

94-26828

Carolyn D. Harvill
2918 7th Ave. S.
B'ham. AL 35233

STATE OF ALABAMA)
JEFFERSON COUNTY)

KIRK N. DOBBINS IRREVOCABLE TRUST AGREEMENT

This Agreement, made and entered into as of the 21 day of February, 1994, by and between KIRK N. DOBBINS, of Jefferson County, Alabama (hereinafter referred to as "Grantor"), and CAROLYN R. DOBBINS HARVILL, of Jefferson County, Alabama (hereinafter referred to as "Trustee"), as follows:

W I T N E S S E T H:

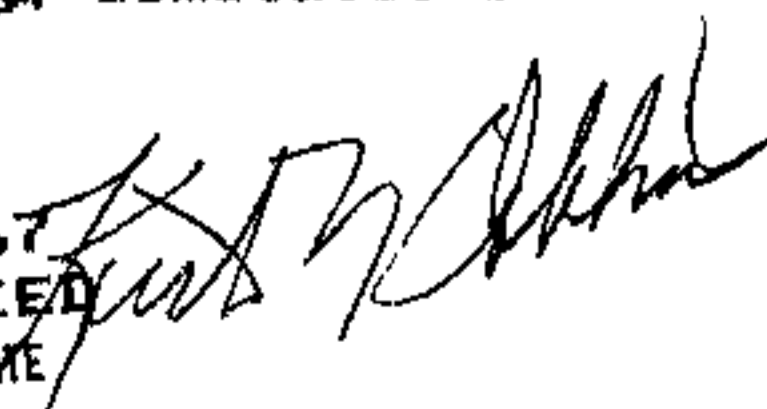
WHEREAS, the Grantor desires to create a trust (referred to herein as the "Trust") for the purposes hereinafter set forth; and

WHEREAS, the said Trustee hereinabove named has agreed to accept said trusteeship, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises, it is hereby understood and agreed by and between the parties hereto as follows:

1. Trust Property. The said Grantor does hereby grant, assign, set over, transfer and deliver to the Trustee the property listed on Exhibit "A" attached hereto, the receipt of which is hereby acknowledged by the Trustee, in trust upon the express terms and conditions and with the powers and limitations hereinafter set forth. The Grantor or any other person may, at any time and from time to time, add cash, securities, real property or other property to the corpus of the trust estate (collectively, all property transferred to the Trust shall be referred to as the "Trust Estate") herein created by deed, gift, will or otherwise, and such property shall thereupon become a part of the Trust Estate and shall be managed, invested, reinvested and disposed of upon the express terms and conditions and with the powers and limitations hereinafter set forth.

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Alabama Title Co., Inc.

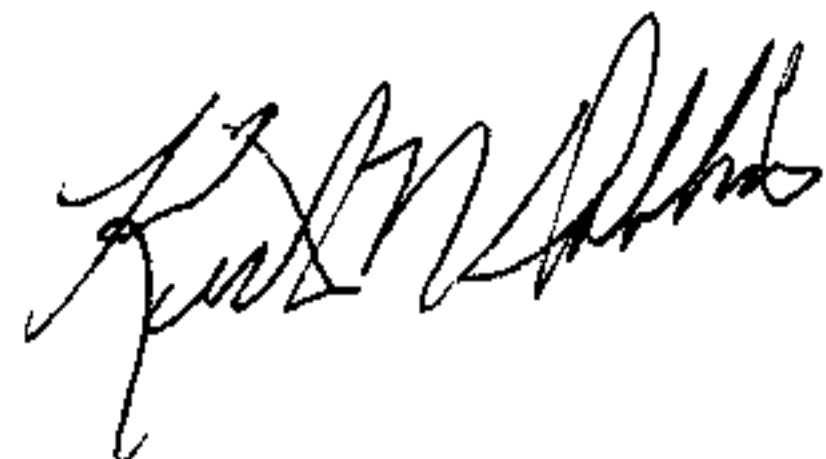
2. Irrevocability. The Trust shall be irrevocable and the Grantor hereby expressly acknowledges that he shall have no right or power, whether alone or in conjunction with others, in whatever capacity, to alter, amend, revoke or terminate the Trust or any of the terms of this Agreement, in whole or in part, or to designate the persons who shall possess or enjoy the Trust property or income therefrom. The Grantor willingly and knowingly does hereby relinquish absolutely and forever all possession or enjoyment of, or right to the income from, the Trust Estate, whether directly, indirectly, or constructively, and every interest of any nature, present or future, in the Trust Estate.

