conditions of the Lease.

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

The provisions of the first paragraph of this Section 5.7 shall remain in effect only so long as any of the Mortgage Indebtedness remains outstanding and unpaid. Nothing contained in this Section 5.7 shall be construed to prevent the Lessee, at his own cost and expense and in his own name or in the name of the Board, from prosecuting or defending any action or proceeding or taking any other action involving third persons which the Lessee deems reasonably necessary in order to secure or protect his rights hereunder, including, without limitation, such actions as may be necessary to insure that the Project Development Work will be completed in accordance with the directions and requirements of the Lessee, and in such event the Board will cooperate fully with the Lessee in any such action or proceeding. Further, nothing contained in this Section 5.7 shall be construed to release the Board from the performance of any of the agreements on its part herein contained or to preclude the Lessee from instituting such action against the Board as the Lessee may deem necessary to compel such performance, it being understood and agreed, however, that no such action on the part of the Lessee shall in any way affect the agreements on the part of the Lessee contained in the first paragraph of this Section 5.7 or in any way relieve the Lessee from performing any such agreements.

ARTICLE VI

PROVISIONS CONCERNING MAINTENANCE, ADDITIONS, PARTY WALLS, INSURANCE AND TAXES

Section 6.1 Maintenance, Additions, Alterations, Improvements and Modifications. The Lessee will, at his own expense, (i) keep the Project in reasonably safe condition and (ii) keep all structures, equipment and other facilities at any time forming part of the Project in good repair and operating condition (reasonable wear and tear excepted), making from time to time all necessary and proper repairs thereto (including, without limitation, exterior and structural repairs); provided however, that the Lessee shall have no obligation hereunder to repair or maintain the Project after full payment of the Mortgage Indebtedness.

The Lessee may, at own cost and expense, make, or cause to be made, any additions, alterations, improvements or modifications to the Project that it may deem desirable for his business purposes, provided that such additions, alterations, improvements or modifications do not change the character of the Project to such extent that it no longer constitutes a "project" within the meaning of the Act, or significantly impair the value or utility of the Project and provided further that, if such additions, alterations, improvements or modifications affect the structural integrity of any structure forming a part of the Project, the Lessee furnishes the Board and the Bank a certificate of an Independent Engineer acceptable to the Bank stating, in either case, that such additions, alterations, improvements or modifications will not significantly impair the value or utility of the Project.

Subject to the privilege of making full use of the party wall easements created by Section 6.2 hereof, all additions, alterations, improvements or modifications to the Project made, or caused to be made, by the Lessee shall

- (a) be located wholly within the boundaries of the Project Site, or
- (b) be located wholly within the boundaries of other adjacent land hereafter acquired by the Board that has been subjected (i) to the demise of the Lease and (ii) to the lien of the Mortgage if the Mortgage Indebtedness has not been fully paid, or
- (c) be located wholly within the boundaries of the Project Site and such other adjacent land.

Prior to the payment in full of the Mortgage Indebtedness, no additions, alterations, improvements or modifications to the Project shall be located, in whole or in part, on any land adjacent to the Project Site in accordance with the preceding clauses (b) and (c) unless the Board and the Bank shall have been furnished either (i) an opinion of Independent Counsel satisfactory to the Bank to the effect that the Board has good and marketable title to such land, subject only to Permitted Encumbrances, or (ii) a policy or policies of title insurance written by an insurer satisfactory to the Bank and insuring the mortgage interest of the Bank therein, except with respect to Permitted Encumbrances, in an amount approximately equal

to the cost of such land and the improvements located or to be located thereon. Any such adjacent land so subjected to the demise hereof and to the lien of the Mortgage shall henceforth be considered, for purposes of the Lease and the Mortgage, as part of the Project Site. All such additions, alterations, improvements and modifications to the Project so made, or caused to be made, by the Lessee shall become a part of the Project.

In the event that, after the completion of the acquisition and construction of the Project the Lessee determines to make, or to cause to be made, any additions, alterations, improvements or modifications to the Project pursuant to the second paragraph of this Section 6.1, then the Board will execute and deliver, or cause to be executed and delivered, all contracts, orders, requisitions, instructions and other written instruments and do, or cause to be done, all other acts that may be necessary or proper in making such additions, alterations, improvements or modifications. In no event, however, will the Board hereafter enter into any contract with respect to any such additions, alterations, improvements or modifications unless there is endorsed thereon a legend indicating that the Lessee has approved both the form and substance of such contract and such legend is signed on behalf of the Lessee by an Authorized Lessee Representative. Any obligation for the payment of money incurred or assumed by the Board in connection with such additions, alterations, improvements or modifications shall be payable solely from any moneys made available to the Board by the Lessee for such purpose.

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

At any time and from time to time, the Lessee may, at his own cost and expense, install on or about the Project Site any equipment or other personal property which in the Lessee's judgment is necessary or convenient for his use and occupancy of the Project, provided that the installation of such equipment or other personal property does not significantly impair the value or utility of the Project. Any such equipment or personal property owned or leased by the Lessee may be removed by the Lessee at any time and from time to time without responsibility or accountability to the Board or the Bank, but the Lessee shall promptly repair at his own expense any damage to the Project caused by the removal of any such equipment or other personal property.

Section 6.2 Party Wall Provisions. If the Lessee purchases any unimproved part of the Project Site pursuant to the provisions of Section 11.5 hereof, or if the Lessee purchases, leases or otherwise acquires any other land adjacent to the Project Site, or if any unimproved portion of the Project Site is released from the demise hereof, then, in any such

event, all building walls now standing or hereafter erected on or contiguous to any common boundary between the Project Site and any land theretofore constituting part of the Project Site that has been purchased by the Lessee, any other land adjacent to the Project Site that has been purchased, leased or otherwise acquired by the Lessee or any land theretofore constituting part of the Project Site that has been released from the demise thereof, as the case may be, shall be party walls, and each parcel of land on either side of such common boundary shall be subject to a reciprocal easement for the benefit of the other parcel, which easement on each side of such common boundary shall extend out fifteen feet from such boundary and shall be for the purposes of construction, inspection, maintenance, repair and replacement of any party wall now or hereafter erected on or contiguous to such common boundary.

Subject to the provisions of Section 6.1 hereof and to the extent permitted by applicable building codes and accepted principles of structural design, new buildings or other structures located on either side of any such common boundary may be structurally connected to any such party wall then in existence, but any party exercising such right of connection to an existing party wall shall indemnify and hold harmless the owner, mortgagee and lessee of the parcel of land on which such party wall was erected (as well as any other person having an interest in said parcel) against any and all losses and damages that may in any way result from the construction and connection of adjacent buildings and other structures to such party wall, including damage or loss occurring after the completion of construction as well as any that may occur during construction.

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

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

Section 6.3 Taxes, Other Governmental Charges and Utility Charges. The Board and the Lessee acknowledge (i) that under present law no part of the Project, so long as it is owned by the Board, shall be subject to ad valorem taxation, other than school-related

ad valorem taxes, by the State of Alabama or by any political or taxing subdivision thereof and that under present law none of the receipts, income or profits (if any) of the Board from the Project is subject to either federal or state taxation, and (ii) that these factors, among others, induced the Lessee to enter into this Lease Agreement. However, the Lessee will pay, as the same respectively become due,

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

(b) all assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Project; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only such installments as are required to be paid during any period while the Lease shall be in effect.

