

ASSIGNMENT OF LEASEHOLD ESTATE

STATE OF ALABAMA
SHELBY COUNTY

THIS ASSIGNMENT OF LEASEHOLD ESTATE DATED DECEMBER 1, 1997 (this "Agreement") is entered into by the MEDICAL CLINIC BOARD OF THE TOWN OF ALABASTER, ALABAMA, a public corporation organized under the laws of the State of Alabama (the Board"), and BAPTIST HEALTH SYSTEM, INC., a corporation, ("BHS").

In consideration of the sum of \$10.00 and other good and valuable consideration in hand paid by BHS to the Board, the receipt and sufficiency of which are hereby acknowledged by the Board, the parties hereto have agreed as follows:

1. Board does hereby assign, transfer and set over to BHS, its successors and assigns, all of the Board's right, title, and interest in and to that certain Lease Agreement as recorded in Misc. Book 34, page 950 in the Office of the Judge of Probate of Shelby County, Alabama and in and to the Project under and by virtue of the Lease Agreement, together with all the rights, privileges, and options set forth therein. A copy of said Lease Agreement is attached hereto as Exhibit "A" and incorporated by reference herein.

IN WITNESS WHEREOF, the Medical Clinic Board of the Town of Alabaster, Alabama has caused this Assignment to be executed by its ~~President~~ Chairman Paul D'Amico, who is authorized to execute this Assignment, has hereto set its signature and seal, this the 1st day of December, 1997.

ATTEST:

MEDICAL CLINIC BOARD OF THE TOWN
OF ALABASTER, ALABAMA

William Arrington

By: Paul D'Amico
Its Chairman

Inst # 1997-39211

12/02/1997-39211
02:25 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
043 HCD 114.50

Inst # 1997-39211

STATE OF ALABAMA
COUNTY OF SHELBY

I, the undersigned authority a notary public in and for said County, in said State, hereby certify that Paul Deing whose name as ^{Chairman} ~~President~~ of the Medical Clinic Board of the Town of Alabaster, Alabama, a corporation, is signed to the foregoing Assignment, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Assignment, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 15th day of December, 1997.

Hornil
Notary Public

EXHIBIT A
801

LEASE AGREEMENT

between

THE MEDICAL CLINIC BOARD OF THE TOWN OF ALABASTER, ALABAMA

and

GREATER SHELBY OFFICE PLAZA, LTD.

relating to

\$800,000

THE MEDICAL CLINIC BOARD OF THE TOWN OF ALABASTER, ALABAMA

FIRST MORTGAGE REVENUE BOND
(Greater Shelby Office Plaza Project)
Series 1980

dated February 19, 1980

This instrument was prepared by
WYATT R. HASKELL
1710 First National-Southern Natural Bldg.
BIRMINGHAM, ALABAMA

NORTH HASKELL SLAUGHTER YOUNG & LEWIS
1710 FIRST NATIONAL-SOUTHERN NATURAL BUILDING
BIRMINGHAM, ALABAMA 35203

Paul Little

Executed in 5 Counterparts of
Which This Is Counterpart # 1

LEASE AGREEMENT between THE MEDICAL CLINIC BOARD OF THE TOWN OF ALABASTER, ALABAMA, a public corporation organized under the laws of the State of Alabama, party of the first part, and GREATER SHELBY OFFICE PLAZA, LTD., a limited partnership organized under the laws of the State of Alabama, party of the second part,

W I T N E S S E T H:

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:

"Affiliate" means any person, firm or corporation controlled by, or under common control with, the Company and any person, firm or corporation controlling the Company, and includes any general partner or limited partner of the Company.

"Authorized Board Representative" means the person or persons at the time designated as such by written certificate furnished to the Company and the Mortgagee 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 the Directors, by its Secretary or by its Treasurer; provided however, that no general partner, limited partner or employee of the Company, nor any officer or employee of the Company or of any Affiliate may at any time be designated as an Authorized Board Representative.

"Authorized Company Representative" means the person or persons at the time designated as such by written certificate furnished to the Board and the Mortgagee containing the specimen signature or signatures of such person or persons and signed on behalf of the Company by any general partner thereof.