3. Dispositive Provisions. Commencing as of the creation of this Trust and during the life of the Grantor, the Trustee shall distribute to the Grantor income and principal from the Trust Estate as follows:

(a) Income. For so long as this Trust is in existence, the Trustee shall distribute to the Grantor so much of the income of the Trust Estate as the Trustee from time to time believes desirable for the health, support in reasonable comfort, education, best interest and welfare of the Grantor, considering all circumstances and factors deemed pertinent by the Trustee. Any income not distributed shall be accumulated and added to the principal of the Trust Estate.

(b) Discretionary Principal. The Trustee may from time distribute so much of the principal of the Trust Estate, even to the exhaustion of principal, as the Trustee believes desirable for the health, support in reasonable comfort, education, best interest and welfare of the Grantor, considering all circumstances and factors deemed pertinent by the Trustee.

4. Disposition Upon Grantor's Death. Upon the death of Grantor, the Trustee shall transfer and pay over the entire Trust Estate as it then exists, after payment by the Trustee



of all expenses attributable to the Trust, to the Grantor's estate. Upon such transfer this Trust shall terminate.

5. Trustee Powers. Without limitation of the powers conferred by statute or general rules of law, the Trustee shall have the following powers and authorities in addition to others now or hereafter conferred by law with respect to any property held in trust hereunder:

(1) To allot to the Trust created hereunder an undivided interest in any property transferred hereunder; to make joint investments for such Trust; to make any division or distribution in kind or partly in kind and partly in money; and to determine the value of any property so allotted, divided or distributed;

(2) To hold and continue to hold as an investment the property received hereunder, and any additional property which may be received by the Trustee so long as the Trustee deems proper;

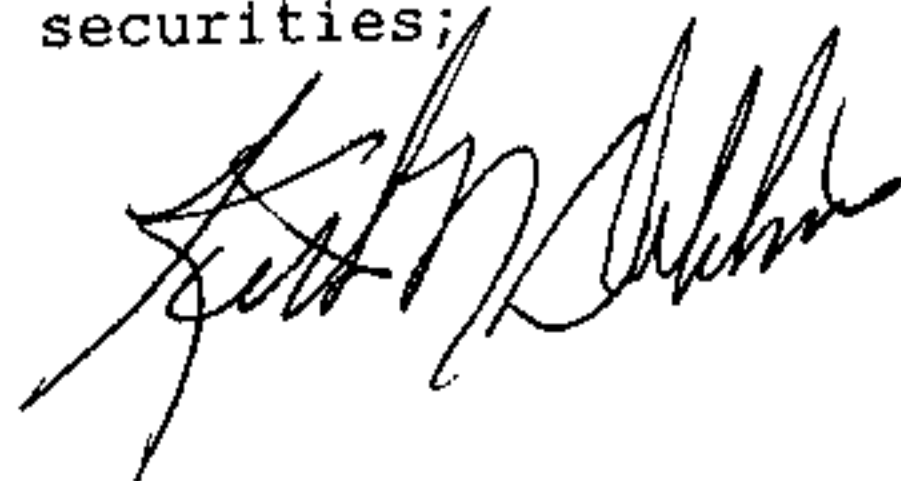
(3) To rent or lease any property of the Trust hereunder for such time (including any lease for a period extending beyond the term of my estate) not exceeding ninety-nine (99) years, and upon such terms and for such rental or price as in the Trustee's discretion and judgment may seem just and proper and for the best interest of the Trust created hereunder;

(4) To sell, transfer, assign and convey any of the property of the Trust created hereunder or any interest therein, in a public or private sale or transaction, for such price or prices and upon such terms and conditions as in the Trustee's discretion and judgment may be deemed for the best interest of the Trust and to execute and deliver any deeds or conveyances (with or without warranty), receipts, releases, contracts, or other instruments necessary in connection therewith;