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

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

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

Section 6.4 Insurance Required. The Lessee will, not later than the date of delivery of this Lease Agreement, take out and thereafter continuously maintain in effect or cause to be taken out and thereafter continuously maintained in effect, insurance with respect to the Project against such risks as are customarily insured against by Persons owning properties of like size and type as the Project, paying as the same become due all premiums with respect thereto including, but not necessarily limited to, the following:

(a) insurance against loss or damage to the Project Building by fire, lightning, vandalism and malicious mischief, with uniform standard extended coverage endorsement limited only as may be provided in the standard form of extended coverage endorsement at the time in use in the State of Alabama, to such extent as is necessary to provide (i) for full payment of the costs of repairing, restoring or replacing the property damaged or destroyed or, if insurance to such extent is not available, to the extent of the full insurable value (as determined by a recognized insurer), the Project Building or (ii) for the recovery of such lesser amount as may be required for the full payment of the Mortgage Indebtedness then outstanding; and

(b) comprehensive general liability insurance against liability for personal or bodily injury to or death of persons and for damage to or loss of property occurring on or about the Project Site or in any way related to the use or occupancy of the Project, and against the Lessee's contractual obligation of indemnity hereunder, in the minimum amounts of \$500,000 for death of or personal or bodily injury to any one person and for property damage per occurrence, and \$500,000 for all death and personal or bodily injury claims and property damage occurring during any annual coverage period.

All policies evidencing the insurance required by the terms of the preceding paragraph shall be taken out and maintained in generally recognized responsible insurance companies, qualified under the laws of the State of Alabama to assume the respective risks undertaken, shall contain an agreement on the part of the insurer issuing such policy that the same shall not be cancelled, terminated or permitted to lapse by such insurer unless thirty (30) days' prior written notice of such cancellation, termination or lapse in coverage shall have been given to the Bank, and may be written with deductible amounts comparable to those on similar policies carried by Persons owning properties of like size and type as the Project. All such insurance policies, other than those evidencing the insurance required by clause (b) of the preceding paragraph and such other policies or portions thereof as may evidence insurance against liability for injury to persons or property of others, shall name as insureds the Board, the Bank and the Lessee (as their respective interests shall appear) and shall contain standard mortgage clauses providing for all losses thereunder in excess of \$15,000 to be paid to the Bank; provided that all losses (including those in excess of \$15,000) may be adjusted by the Lessee, subject, in the case of any single loss in excess of \$15,000, to the approval of the Bank. The insurance required by clause (b) of the preceding paragraph shall cover the liability, in the several respects indicated, both of the Board and of the Lessee. All policies evidencing the insurance required to be carried by this Section 6.4 shall be deposited with the Bank; provided, however, that in lieu thereof the Lessee may deposit with the Bank a certificate or certificates of the respective insurers attesting the fact that such insurance is in force and effect. Prior to the expiration or cancellation of any such policy, the Lessee will furnish to the Bank evidence reasonably satisfactory to the Bank that such policy has been renewed or replaced by another policy or that there is no necessity therefor under this Lease Agreement. Anything herein to the contrary notwithstanding, any insurance required by the provisions hereof may be evidenced by a blanket policy covering risks in addition to those hereby required to be covered, but if and only if appropriate allocation certificates and loss payable endorsements are furnished to the Board and the Bank.

Section 6.5 Performance by Board or Bank of Certain Lessee Obligations. Reimbursement of Expenses. In the event the Lessee fails to take out or maintain the full insurance coverage required by this Lease Agreement, fails to pay the taxes and other charges required to be paid by this Lease Agreement at or prior to the time they are required to be paid, or fails to keep the Project in as reasonably safe condition as its operations permit and in good repair and operating condition, the Board or the Bank, after first notifying the Lessee of any such failure on his part and after the subsequent failure by the Lessee to perform the obligation with respect to which he is delinquent, may (but shall not be obligated to) take out the required policies of insurance and pay the premiums on the same, pay such taxes and other charges or make such repairs as may be necessary to keep the Project in as reasonably safe condition as the Lessee's operations permit and in good repair and operating condition, respectively. Any amount so paid by the Board or the Bank in performing any of such obligations of the Lessee shall become an additional obligation of the Lessee to the Board or to the Bank, as the case may be, and shall be repaid by the Lessee, together with interest thereon, from the date such amount was paid by the Board or the Bank, as the case may be, until the date of its repayment by the Lessee at a per annum rate equal to one percent (1%) above the rate of interest that would otherwise apply to the Series 1993 Bond until such amount is repaid or at the maximum applicable non-usurious per annum rate of interest then permitted by the laws of the State of Alabama, whichever of the foregoing rates of interest is the lesser. Any remedy herein vested in the Board or the Bank for the collection of Basic Rent shall also be available to the Board or the Bank for the collection of all amounts so paid by the Board or the Bank in performing any of such obligations of the Lessee.

ARTICLE VII

PROVISIONS RESPECTING DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1 Damage and Destruction Provisions. If, prior to full payment of the Mortgage Indebtedness, the Project is destroyed, in whole or in part, or is damaged, by fire, or other casualty, to such extent that the loss to the Project resulting therefrom is not greater than \$15,000, the Lessee will continue to pay the rent required to be paid hereunder and will promptly repair, replace or restore the property destroyed or damaged to substantially the same condition as prior to the event causing such damage or destruction with such changes, alterations or modifications (including the substitution and addition of other property) as will not significantly impair the operating utility of the Project or change the character thereof to such extent that it will not constitute a "project" within the meaning of the Act. The Lessee will apply so much as may be necessary of any Net Insurance Proceeds referable to such damage or destruction to the payment of the costs of such repair, replacement or restoration, as well as provide any additional moneys required therefor. In the event that the total costs of such repair, replacement and restoration are less than such Net Insurance Proceeds, the Lessee will pay into the Bond Fund the amount by which such proceeds exceed said total costs. Any preceding provision of this paragraph to the contrary notwithstanding, the Lessee may, if as a result of such damage or destruction it is entitled to do so under the provisions of Section 11.2 hereof, exercise the option to purchase there granted upon the

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

If, prior to full payment of the Mortgage Indebtedness, the Project is destroyed, in whole or in part, or is damaged, by fire or other casualty, to such extent that the loss to the Project resulting therefrom is greater than \$15,000, the Lessee will promptly so notify the Board and the Bank in writing. If, in such event, the Lessee is not entitled to exercise the option to purchase granted in Section 11.2 hereof or if, in such event, being entitled to, it does not exercise such option, the Net Insurance Proceeds recovered by the Board, the Lessee and the Bank on account of such damage or destruction shall be paid to and held by the Bank. Pursuant to directions to be given the Board and the Bank by the Lessee in writing to be forwarded to the Board and the Bank not more than sixty (60) days following the event causing such damage or destruction, such proceeds shall be applied by the Bank in one or both of the following ways (the amount, if any, to be applied in each such way to be specified in such written directions):

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

(b) the redemption of the Series 1993 Bond prior to maturity in accordance with the terms of the Mortgage and on the earliest practicable date permitted thereby or the purchase of the Series 1993 Bond for retirement, in which case such portion of the Net Insurance Proceeds to be used therefor shall be deposited in the Bond Fund.