"Basic Rent" means the cash rental payable by the Company pursuant to the provisions of the first paragraph of

Section 5.2 hereof and any other sums payable by the Company hereunder that are herein referred to as Basic Rent.

"Bond Anticipation Note" means the Board's 8-1/2% Revenue Bond Anticipation Note, Greater Shelby Office Plaza Series, No. 1, dated May 11, 1979, originally issued and now outstanding in the principal amount of \$800,000.

"Board" means (i) the party of the first part hereto and its successors and assigns, and (ii) any public corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party as provided in Section 8.6 of the Mortgage.

"Bond" means that certain First Mortgage Revenue Bond (Greater Shelby Office Plaza Project), Series 1980, to be dated February 19, 1980, and authorized to be issued in the principal amount of \$800,000.

"Building" means that certain medical office building and patient care facility situated on the real property specifically described in the demising clause hereof.

"Company" means the party of the second part hereto, and its successors and assigns.

"Counsel" means any attorney duly admitted to practice before the highest court in the State of Alabama, or such other attorney as may be acceptable to the Board.

"Inducement Agreement" means that certain letter agreement between the Board and the Company dated November 10, 1978, pertaining to the acquisition and construction of the Project by the Board for lease to the Company, which was executed on behalf of the Board and on behalf of the Company on November 10, 1978.

"Mortgage" means the Mortgage dated February 19, 1980 between the Board and Commonwealth Life Insurance Company, a Kentucky corporation, securing payment of the principal of and the interest on the Bond, and under which the Board's interest in this Lease Agreement and the rentals and other receipts from the Project are to be assigned, and the Project is to be mortgaged, as security for payment of the principal of and the interest (and premium, if any) on the Bond, as said Mortgage now exists and as it may hereafter be supplemented and amended.

"Mortgagee" means the said Commonwealth Life Insurance Company, a Kentucky corporation, or any holder of the Bond.

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

"Net Condemnation Award" means the total amount awarded as compensation for any part of the Project taken under the exercise of the power of eminent domain plus damages to any part not taken, less and except (i) any portion thereof to which the Company is entitled under the provi-

sions of Section 7.4 hereof, and (ii) all attorneys' fees and other expenses incurred in the condemnation proceeding with respect to which such award was made (other than those paid directly by the Company or deducted, pursuant to the provisions of said Section 7.4, from that portion of the award to which it is entitled under the provisions thereof).

"Net Insurance Proceeds" means the total insurance proceeds recovered by the Board, the Company and the Mortgagee 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 Trustee) incurred in the collection of such proceeds.

"Permitted Encumbrances" means, as of any particular time, (i) liens for ad valorem taxes and special assessments not then delinquent, (ii) this Lease Agreement, (iii) utility, access and other easements and rights-of-way, mineral rights, restrictions and exceptions that will not materially interfere with or impair the normal use and occupancy of the Building, (iv) any inchoate mechanic's, materialman's, supplier's or vendor's lien or other right to a purchase money security interest if payment is not yet due and payable under the contract giving rise to such lien or right, and (v) such other minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title (including zoning and other similar restrictions and regulations) as customarily exist with respect to properties similar in character to the Project and as do not in the aggregate materially impair the use of the property affected thereby for the purpose for which it was acquired or is held by the Board.

"Primary Term" means the period beginning on the date of the delivery of these presents and continuing until 11:59 o'clock, P. M., on April 1, 2005.

"Project" means the Site and the Building, as they may at any time exist, and all other property and rights referred to or intended so to be in the demising clauses hereof or in any way subject to the demise hereof.

"Project Development Costs" means the cost of acquiring the real property described in the demising clauses hereof, the costs of constructing the Building, the expenses incurred in connection with the issuance of the Bond (including all fiscal, legal, recording and other similar fees and expenses relating thereto), and all costs and expenses incurred in connection with and directly related to the planning, development and design of the Building.

"Required Life Insurance" means the insurance on the lives of each of the persons named therein which the Company is required to maintain under the provisions of Section 8.7 hereof.