(5) To make all repairs and improvements at any time deemed necessary and proper to and upon real estate, which in the Trustee's discretion and judgment may be deemed advisable and proper and for the best interests of the Trust created hereunder, and to determine the extent to which the cost of such repairs and improvements shall be apportioned as between principal and income;

(6) To deduct, retain, expend, and pay out of any money belonging to the Trust created hereunder any and all necessary and proper expenses in connection with the operation and conduct of the Trust created hereunder, and to pay all taxes, insurance premiums, and other legal assessments, debts, claims, or charges which at any time may be due and owing by, or which may exist against, the Trust created hereunder;

(7) To vote upon all securities belonging to the Trust created hereunder, and to become a party to any shareholders' agreements deemed advisable by the Trustee in connection with such securities;

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(8) To consent to the reorganization, consolidation, merger, liquidation, readjustment of, or other change in any corporation, company or association, or to the sale, mortgage, or lease of the property thereof or any part thereof, any of the securities or other property of which may at the time be held by the Trustee hereunder, and to do any act or exercise any power with reference thereto that may be legally exercised by any persons owning similar property in the Trustee's own right, including the exercise of conversion, subscription, purchase, or other options, the deposit, surrender or exchange of securities, the entrance into voting trusts, and the making of agreements or subscriptions which the Trustee may deem necessary or advisable in connection therewith, all without applying to any court for permission so to do, and to hold and redeem or sell or otherwise dispose of any securities or other property which the Trustee may so acquire;

(9) To vote any corporate securities held hereunder in person, or by special, limited or general proxy, with or without power of substitution, or to refrain from voting;

(10) To engage in business with the property of the Trust created hereunder as sole proprietor, or as a general or limited partner, with all the powers customarily exercised by an individual so engaged in business, and to hold an undivided interest in any property as tenant in common or as tenant in partnership;

(11) To cause any security or other property which may at any time constitute a portion of the Trust created hereunder to be issued, held or registered in the Trustee's individual name or in the name of a nominee or in such form that title will pass by delivery;

(12) To appoint, employ, remove and compensate such attorneys, accountants, agents, investment advisors, investment managers, investment counselors, financial consultants and representatives, individual or corporate, which the Trustee deems necessary to appoint and/or employ. Any individuals or corporations so appointed and/or employed are to be compensated and such compensation is to be treated as an expense of administration;

(13) To institute and defend any and all suits or legal proceedings relating to the Trust created hereunder in any court, and to employ counsel and to compromise or submit to arbitration all matters of dispute in which the Trust created hereunder may be involved, as in the judgment of the Trustee may be necessary or proper; to compromise, settle, arbitrate or defend any claim or demand in favor of or against the Trust created hereunder; to enforce any bonds, mortgages, security agreements, or other obligations or liens held hereunder; and to enter upon such contracts and agreements and to make such compromises or settlements of debts, claims, or controversies as the Trustee may deem necessary or advisable;

(14) To foreclose mortgages and to bid on any property under foreclosure or to acquire mortgaged

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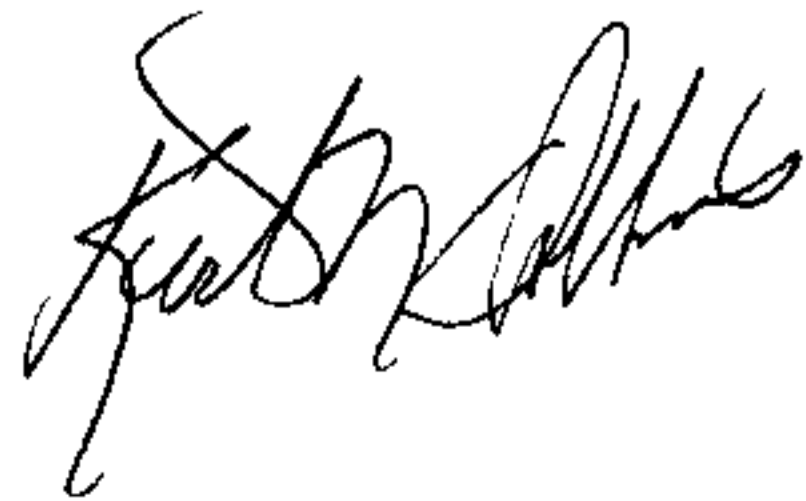
property in any other manner and for such consideration as the Trustee may determine;