In the event that the Net Insurance Proceeds held by the Bank (or any specified portion thereof) are to be applied for payment of the costs of repairing, replacing or restoring the property damaged or destroyed, the Construction Fund shall be reestablished and such proceeds (or specified portion thereof) shall be deposited therein, and the Board will cause disbursements to be made from such fund to pay such costs in the same manner (with the necessary changes in detail) as provided in the Mortgage for the disbursement of proceeds of the Series 1993 Bond originally deposited in such fund. Any balance of the Net Insurance Proceeds remaining after payment of all such costs shall be paid into the Bond Fund or, if the Mortgage Indebtedness has been paid in full and no Event of Default shall have occurred and be continuing, to the Lessee. In the event such proceeds are not sufficient to pay in full the costs of such repair, replacement or restoration, the Lessee (i) will nonetheless complete the work thereof and will pay that portion of the costs thereof in excess of the amount of the Net Insurance Proceeds (or specified portion thereof) available for the payment of such costs, or (ii) will pay to the Bank, for the account of the Board, the moneys necessary to complete such work, in which case the Board will cause such work to be so completed, and the Board and

the Bank will, upon completion of such work and payment in full of the costs thereof, return to the Lessee any portion of such payment that is not needed therefor. The Lessee shall not, by reason of the payment of such excess costs (whether by direct payment thereof or payment to, or for the account of, the Bank therefor), be entitled to any reimbursement from the Board or to any abatement or diminution of the rent provided for herein.

In no event shall any of the Net Insurance Proceeds held by the Bank be applied for payment of any costs of repair, replacement or restoration unless and until (i) the Board and the Bank have been notified in writing by the Lessee that the Lessee irrevocably relinquishes any right it may have, on account of such damage or destruction, to exercise the option to purchase granted in Section 11.2 hereof, or (ii) the time within which the Lessee must exercise such option has expired without the Lessee having exercised such option. If, however, as a result of such damage or destruction (irrespective of whether or not the loss resulting therefrom is greater than \$15,000, the Lessee is entitled to exercise such option and duly does so in accordance with the applicable provisions of said Section 11.2, then neither the Lessee nor the Board shall have any obligation to repair, replace or restore the property damaged or destroyed, in which case so much (which may be all) of such Net Insurance Proceeds then held by the Bank as shall be necessary to provide for full retirement of the Series 1993 Bond (as specified in Section 11.2 hereof) shall be paid or credited by the Bank into the Bond Fund and so much of the excess thereafter remaining (if any) as shall be necessary for the payment of any other Mortgage Indebtedness shall be applied by the Bank to the payment of such other Mortgage Indebtedness. Any portion of such Net Insurance Proceeds remaining after payment in full of the entire Mortgage Indebtedness shall be paid to the Lessee after or simultaneously with the exercise by the Lessee of such option.

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

All property acquired in connection with the repair, replacement or restoration of any part of the Project pursuant to the provisions of this Section 7.1 shall be and become part of the Project subject to the demise hereof and the lien of the Mortgage and shall be held by the Lessee on the same terms and conditions as the property originally constituting the Project.

Section 7.2 Condemnation Provisions. If title to the Project or any part thereof is taken under the exercise of the power of Eminent Domain, the entire condemnation award in respect of such taking (including, without limitation, (i) all amounts received as the result of any settlement of compensation claims negotiated with the condemning authority and (ii) any amount awarded as compensation for the interest of the Lessee in the part of the Project taken and as damages to the interest of the Lessee in any part thereof not taken, but not including any condemnation award belonging to the Lessee pursuant to the provisions of Section 7.4 hereof) shall be paid to the Bank (or, if the Mortgage Indebtedness has been fully

paid, to the Lessee), whereupon such award shall be applied and certain related actions shall be taken in accordance with the succeeding provisions of this Section 7.2:

(a) Taking of All or Substantially All the Project Prior to Full Payment of the Mortgage Indebtedness. If all or substantially all the Project is so taken by such exercise of the power of Eminent Domain prior to full payment of the Mortgage Indebtedness, the Lease shall terminate [except as to the provisions of this subsection (a) and Section 8.2 hereof] as of the forty-fifth (45th) day after the receipt by the Bank of the final installment of the entire condemnation award in respect of such taking, unless the Lessee has theretofore exercised the option to purchase the Project granted in Section 11.2 hereof. The Board will cause the Lessee to be notified in writing, as promptly as practicable following such receipt by the Bank of such final installment of the entire condemnation award, of the date on which such final installment was so received by the Bank and the amount of the Net Condemnation Award in respect of such taking then held by the Bank. On or before the close of business of the Bank on the date on which the Lease shall terminate pursuant to this subsection (a), the Lessee will pay to the Bank, for the account of the Board, such additional Basic Rent as, when added to the total of the amounts then held in the Construction Fund and the Bond Fund plus the full amount of the Net Condemnation Award then held by the Bank, will be sufficient to pay, redeem and retire the Bond on the aforesaid date on which the Lease shall terminate, including, without limitation, principal, interest to maturity or earliest practicable redemption date, as the case may be, expenses of redemption and all other Mortgage Indebtedness. Any portion of the Net Condemnation Award not needed for payment of the Mortgage Indebtedness shall be paid to the Lessee simultaneously with or promptly after the termination of the Lease.

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

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

(2) If any part of the Project is taken or damaged, or if in the Lessee's opinion, expressed in a written statement and delivered to the Board and the Bank, such taking significantly impairs the

operating utility of the Project, and if, in the event of such taking, the Lessee is not entitled to exercise the option to purchase the Project granted in Section 11.2 hereof or if, in such event, being entitled to, it does not exercise such option, the Net Condemnation Award in respect of such taking shall, pursuant to directions to be given the Board by the Bank in a written statement to be forwarded to the Board by the Bank not more than sixty (60) days following such taking, be applied by the Board (or by the Lessee as the agent of the Board in one or more of the following ways (the amount, if any, to be applied in each such way to be specified in such written statement:

(I) payment of the costs of repairing, restoring, modifying, relocating or rearranging any portions of the Project not taken but damaged or adversely affected by such taking, all to such extent and in accordance with such plans as shall be directed by the Bank and as shall, prior to the making of any financial commitments therefor beyond the planning thereof, be approved in writing by the Bank, provided that the character of the Project shall not be changed to such extent that it will not qualify as a "project" within the meaning of the Act;

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

(III) the redemption of the Series 1993 Bond prior to maturity in accordance with the terms of the Mortgage and on the earliest practicable date permitted thereby or the purchase of the Series 1993 Bond for retirement, in which case such portion of the Net Condemnation Award to be used therefor shall be deposited in the Bond Fund.

