

BEFORE THE ALABAMA DEPARTMENT OF REVENUE

In re:

Transamerica Business Credit
Corporation

Petitioner.

A Proceeding Authorized
by Section 40-22-2(8),
CODE OF ALABAMA 1975

MORTGAGE TAX ORDER

Comes now Transamerica Business Credit Corporation, a Delaware corporation (the "Petitioner"), as Agent, and asks the Department of Revenue to fix and determine the amount of mortgage privilege tax due pursuant to Section 40-22-2(8), CODE OF ALABAMA 1975, for the privilege of recording certain substantially identical Alabama Mortgages, Security Agreements and Assignments of Rents and Alabama Leasehold Mortgages, Security Agreements and Assignments of Rents executed by The Krystal Company, a Tennessee corporation (collectively, the "Mortgage"), which along with other security documents (collectively, the "Security Documents") covers real and personal property and fixtures located both inside and outside of the State of Alabama.

Upon consideration of said Petition and evidence offered in support thereof, the State Department of Revenue finds as follows:

1. That the Mortgage and the other Security Documents secure a maximum principal indebtedness in the amount of \$53,000,000, consisting of a revolving line of credit in a maximum principal amount at any one time outstanding not to exceed \$23,000,000 and term loans in an aggregate original principal amount of \$30,000,000.

2. That the Mortgage and the other Security Documents cover property and fixtures located both inside and outside of the State of Alabama.

3. That the value of all property and fixtures covered by the Security Documents and located both inside and outside of the State of Alabama is \$98,137,560.

4. That the value of all property and fixtures covered by the Security Documents and located inside of the State of Alabama is \$15,162,639, or 15.45% of the total value of all property and fixtures located both inside and outside of the State of Alabama.

Inst # 1997-14298

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SHELBY COUNTY JUDGE OF PROBATE
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5. That the amount of indebtedness secured by the Security Documents and allocable to the State of Alabama and upon which the Alabama mortgage filing privilege tax is due is \$8,188,500.

6. That the mortgage privilege tax to be paid, at the rate of \$.15 per each \$100, or fraction thereof, upon the filing for record of the Mortgage in the office of the Judge of Probate of the first Alabama county in which the Mortgage is filed for record is \$12,282.75.

7. That so long as the aggregate principal amount of indebtedness at any one time outstanding under the Mortgage does not exceed \$53,000,000 and the maturity date of the indebtedness remains unchanged, no additional mortgage recording tax will be due.

8. That the Mortgage Tax Bond from Continental Casualty Company, as surety, and the Petitioner in favor of the Alabama Department of Revenue in the face amount of \$1,500, the form of which is attached hereto as Exhibit B, satisfies in all respects the requirements of Section 40-22-2, Code of Alabama 1975.

IT IS, THEREFORE, ORDERED that the mortgage privilege tax in the amount of \$12,282.75, plus any recording fees which may be due, shall be paid to the Judge of Probate of the first Alabama county in which the Mortgage is filed for record, and thereafter allocated by the Judge of Probate of said county to the other Alabama counties in which the properties and fixtures covered by the Mortgage are located, in accordance with the percentages set forth in Exhibit A.

DONE at the Capitol, Montgomery, Alabama, this the 22ND day of April, 1997.

DEPARTMENT OF REVENUE

By:

Its: Assistant Commissioner of Revenue

ATTEST:

REVENUE, Legal Division

SECRETARY

EXHIBIT A

<u>County</u>	<u>Value</u>	<u>Percentage</u>
Jefferson County, Alabama	\$3,912,394.00	25.8%
Morgan County, Alabama	\$ 316,504.00	2.1%
Lauderdale County, Alabama	\$ 311,845.00	2.1%
Mobile County, Alabama	\$1,906,685.00	12.6%
Colbert County, Alabama	\$ 221,923.00	1.5%
Jackson County, Alabama	\$ 103,756.00	.7%
Etowah County, Alabama	\$ 82,174.00	.5%
Madison County, Alabama	\$2,684,933.00	17.7%
Lee County, Alabama	\$ 367,705.00	2.4%
Chambers County, Alabama	\$ 430,608.00	2.8%
Shelby County, Alabama	\$ 330,854.00	2.2%
Montgomery County, Alabama	\$2,322,173.00	15.3%
Russell County, Alabama	\$ 339,206.00	2.2%
Tuscaloosa County, Alabama	\$ 472,343.00	3.1%
Limestone County, Alabama	\$ 176,027.00	1.2%
Houston County, Alabama	\$ 368,327.00	2.4%
Baldwin County, Alabama	<u>\$ 815,182.00</u>	<u>5.4%</u>
Totals	\$15,162,639.00	100%

MORTGAGE TAX BOND

Bond No. 158649370

KNOW ALL MEN BY THESE PRESENTS, that we, Transamerica Business Credit Corporation, a Delaware corporation, Agent, whose address is Suite 700, Two Ravinia Drive, Atlanta, Georgia 30346, as Principal, and Continental Casualty Company, as Surety, are held and firmly bound unto the State of Alabama in the full sum of One Thousand Five Hundred and No/100 Dollars (\$1,500), for which payment, well and truly to be made and done, we bind ourselves and our successors, jointly and severally, firmly by these presents.