(15) To allocate all deductions for depletion under Federal and State income tax statutes, in each tax year, among a group consisting of the Trustee and those persons or trusts to whom income of the Trust created hereunder may in such tax years have been distributed, in such shares and proportions as the Trustee may determine, to the extent permissible under the applicable statute. In the absence of a valid allocation so made, such deductions for any tax year shall be divided among the members of such group in proportion to the amounts distributed to or retained by each during such tax year; and the Trustee shall not be required to maintain any reserve for depletion despite any statute or rule of law to the contrary, but the Trustee may do so at the Trustee's discretion;

(16) To open and maintain one or more bank, custodian or other accounts in any bank or trust company and to deposit to the credit of such account or accounts all of the funds belonging to the Trust created hereunder which may at the time be in the possession of the Trustee; from time to time to withdraw a portion or all of said funds so deposited by check signed by the Trustee, and any such bank or trust company is hereby authorized to pay such checks and also to receive the same for deposit, to the credit of any holder thereof who so signed or endorsed; to delegate to any one or more of the Trustee's proper agents the right to sign checks against the aforementioned account or accounts for the purposes of the Trust created hereunder, and any bank or trust company in which said account or accounts are maintained is hereby authorized and directed to pay such checks, provided, however, that prior thereto such delegation is evidenced by an appropriate instrument in writing deposited with the said bank or trust company by the Trustee;

(17) In any contract or agreement made by the Trustee on behalf of the Trust created hereunder, to stipulate and provide against personal liability; all rights created under and by virtue of such contracts or agreements shall belong to the Trust created hereunder and the obligations thereunder shall be the obligations of the Trust created hereunder;

(18) To make, execute and deliver deeds, leases, mortgages, conveyances, options, receipts, releases, satisfactions and other quitclaims or disclaimers of liability, contracts, voting trusts, stock purchase agreements, buy-sell agreements, stock redemption agreements, or other instruments, sealed or unsealed, to any person or corporation with respect to the property of the Trust created hereunder, or with reference to any matter involved in the administration thereof, or for the accomplishment of any of the powers vested in the Trustee, all of the foregoing upon such terms, provisions and conditions existing within or beyond the duration of the Trust created hereunder, as to the Trustee shall deem reasonable; to create reserves for depreciation, depletion or such other purposes to the extent the Trustee deems necessary or desirable;

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(19) To incur and pay the ordinary and necessary expenses of administration, including accountants' fees, investment counsel fees, agents' fees, custodian fees and the like;

(20) Except as otherwise expressly provided in this instrument, to determine as the Trustee may deem just and equitable the manner of ascertainment of income and principal and the apportionment between income and principal of all receipts and disbursements;

(21) To advance money to the Trust created hereunder for any purpose of the Trust created hereunder, and the Trustee shall reimburse the Trustee for the money so advanced with reasonable interest thereon from the Trust created hereunder or from any funds belonging thereto; and

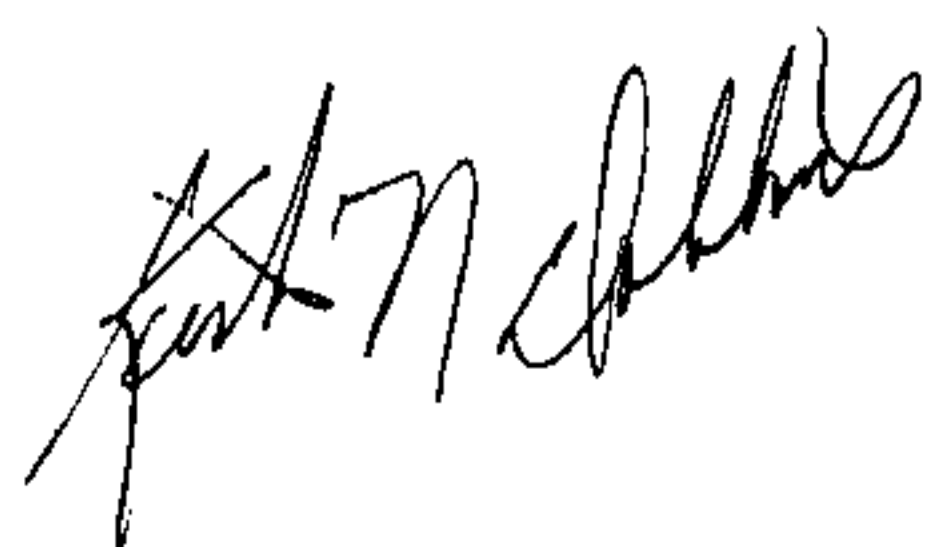
(22) To do all other acts which in the Trustee's judgment is necessary or desirable, for the proper and advantageous management, investment and distribution of the Trust created hereunder.