In the event that the Net Condemnation Award held by the Bank (or any specified portion thereof) is to be applied, pursuant to the provisions of subparagraphs (I) or (II) of this subsection (b)(2), for payment of the costs of repairing, restoring, modifying, relocating or rearranging any part of the Project

or for payment of the costs of acquiring additional property to become part of the Project, as the case may be, the Construction Fund shall be reestablished and such award (or specified portion thereof) shall be deposited therein, and the Board will cause disbursements to be made from such fund to pay such costs in the same manner (with the necessary changes in detail) as provided in the Mortgage for the disbursement of proceeds of the Series 1993 Bond originally deposited in such fund. Any balance of the Net Condemnation Award remaining after payment of all such costs shall be paid into the Bond Fund or, if the Mortgage Indebtedness has been paid in full and no Event of Default shall have occurred and be continuing, to the Lessee. In the event that such award is not sufficient to pay in full the costs of such repair, restoration, modification, relocation or rearrangement, or the costs of acquiring such additional property, as the case may be, the Lessee (i) will nonetheless complete such repair, restoration, modification, relocation or rearrangement or the acquisition of such additional property, as the case may be, and will pay that portion of the costs thereof in excess of the amount of the Net Condemnation Award (or specified portion thereof) available for the payment of such costs, or (ii) will pay to the Bank, for the account of the Board, the moneys necessary to complete such repair, restoration, modification, relocation or rearrangement or the acquisition of such additional property, as the case may be, in which case the Board will cause such undertakings to be so completed, and the Bank will, upon completion of such undertakings and payment in full of the costs thereof, return to the Lessee any portion of such payment by the Lessee that is not needed therefor. The Lessee shall not, by reason of the payment of such excess costs (whether by direct payment thereof or payments to, or for the account of, the Bank therefor), be entitled to any reimbursement from the Board or to any abatement or diminution of the rent provided for herein.

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

(d) Taking of Less than Substantially All the Project After Full Payment of Mortgage Indebtedness. If, after full payment of the Mortgage Indebtedness, title to less than substantially all the Project is taken by such exercise of the power of Eminent Domain, this Lease Agreement shall continue in full force and effect, but neither the Lessee nor the Board shall be obligated to correct or ameliorate in any way the condition of the Project caused by such taking, and the Net Condemnation Award referable to such taking shall be paid to the Lessee; provided, however, that the Board will, to the extent and in the manner provided in Section 7.6 hereof, cooperate fully with the Lessee in carrying out such work of repairing, restoring, modifying, relocating or

rearranging the Project or in acquiring such additional property to form a part of the Project as the Lessee may, in his sole discretion, deem necessary or desirable.

In no event shall any of the Net Condemnation Award held by the Bank be applied for payment of any costs described in subparagraphs (I) and (II) of subsection (b)(2) of this Section 7.2 unless and until (i) the Board and the Bank have been notified in writing by the Lessee that the Lessee irrevocably relinquishes any right he may have, on account of such taking, to exercise the option to purchase granted in Section 11.2 hereof, or (ii) the time within which the Lessee must exercise such option has expired without the Lessee having exercised such option. If, however, as a result of such taking, the Lessee is entitled to exercise such option and duly does so in accordance with the applicable provisions of said Section 11.2, then neither the Lessee nor the Board shall be obligated to correct or ameliorate in any way the condition of the Project caused by such taking, in which event so much (which may be all) of such Net Condemnation Award then held by the Bank as shall be necessary to provide for full retirement of the Series 1993 Bond (as specified in Section 11.2 hereof) shall be paid or credited by the Bank into the Bond Fund and so much of the excess thereafter remaining (if any) as shall be necessary for the payment of any other Mortgage Indebtedness shall be applied by the Bank to the payment of such other Mortgage Indebtedness. Any portion of such Net Condemnation Award remaining after payment in full of the entire Mortgage Indebtedness shall be paid to the Lessee after or simultaneously with the exercise by the Lessee of such option.

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

Section 7.4 Condemnation of Lessee-Owned Property. The Lessee shall be entitled to any condemnation award or portion thereof made for damages to or the taking of

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

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

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

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

ARTICLE VIII

PARTICULAR COVENANTS OF THE LESSEE

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

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

The Lessee acknowledges that it has furnished to the prospective purchaser of the Series 1993 Bond, or has caused to be so furnished, certain information concerning the financial condition of the Lessee, and the Lessee further acknowledges that it has sought and received the assistance and cooperation of the Board in connection with the offering and sale of the Series 1993 Bond. The Lessee will indemnify, hold harmless and defend the Board (and each director, officer and employee thereof) against

(a) any claim or liability whatsoever arising out of or based upon any untrue or misleading statement or alleged untrue or misleading statement of any material fact contained in any of the aforesaid information furnished, or caused to be furnished, by the Lessee to any prospective purchaser of the Series 1993 Bond, or the omission or alleged omission to state in any such information any material fact necessary to make the statements contained

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

(b) any claim or liability arising out of any action taken by the Board at the request of the Lessee (or any other person authorized to act on behalf of the Lessee) in connection with the offering and sale of the Series 1993 Bond.

The Lessee will pay or reimburse all legal or other expenses reasonably incurred by the Board (and each director, officer, employee and agent thereof) in connection with the investigation or defense of any action or proceeding, whether or not resulting in liability, with respect to any claim, liability or loss in respect of which indemnity may be sought against the Lessee under the provisions of this Section 8.2.

In the event that any action or proceeding is brought against any indemnifiable party (whether the Board, or any of the Board's directors, officers, employees or agents), in respect of which indemnity may be sought against the Lessee under the provisions of this Section 8.2, such indemnifiable party shall, as a condition of the Lessee's liability under the provisions of this Section 8.2, be obligated to notify promptly the Lessee in writing of the commencement of such action or proceeding and shall thereafter forward to the Lessee a copy of every summons, complaint, pleading, motion or other process received with respect to such action or proceeding. The Lessee may (and if so requested by such indemnifiable party, shall) at any time assume the defense of such indemnifiable party in connection with any such action or proceeding, and in such case the Lessee shall pay all expenses of such defense and shall have full and complete control of the conduct on the part of such party of any such action or proceeding, including, without limitation, the right to settle or compromise any claim giving rise to such action or proceeding upon such terms and conditions as the Lessee, in his sole discretion, shall determine and the right to select Counsel for such party. Any other provision of this Section 8.2 to the contrary notwithstanding, the Lessee shall not be obligated to indemnify any such indemnifiable party for any liability resulting from the settlement of any action or proceeding if such settlement was made without the Lessee's consent, irrespective of whether the Lessee had, prior to such settlement, exercised his right to assume the defense of such indemnifiable party in connection with such action or proceeding.

Nothing contained in this Section 8.2 shall be construed to indemnify the Board, or any of the Board's directors, officers, employees or agents, or the Bank, against, or to release any of such parties from liability for, any claim, liability or loss that may result from willful misconduct or gross negligence on the part of such parties.

Anything to the contrary in this Lease Agreement notwithstanding, the covenants of the Lessee contained in this Section 8.2 shall, with respect to any claim, liability or loss for which the Lessee is obligated to provide indemnity, remain in full force and effect after the termination of this Lease Agreement until (i) any cause of action brought in respect of such claim, liability or loss shall be barred by the applicable statute of limitations or (ii) the payment in full or the satisfaction of such claim, liability or loss, including all reasonable expenses incurred by the indemnifiable party or parties in defending against such claim, liability or loss; provided, however, that in the event any action or proceeding arguably barred by the applicable statute of limitations is brought against any indemnifiable party hereunder, the Lessee shall be obligated to defend such indemnifiable party with respect to such action

or proceeding, all to the end that the bar of the statute of limitations may be asserted by the Lessee against the party bringing such action or proceeding but may not be asserted by the Lessee against the indemnifiable party in order to avoid performing any of his obligations under this Section 8.2.