Sealed with our seals and dated as of the 18TH day of April, 1997.

THE CONDITION OF THE ABOVE IS SUCH THAT WHEREAS, the Principal intends to record in the Offices of the Judges of Probate of the Alabama Counties identified on Schedule 1 hereto those certain substantially identical Alabama Mortgages, Security Agreements and Assignments of Rents and Alabama Leasehold Mortgages, Security Agreements and Assignments of Rents (collectively, the "Mortgage") to be dated on or about April 22, 1997, executed by The Krystal Company, a Tennessee corporation, to the Principal, as Agent; and

WHEREAS, the Principal will promptly report to the Department of Revenue of the State of Alabama and the Judges of Probate of the Alabama Counties identified on Schedule 1 hereto, whenever the Principal or its successor in interest advances any additional funds secured by the Mortgage, and will indicate the amount so advanced; and

WHEREAS, the Principal will pay or cause to be paid to the Judges of Probate of the Alabama Counties identified on Schedule 1 hereto, the privilege tax required to be paid under Section 40-22-2, CODE OF ALABAMA OF 1975, as amended, upon the accrual of any additional indebtedness secured by the Mortgage; and

WHEREAS, the Principal will report to the Judges of Probate of the Alabama Counties identified on Schedule 1 hereto, and the Department of Revenue of Alabama during the month of September of each year the amount of all indebtedness and all bonds, debentures, notes or other forms of indebtedness incurred or certified and delivered under the Mortgage to such date, and the amount so certified and delivered during the preceding twelve months, and the aggregate of all such evidence of indebtedness certified and delivered under the Mortgage prior to such year.

NOW, THEREFORE, if the Principal shall well and truly pay the privilege tax, if any, to become due under Section 40-22-2, CODE OF ALABAMA OF 1975, as amended, with respect to the recording of the Mortgage, and shall comply with all the provisions of said Section 40-22-2(2)a, CODE OF ALABAMA 1975, as amended, then the above obligation shall be void; otherwise, to remain in full force and effect for a term of five years from the date hereof.

**TRANSAMERICA BUSINESS CREDIT
CORPORATION, as Agent
(Principal)**

By: *J. J. Carling*
Its: Senior Account Executive

**CONTINENTAL CASUALTY COMPANY
(Surety)**

By: *Patsy Parrish*
Its: Attorney-in-Fact
PATSY PARRISH

COUNTERSIGNED BY:

Patsy Parrish
Its: Attorney-in-Fact

Taken and approved by the Department of Revenue of the State of Alabama.

DEPARTMENT OF REVENUE

By: *[Signature]*
Its: LEGAL/REVENUE
Date: April 22ND, 1997

SCHEDULE 1

Jefferson County, Alabama
Morgan County, Alabama
Lauderdale County, Alabama
Mobile County, Alabama
Colbert County, Alabama
Jackson County, Alabama
Etowah County, Alabama
Madison County, Alabama
Lee County, Alabama
Chambers County, Alabama
Shelby County, Alabama
Montgomery County, Alabama
Russell County, Alabama
Tuscaloosa County, Alabama
Limestone County, Alabama
Houston County, Alabama
Baldwin County, Alabama

RETURN DOCUMENT TO:
Chicago Title, 171 N. Clark St.
Attn: Loretta Karp
Chicago, IL 60601

B/R -11

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That CONTINENTAL CASUALTY COMPANY, an Illinois corporation, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, a Connecticut corporation, AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA, a Pennsylvania corporation (herein collectively called "the CNA Surety Companies"), are duly organized and existing corporations having their principal offices in the City of Chicago, and State of Illinois, and that they do by virtue of the signature and seals herein affixed hereby make, constitute and appoint Thomas A. Roberts, H. Carlton Rushin, Patsy Parrish, Individually

of Birmingham, Alabama

their true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on their behalf all undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of their corporations and all the acts of said Attorney, pursuant to the authority hereby given are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Laws and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Boards of Directors of the corporations.

In Witness Whereof, the CNA Sureties Companies have caused these presents to be signed by their Group Vice President and their corporate seals to be hereto affixed on this 13th day of September, 1996



CONTINENTAL CASUALTY COMPANY
NATIONAL FIRE INSURANCE COMPANY OF HARTFORD
AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA

M.C. Vonnahme

Group Vice President

State of Illinois, County of Cook, ss:

On this 13th day of September, 1996, before me personally came M. C. Vonnahme, to me known, who, being by me duly sworn, did depose and say: that he resides in the Village of Darien, State of Illinois; that he is a Group Vice President of CONTINENTAL CASUALTY COMPANY, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, and AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA described in and which executed the above instrument; that he knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed pursuant to authority given by the Boards of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



My Commission Expires June 5, 2000

Eileen T. Pachuta

Notary Public

CERTIFICATE

I, John M. Littler, Assistant Secretary of CONTINENTAL CASUALTY COMPANY, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, and AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of each corporation printed on the reverse hereof are still in force. In testimony whereof I have hereunto subscribed my name and affixed the seals of the said corporations, this 18TH day of APRIL, 1997.



CONTINENTAL CASUALTY COMPANY
NATIONAL FIRE INSURANCE COMPANY OF HARTFORD
AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA

John M. Littler

Assistant Secretary