(b) The powers herein granted to the Trustee may be exercised in whole or in part, from time to time, and shall be deemed to be supplementary to and not exclusive of the general powers of trustees pursuant to law, and shall include all powers necessary to carry the same into effect.

6. Administration Provision. No Trustee named herein and no person or corporation appointed as successor Trustee under any provision hereof shall be required to give bond or to file an inventory or accounting in any court or render any report in court upon final settlement of her or its acts as Trustee.

7. Records. The Trustee shall maintain complete and accurate records concerning the Trust Estate, and such records shall be available for inspection by the Grantor at reasonable times.

8. Successor Trustee. In the event of the death, incapacity, inability, or unwillingness to serve as Trustee hereunder of Carolyn R. Dobbins Harvill, ^{William Durall} Dobbins, Jr., shall serve as successor Trustee hereunder with all the rights, powers, duties and discretion vested in the original Trustee. The successor trustee shall not be liable for any act or omission of the predecessor trustee, nor have a duty to



enforce any claim against the predecessor trustee on account of any act or omission.

9. Unproductive Property. The Trustee is expressly authorized to hold, retain, purchase and acquire, as an asset of the Trust, any underproductive or unproductive property of every kind and description.

10. Exculpatory Clause. The Trustee shall not be responsible or liable for any mistake or error of judgment in the administration of the Trust Estate resulting in loss to the Trust by reason of investment or otherwise, except for the fraud or gross negligence of the Trustee.


11. Invalidity. The invalidity or unenforceability of any provision hereof shall in no way affect the validity or enforceability of any other provision.


12. Governing Law. The validity, effect, and interpretation of this Trust Agreement and of the property interests herein created shall be controlled by the laws of the State of Alabama.

13. Trustee Fees. Reasonable compensation shall be paid to any person or entity serving as Trustee, unless such person or entity waives the right to receive compensation.

14. Name. The Trust created by this Trust Agreement shall be known as the "KIRK N. DOBBINS IRREVOCABLE TRUST Dated January 27, 1994".

IN WITNESS WHEREOF the Grantor and the Trustee have executed this Trust Agreement on the day and year first set forth above.


KIRK N. DOBBINS, GRANTOR


CAROLYN R. DOBBINS HARVILL
TRUSTEE

Kirk N. Dobbins

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said State and County, hereby certify that KIRK N. DOBBINS as Grantor, whose name is signed to the foregoing Agreement, and who is known to me, acknowledged before me on this date that, being informed of the contents of the Agreement, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this 21 day of February, 1994.

Virginia C. Finson

NOTARY PUBLIC

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said State and County, hereby certify that CAROLYN R. DOBBINS HARVILL as Trustee, whose name is signed to the foregoing Agreement, and who is known to me, acknowledged before me on this date that, being informed of the contents of the Agreement, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal of office this 3 day of March, 1994.

Paula K. Perry

NOTARY PUBLIC

EXHIBIT "A"

TO

KIRK N. DOBBINS IRREVOCABLE TRUST
DATED JANUARY 27, 1994

ALL THE INTEREST OWNED BY THE GRANTOR AS A LIMITED
PARTNER IN DOBBINS BROTHERS, LTD.

Inst # 1994-09567

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09:26 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
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