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

Section 8.4 Financial Statements. For so long as any of the Mortgage Indebtedness shall be outstanding, the Lessee will furnish to the Bank prior to the end of each calendar year during the Lease Term the following:

- (a) a personal financial statement of the Lessee as of December 1 in each such calendar year, in such detail as the Bank shall reasonably request, including a statement of the assets and liabilities of the Lessee as of the date of any such personal financial statement, as well as a summary of total cash and receipts and cash disbursements of the Lessee, all in such detail as the Bank shall request;
- (b) such information relating to the performance or observance of the terms of the Lease and the financial condition of the Lessee as the Bank may from time to time reasonably request;
- (c) immediately upon becoming aware of the existence of any default by the Lessee under the Lease in the performance or observance of any of the covenants set forth in the Lease, a written notice specifying the nature and existence thereof and what action the Lessee is taking and proposes to take with respect thereto; and
- (d) immediately upon becoming aware of any action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency which, if adversely determined, might impair the ability of the Lessee to perform his obligations under the Lease, impair the right of the Lessee to carry on his business substantially as now conducted, or materially and adversely affect the business, operations, properties, assets or condition (financial or otherwise) of the Lessee, a written notice describing such action, suit or proceeding and what action the Lessee is taking or proposes to take with respect thereto.

Section 8.5 Further Assurances. The Lessee will, at his own cost and expense, take all actions that may at the time and from time to time be necessary to perfect, preserve, protect and secure the interests of the Board and the Bank, or either, in and to the Project, including, without limitation, the filing of all financing and continuation statements that may at the time be required under the Alabama Uniform Commercial Code. The Lessee further agrees, without in any way limiting the generality of the foregoing, to take any and all such actions that in the judgment of the Board or the Bank are necessary for the perfection, preservation, protection and securing of such interests.

ARTICLE IX

CERTAIN PROVISIONS RELATING TO ASSIGNMENT, SUBLEASING AND MORTGAGING AND TO THE SERIES 1993 BOND

Section 9.1 Provisions Relating to Assignment and Subleasing by Lessee. The Lessee may assign the Lease and the leasehold interest created thereby, and may sublease the Project or any part thereof, without the necessity of obtaining the consent of the Board or the Bank; provided, however, that the Lessee shall not assign the Lease or the leasehold interest created thereby or sublease the Project or any part thereof if such assignment or subleasing would change the character of the Project to such an extent that any part thereof would not constitute a "project" within the meaning of the Act; provided further, that no assignee or sublessee or anyone claiming by, through or under any such assignment or sublease shall by virtue thereof acquire any rights in the Project or any part thereof greater than the rights the Lessee then has under the Lease and any rights such assignee or sublessee obtains hereunder shall be subject to defenses, counterclaims and rights of set-off to the same extent as rights of the Lessee hereunder, nor shall any such assignment or subleasing or any dealings or transactions between the Board or the Bank and any sublessee or assignee in any way relieve the Lessee from primary liability for any of his obligations hereunder. Thus, in the event of any such assignment or subleasing, the Lessee shall continue to remain primarily liable for payment of the rent herein provided to be paid by him and for performance and observance of the other agreements and covenants on his part herein provided to be performed and observed by him.

Section 9.2 Mortgaging of the Project by Board. It is understood and agreed that the Board will mortgage the Project to the Bank as security for the payment of the Series 1993 Bond, subject to the Lease (which Lease and the estate of the Lessee hereunder shall be prior and superior to the lien of the Mortgage), and will assign its interest (other than the expense reimbursement rights contained in Section 6.6 hereof and the indemnification rights contained in Section 8.2 hereof) in the Lease and pledge any moneys receivable hereunder to the Bank as security for payment of the principal of and the interest on the Series 1993 Bond. It is further understood and agreed that in the Mortgage the Board will obligate itself to follow the instructions of the Bank in the election or pursuit of any remedies herein vested in it. Upon the assignment and pledge to the Bank of the Board's interest in the Lease, the Bank shall have all rights and remedies herein accorded the Board (other than

the aforesaid reimbursement and indemnification rights), and any reference herein to the Board shall be deemed, with the necessary changes in detail, to include the Bank; and the Bank shall be deemed to be a third party beneficiary of the covenants and agreements on the part of the Lessee contained in the Lease and shall, to the extent provided in the Mortgage, be entitled to enforce performance and observance of the agreements and covenants on the part of the Lessee contained in the Lease to the same extent as if he were a party hereto. Subsequent to the issuance of the Series 1993 Bond and prior to the payment of the Mortgage Indebtedness in full, the Board and the Lessee shall have no power to modify, alter, amend or (except as specifically authorized herein) terminate the Lease without the prior written consent of the Bank and then only as provided in the Mortgage. The Board will not, so long as no Event of Default shall have occurred and be continuing, amend the Mortgage without the prior written consent of the Lessee.

Without the prior written request or consent of the Lessee, the Board will not, so long as no Event of Default shall have occurred and be continuing, hereafter issue any bonds or other securities (including refunding securities), other than the Series 1993 Bond, that are payable out of or secured by a pledge of the revenues and receipts derived by the Board from the leasing or sale of the Project, nor, without such consent, will the Board, so long as no Event of Default shall have occurred and be continuing, hereafter place any mortgage or other encumbrance (other than the Mortgage and supplemental mortgages contemplated thereby) on the Project or any part thereof.

Section 9.3 References to 1993 Bond Ineffective after Mortgage Indebtedness Paid. Upon full payment of the Mortgage Indebtedness and cancellation, satisfaction and discharge of the Mortgage in accordance with the provisions of Section 10.1 thereof, all references in the Lease to the Series 1993 Bond and the Bank shall be ineffective and the Bank shall thereafter have no rights hereunder, saving and excepting any that shall have theretofore vested. For purposes of the Lease, the Series 1993 Bond shall be deemed fully paid if there exists, with respect thereto, the applicable conditions specified in Section 10.1 of the Mortgage.

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

Section 9.4 Disposition of Trust Fund Moneys after Full Payment of Mortgage Indebtedness. The Board hereby assigns to the Lessee all surplus moneys (if any) that may remain in the Construction Fund and the Bond Fund or that may otherwise be held by the Bank (or the Bank, as the case may be) after the Mortgage Indebtedness has been fully paid, such assignment to be subject to the condition that the Lease shall not have been terminated prior to full payment of the Mortgage Indebtedness as a result of the occurrence of an Event of Default. The Board will provide in the Mortgage for such surplus moneys to be paid to the Lessee in accordance with such assignment. The provisions of this section shall survive the expiration or prior termination of the Lease.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

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

(a) failure by the Lessee to pay any installment of Basic Rent or to make any other payment required under the terms hereof on the date that such installment or such payment shall become due and payable by the terms of the Lease;

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

(c) any warranty, representation or other statement by or on behalf of the Lessee contained herein or in any other document furnished by the Lessee in connection with the issuance and sale of the Series 1993 Bond being untrue or misleading in any material respect at the time made;

(d) an "Event of Default" under either or both of the Series 1993 Bond Guaranties, as such term is respectively defined and used therein;

(e) the death of the Lessee;

(f) institution by the Lessee of proceedings to be adjudicated a bankrupt or insolvent, or consent by the Lessee to the filing of a bankruptcy or insolvency proceeding against him, or the filing by the Lessee of a petition or answer or consent seeking relief under Title 11 of the United States Code, as now constituted or as amended, or any other applicable federal or state bankruptcy or other similar law, or consent by the Lessee to the institution of proceedings thereunder or to the filing of any such petition, or consent by the Lessee to the appointment of, or the taking of possession of any of his property by, a receiver, liquidator, trustee, custodian or assignee in bankruptcy or

insolvency for the Lessee or for all or a major part of his property, or an assignment by the Lessee for the benefit of his creditors, or a written admission by the Lessee of his inability to pay his debts generally as they become due, or the taking of any action by the Lessee in furtherance of any of the foregoing events or actions; or

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

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

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

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

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

(c) declare immediately due and payable Basic Rent in an amount equal to outstanding principal balance due on the Series 1993 Bond plus interest accrued on the Series 1993 Bond to the date of such declaration, but only if, concurrently with such declaration, the principal of and accrued interest on the Series 1993 Bond is also declared due and payable pursuant to subsection (a) of Section 8.2 of the Mortgage;

(d) have access to, and inspect, examine and make copies of, the books, records and accounts of the Lessee, but if and only if any of the principal and accrued interest on the Series 1993 Bond are then outstanding; and

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

provided, however, that, except in the case of an Event of Default described in subparagraph (a) of Section 10.1 hereof, neither the Board and the Bank, nor the Bank on behalf of the Board, shall take any of the remedial actions described in either of subparagraphs (a) and (b) of this Section 10.2 unless the Event of Default authorizing such action shall have continued for a period of at least thirty (30) days.

Section 10.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to the Board or the Bank is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Lease or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Board or the Bank to exercise any remedy reserved to it in this Article X, it shall not be necessary to give any notice, other than such notice as is herein expressly required.

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

Section 10.5 No Additional Waiver Implied by One Waiver. In the event any agreement contained in the Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall

not be deemed to waive any other breach hereunder. Further, neither the receipt nor the acceptance of any rent hereunder by the Board, or by the Bank on its behalf, shall be deemed to be a waiver of any breach of any covenant, condition or obligation herein contained or a waiver of any Event of Default even though at the time of such receipt or acceptance there has been a breach of one or more covenants, conditions or obligations on the part of the Lessee herein contained or an Event of Default (or both) and the Board or the Bank (or both) have knowledge thereof.

ARTICLE XI

OPTIONS

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

(a) At any time prior to full payment of the entire Mortgage Indebtedness, the Lessee may cancel or terminate the Lease by (i) giving the Board and the Bank written notice of such termination and specifying in such notice the date on which such termination is to be effective and (ii) paying to the Bank, for the account of the Board, on or before the effective date of such termination, an amount which, when added to the total of the amounts then held in the Construction Fund and the Bond Fund, will be sufficient to pay, redeem and retire the Series 1993 Bond on the earliest practicable date next succeeding the effective date of such termination on which, under its terms and the terms of the Mortgage, it may be paid or redeemed, including, without limitation, principal, all interest to mature until and on such payment or redemption date, the expenses of redemption and all other Mortgage Indebtedness then owing and that will accrue until the payment, redemption and retirement of the Series 1993 Bond.

(b) At any time after the entire Mortgage Indebtedness has been fully paid, the Lessee may cancel or terminate the Lease by giving the Board written notice of such termination not less than thirty (30) days prior to the date on which such termination is to be effective. Any cancellation or termination of the Lease as aforesaid notwithstanding, any obligations or liabilities of the Lessee hereunder, actual or contingent, which have arisen on or before the effective date of such cancellation or termination shall remain in full force and effect.

Section 11.2 Option to Purchase — Casualties. While any of the Mortgage Indebtedness is outstanding and unpaid, the Lessee shall have the right and option, hereby granted by the Board, to purchase the Project if

(a) any part of the Project is damaged or destroyed, by fire or other casualty, to such extent that, in the opinion of the Lessee expressed in a written statement filed with the Board and the Bank, (i) the restoration or repair of the property damaged or destroyed to the condition thereof immediately preceding such damage or destruction would not be economically practicable or desirable, or

(b) under the exercise of the power of Eminent Domain by any governmental authority or person, firm or corporation acting under governmental authority, (i) title to all or substantially all the Project, or (ii) the temporary use of all or part of the Project, or title to part of the Project, is taken to such extent that, in the opinion of the Lessee expressed in a written statement filed with the Board and the Bank, the Lessee will thereby be prevented, or is likely to be thereby prevented, from making normal use of the Project for a period of not less than four (4) consecutive months, or

(c) as a result of any changes in the Constitution of the State of Alabama 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, the Lease becomes void or unenforceable or impossible of performance in accordance with the intent and purposes of the parties as expressed herein or unreasonable burdens or excessive liabilities are imposed on the Board or the Lessee, including (without limiting the generality of the foregoing) any changes in federal or state tax laws that will render the operation of the Project significantly less advantageous economically to the Lessee.

To exercise such option, the Lessee

(1) shall, within sixty (60) days following the event authorizing the exercise of such option, give to the Board and the Bank written notice, signed by the Lessee, which shall contain a description of such event and shall state the reason why it authorizes the exercise of such option,

(2) shall specify in such notice the date of purchase, which (subject to the provisions of the last paragraph of this Section 11.2) shall be not less than forty-five (45) nor more than ninety (90) days after the date such notice is mailed or otherwise delivered,

(3) in the case of an authorizing event described in the preceding subparagraph (d), shall certify in such notice that the Lessee has discontinued, or will discontinue at the earliest practicable date, his occupancy of the Project, and

(4) shall on the date of purchase pay to the Bank (for the account of the Board), as and for the purchase price of the Project, an amount which, when added to the total of the amounts then held in the Construction Fund

and the Bond Fund, plus the amount of any Net Insurance Proceeds or Net Condemnation Award then held by the Bank and referable to any damage, destruction or condemnation authorizing the exercise of such option, will be sufficient to pay, redeem and retire the Series 1993 Bond on the date of purchase, including, without limitation, principal, premium (if any), all interest to mature until and on such payment or redemption date, expenses of redemption and all other Mortgage Indebtedness; provided, however, that if on the date of purchase the entire Mortgage Indebtedness has been paid in full, the Lessee shall not be required to pay any such amount in order to entitle him to exercise such option, in which event (any provision herein to the contrary notwithstanding) any Net Insurance Proceeds or Net Condemnation Award referable to any damage, destruction or condemnation authorizing the exercise of such option shall be paid to the Lessee simultaneously with or promptly after the exercise of such option.

Upon receipt of the amount required by this Section 11.2 to be paid by the Lessee as the purchase price of the Project (if payment of any such amount is required), and if at such time the Lessee is not in default in payment of the rent or any other amounts due hereunder, the Board will, by deed or other appropriate instrument complying with the provisions of Section 11.6 hereof, transfer and convey the Project (or such portion thereof — which may be none — as is then in existence and is owned by the Board) in its then condition, whatever that may be, to the Lessee.

In the event that the option granted by this Section 11.2 is exercised by the Lessee as a result of the taking of all or substantially all the Project under the exercise of the power of Eminent Domain, the date of purchase of the Project pursuant to such option shall not, irrespective of the date specified therefor pursuant to clause (2) of the first paragraph of this Section 11.2, be later than the date on which the Lease terminates in accordance with the provisions of Section 7.2(a) hereof, which date of termination is the forty-fifth (45th) day after the receipt by the Bank of the final installment of the entire condemnation award in respect of such taking.

Section 11.3 Option to Purchase. If the Lessee pays all rent and other amounts due hereunder, he shall have the right and option, hereby granted by the Board, to purchase the Project from the Board at any time during the Lease Term after payment in full of the Mortgage Indebtedness, at and for a purchase price of \$100 plus the costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by the Board in connection with the Lessee's exercise of such option. To exercise any such purchase option, the Lessee shall notify the Board in writing not less than thirty (30) days prior to the date on which he proposes to effect such purchase and, on the date of such purchase, shall pay the aforesaid purchase price to the Board in cash or bankable funds, whereupon the Board will, by deed or other instrument complying with the provisions of Section 11.5 hereof, transfer and convey the Project (in its then condition, whatever that may be) to the Lessee. Nothing herein contained shall be construed to give the Lessee any right to any rebate to or refund of any rent paid by him hereunder prior to the exercise by him of the purchase option hereinabove granted, even though such rent may have been wholly or partially prepaid.

Section 11.4 Option to Renew the Lease Term. The Lessee shall have the right and option, hereby granted by the Board, to renew the term of this Lease for the period commencing at 11:59 o'clock, P.M., on December 31, 2008 and continuing until 11:59 o'clock, P.M., on November 30, 2013; provided, however, that such option shall not be exercisable at any time prior to full payment of the Series 1993 Bond unless the Lessee is not in default hereunder. To exercise such option to renew, the Lessee shall so notify the Board in writing (a) not less than sixty (60) days prior to the expiration of the Lease Term, or (b) in the event the use, for a limited period, of all or part of the Project is taken by eminent domain during the period of sixty (60) days prior to the expiration of the Lease Term, within the applicable period specified in Section 7.3 hereof but in any event prior to the expiration of the Lease Term. The cash rental due by the Lessee during such renewal term shall be the sum of \$4,300 per year payable annually in advance, but otherwise all the terms and conditions herein contained shall, with the necessary changes in detail, apply during such renewal term. In the event the Lessee exercises the option to renew granted in this Section 11.4, it shall, at any time after the commencement of such renewal term, have the right to terminate this Lease Agreement upon giving to the Board notice in writing not less than five (5) days prior to the date of termination.

Section 11.5 Option to Purchase Unimproved Parts of Project Site. The Lessee shall have the right and option, hereby granted by the Board, to purchase from the Board, at any time and from time to time and on the terms and conditions hereafter specified in this section, any unimproved part of the Project Site. In order to exercise such option the Lessee shall furnish to the Board and the Bank the following:

(a) a notice in writing containing (i) an adequate legal description of that part of the Project Site with respect to which such option is to be exercised (including the acreage thereof), (ii) a statement that the Lessee intends to exercise his option to purchase such part of the Project Site on a date stated, which shall not be less than thirty (30) nor more than ninety (90) days from the date of such notice, and (iii) a statement that the use to which the Lessee proposes to devote such part of the Project Site will be consistent with the continued industrial or commercial development of the State of Alabama and will further the use and development of the natural and human resources of said state;

(b) a certificate signed by an Independent Engineer stating (i) that no part of the Project Building nor any improvement (except for roads, walkways, ground level parking improvements, sewer, water, gas, electric and communication lines and the like, which shall be specified in such certificate) is located on the part of the Project Site with respect to which such option is to be exercised, and (ii) that the severance of such part of the Project Site from the Project will not impair the operating utility of the Project or unduly restrict ingress or egress to or from the Project Building;

(c) a certificate signed by an Independent Appraiser and made not more than sixty (60) days prior to the date of the notice provided for in clause

(a) of this section stating the fair market value of that portion of the Project Site requested to be released; and

(d) an amount, in cash or bankable funds, equal to (i) if any of the Mortgage Indebtedness is then outstanding and unpaid, the fair market value specified in the Independent Appraiser's certificate provided for in clause (c) of this section, or (ii) if the Mortgage Indebtedness has been fully paid, \$10.00 per acre (prorated for fractional parts of an acre) of the part of the Project Site with respect to which such option is to be exercised.

The option granted by this section shall not be exercisable at any time prior to full payment of the Mortgage Indebtedness if an Event of Default shall have occurred and be continuing. Upon the receipt by the Board and the Bank of the appropriate purchase price and the notice and certificates complying with the provisions of the preceding clauses (a), (b) and (c), respectively, the Board will execute and deliver to the Lessee a statutory warranty deed complying with the provisions of Section 11.5 hereof, conveying to the Lessee the part of the Project Site with respect to which such option was exercised. If, at the time of any such purchase, any of the Mortgage Indebtedness is outstanding and unpaid, the Board will pay into the Bond Fund the entire amount received by it from such purchase.

From and after the consummation of any purchase effected by the Lessee pursuant to the provisions of this section, any reference herein to the Project Site shall be deemed to refer to the land that immediately prior thereto constituted the Project Site, less and except that part so purchased by the Lessee under the provisions of this section. No purchase effected by the Lessee under the provisions of this section shall entitle the Lessee to any abatement or diminution of the rent payable hereunder.

Section 11.6 Options — In General. Each of the options herein granted to the Lessee may be exercised by him even though an Event of Default shall have occurred and be continuing, it being understood and agreed, however, that all other applicable conditions specified herein to the exercise of such option (including payment of any amounts of money, herein required to be paid by the Lessee) are met.

In the event of the exercise by the Lessee of any of the options to purchase the Project or any part thereof granted in Sections 11.2, 11.3 and 11.4 hereof, the Board will convey to the Lessee, after compliance by the Lessee with the conditions to purchase specified in the respectively applicable sections hereof, the property with respect to which such option was exercised by statutory warranty deed, bill of sale (in the case of personal property) or other appropriate instrument, subject only to Permitted Encumbrances, such liens, encumbrances and exceptions to which title to such property was subject when this Lease Agreement was delivered or such property was acquired by the Board (whichever occurred last), those to the creation or suffering of which the Lessee consented and those resulting from the failure of the Lessee to perform or observe any of the agreements or covenants on his part herein contained.

In case that, at the time of the exercise by the Lessee of either of the options to purchase the Project granted in Sections 11.2 and 11.3 hereof, there shall not have been collected

by the Board, the Bank or the Lessee the entire insurance proceeds or condemnation award referable to any damage, destruction or condemnation with respect to the Project which may have theretofore occurred, then in such case all Net Insurance Proceeds and all Net Condemnation Awards thereafter collected and referable to such damage, destruction or condemnation shall be paid to the Lessee, and the Board will take all actions necessary to cause the amount of any such proceeds or awards to be paid to the Lessee. The provisions of this paragraph shall survive the expiration of the term of the Lease or any prior termination of the Lease unless at the time of such expiration or termination the Lessee is in default in the payment of any amounts of money herein required to be paid by him.

ARTICLE XII

MISCELLANEOUS

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

Section 12.2 Retention of Title to Project by Board. Without the prior written consent of the Lessee, the Board will not itself, so long as no Event of Default shall have occurred and be continuing, (i) sell, convey or otherwise dispose of all or any part of the Project (except to the Lessee as hereinabove provided) or (ii) except as provided in Section 9.2 hereof, mortgage or otherwise encumber the Project or any part thereof. The Board will, however, grant such utility, access and other similar easements, permits and rights-of-way over, across or under the Project Site as shall be requested in writing by the Lessee, provided that in connection with the grant of each such easement, permit or right-of-way the Lessee furnishes to the Board and the Bank a certificate signed by an Authorized Lessee Representative stating that such easement, permit or right-of-way is, or will be, useful or necessary in the use of the Project and will not materially interfere with or impair the use of the Project for the purpose for which it was acquired or is held by the Board. The Lessee will pay all reasonable expenses incurred by the Board in connection with the granting of all such easements, permits and rights-of-way.

Section 12.3 Net Proceeds of Lease. The Lessee recognizes and understands that until the Series 1993 Bond is fully paid all Basic Rent hereunder shall be available for payment of the principal and the interest on the Series 1993 Bond. The Lessee's obligations hereunder shall be construed to effectuate such intent.

Section 12.4 Statement of Intention Regarding Certain Tax Matters. The Board and the Lessee acknowledge and agree that it is their mutual intention that the Lessee, for federal and state income tax purposes, will be entitled to all deductions and credits with respect to the Project (including, but not limited to, depreciation and investment credits) and that for such purposes the Lease will be deemed to be a financing of the Project. The Board shall execute such documents as the Lessee may reasonably request in order to make available to the Lessee said deductions and credits.

Section 12.5 Notices. All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given if in writing and delivered, or sent by registered mail, postage prepaid, to the following addresses:

(a) If to the Board:

The Industrial Development Board
of the City of Pelham
City Hall
Pelham Alabama 35024
Attention: Chairman of the Board of Directors

(b) If to the Lessee:

Eugene Wilkerson
3538 Polo Park Trace
Hoover, Alabama 35224

(c) If to the Bank:

National Bank of Commerce of Birmingham
1927 First Avenue North
Birmingham, Alabama 35203
Attention: President

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

Whenever, under the provisions hereof, any request, consent or approval of the Board or the Lessee is required or authorized, such request, consent or approval shall (unless otherwise expressly provided herein) be signed on behalf of the Board by an Authorized Board Representative and, on behalf of the Lessee by an Authorized Lessee Representative; and

each of the parties and the Bank are authorized to act and rely upon any such requests, consents or approvals so signed.

Section 12.6 Certain Prior and Contemporaneous Agreements Cancelled. The Lease shall completely and fully supersede all other prior or contemporaneous agreements, both written and oral, between the Board and the Lessee relating to the Project Development Work and the leasing of the Project all to the end that the Board and the Lessee shall look to the Lease for ultimate definition and determination of their respective rights, liabilities and responsibilities respecting the Project Development Work, the Project and the Series 1993 Bond. The Lessee and the Board acknowledge that they have no outstanding agreement, commitment or understanding, either express or implied, for the grant to the Lessee of any option to purchase the Project or any part thereof or of any option to renew the term of the Lease, other than those options to purchase the Project contained in Article XI hereof.

Section 12.7 Limited Liability of Board. The Board is entering into this Lease Agreement pursuant to the authority conferred upon it by the Act. No provision hereof shall be construed to impose a charge against the general credit of the Board or any personal or pecuniary liability upon the Board except with respect to the proper application of the proceeds to be derived from the sale of the Series 1993 Bond, moneys made available by the Lessee to the Board pursuant to the provisions hereof, and the revenues and receipts to be derived from any leasing or sale of the Project, including insurance proceeds and condemnation awards. Further, none of the directors, officers, employees or agents (other than the Lessee as the agent of the Board in connection with the Project) of the Board shall have any personal or pecuniary liability whatever hereunder or any liability for the breach by the Board of any of the agreements on its part herein contained. Nothing contained in this section, however, shall relieve the Board from the observance and performance of the several covenants and agreements on its part herein contained or relieve any director, officer, employee or agent of the Board from performing all duties of his respective office that may be necessary to enable the Board to perform the covenants and agreements on its part herein contained.

Section 12.8 Binding Effect. The Lease shall inure to the benefit of, and shall be binding upon, the Board, the Lessee and their respective successors and assigns. To the extent provided herein and in the Mortgage, the Bank shall be deemed to be a third party beneficiary hereof, but nothing herein contained shall be deemed to create any right in, or to be for the benefit of, any other person who is not a party hereto.

Section 12.9 Severability. In the event any provision of the Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. Without in any way limiting the generality of the foregoing, the Lessee specifically acknowledges and agrees that the several purchase options granted him herein are fully severable from and independent of the other provisions hereof and that neither the invalidity or unenforceability of any of such purchase or renewal options shall invalidate or render unenforceable any other provision

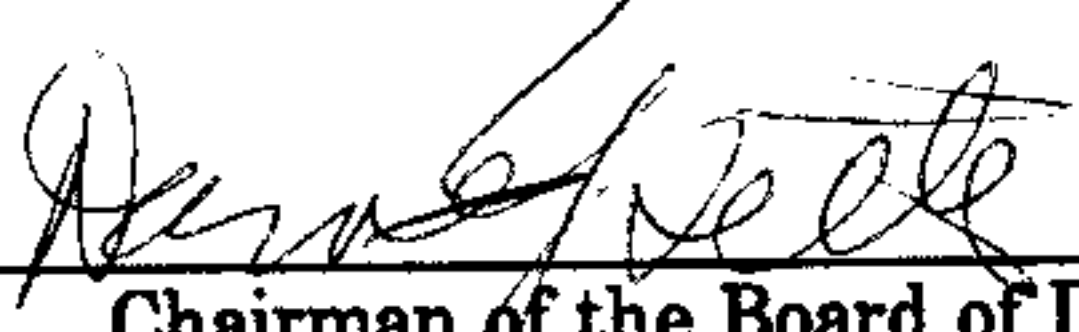
hereof nor excuse the Lessee from fully performing and observing any of the agreements and covenants on his part herein contained, including but not limited to his obligation to pay in full the Basic Rent and all additional rent hereunder.

Section 12.10 Article and Section Captions. The article and section headings and captions contained herein are included for convenience only and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

Section 12.11 Governing Law. This Lease Agreement shall in all respects be governed by and construed in accordance with the laws of the State of Alabama.

IN WITNESS WHEREOF, the Board has caused this Lease Agreement to be executed in its corporate name, has caused its corporate seal to be hereunder affixed, and has caused this Lease Agreement to be attested, all by its duly authorized officers, and the Lessee has caused this Lease Agreement to be executed, all in five (5) counterparts, each of which shall be deemed an original, and the parties hereto have caused this Lease Agreement to be dated December 21, 1993.

**THE INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF PELHAM**

By 
Chairman of the Board of Directors

ATTEST:


Its Secretary

[CORPORATE SEAL]


EUGENE WILKERSON

STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that DANIEL M. SPITLER, whose name as Chairman of the Board of Directors of THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF PELHAM, a public corporation and instrumentality under the laws of the State of Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

GIVEN under my hand and official seal of office, this 21st day of December, 1993.

[NOTARIAL SEAL]

Othman A. Williams
Notary Public

My Commission Expires: 10-30-96

STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that EUGENE WILKERSON, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and seal, this 21st day of December, 1993.

[NOTARIAL SEAL]

Othman A. Williams
Notary Public

My Commission Expires: 10-30-96

Inst # 1994-01495