"Site" means the real property specifically described in the demising clauses hereof (to the extent that at the time it is subject to the demise hereof) and any other real property that under the terms hereof constitutes a part of the Site.

Section 1.2 Use of Phrases. "Herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Lease Agreement 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 by the Board. The Board makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Board is duly incorporated under the provisions of Chapter 58 of Title 11 of the Code of Alabama of 1975, by Certificate of Incorporation duly filed for record in the office of the Judge of Probate of Shelby County, Alabama. The said Certificate of Incorporation has not been altered or amended, and is still in full force and effect. The Board is not in default under any of the provisions contained in said Certificate of Incorporation, in its bylaws or in the laws of the State of Alabama;

(b) The Site and the Building will together constitute a "medical clinic" within the meaning of said Chapter 58 of said Title 11;

(c) The Board has good and marketable title to the real property specifically described in the demising clauses hereof, subject only to Permitted Encumbrances; all said real property is located wholly within the corporate limits of the Municipality; and no part thereof is located within the corporate limits or the police jurisdiction of any other incorporated municipality;

(d) The construction of the Building was not begun prior to November 10, 1978, the date on which the Inducement Agreement was executed on behalf of the Board;

(e) Under the provisions of the said Chapter 58 of said Title 11, the Board has the power to enter into the transactions contemplated by this Lease Agreement and to carry out its obligations hereunder; and

(f) The execution and delivery of this Lease Agreement on its part have been duly authorized by all necessary corporate action.

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

(a) The Company is a limited partnership duly organized under the laws of the State of Alabama, is in good standing as such, and has power to enter into, and to perform and observe the agreements and covenants on its part contained in, this Lease Agreement;

(b) Neither the execution and delivery of this Lease Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions hereof, conflict or will conflict with, or result or will result in a breach of, any of the terms, conditions or provisions of any restriction or limitation or any agreement, instrument or court or other governmental order to which the Company is now a party or by which it is bound, or constitute or will constitute a default under any of the foregoing;

(c) The construction of the Building was not begun prior to November 10, 1978, the date on which the Inducement Agreement was executed on behalf of the Company, and the real property and building that are described in Section 3.1 hereof are the same as those described or referred to in the Inducement Agreement;

(d) The "principal user" of the Project is and will be the Company or a "related person" [as the terms "principal user" and "related person" are defined and used in Section 103(b)(6) of the Internal Revenue Code of 1954, as amended] and no other person, firm or corporation;

(e) No state, territory or possession of the United States, nor any political subdivision of any such state, territory or possession, nor the District of Columbia has, since April 30, 1968, issued any obligations the proceeds of which are to be or have been used primarily with respect to any facilities (i) that are located within the corporate limits of the Municipality, and (ii) the "principal user" of which facilities was, is or will be the Company or one or more "related persons" [as the terms "principal user" and "related person" are defined and used in Section 103(b)(6) of the Internal Revenue Code of 1954, as amended], and for purposes of this paragraph (e), a contiguous or integrated facility located on both sides of the border between any two or more political jurisdictions shall be considered as being located wholly within each such political jurisdiction;

(f) The construction of the Building by the Board, and the leasing thereof (along with the real property described in the demising clauses hereof) to the Company will promote the public health of the people of the State of

Alabama by inducing the Company to locate in the Municipality a medical office building and clinical facility for the diagnosis and treatment of sick and injured persons; and

(g) The execution and delivery of this Lease Agreement on its part have been duly authorized by all necessary action.

ARTICLE III

DEMISING CLAUSES

Section 3.1 The Board hereby demises and leases to the Company, subject to Permitted Encumbrances, and the Company hereby rents from the Board, subject to Permitted Encumbrances, for and during the Primary Term, the following:

The following described real property situated within the corporate limits of the Municipality in Shelby County, Alabama:

Lot B, according to the Amended Map of Greater Shelby Office Plaza as recorded in Map Book 7, page 141 in the Probate Office of Shelby County, Alabama. ALSO a 30 foot easement for ingress and egress more particularly described as follows: A 30 foot strip lying North of and parallel to the following line; begin at the Southwest corner of Lot B according to the Amended Map of Greater Shelby Office Plaza recorded in Map Book 7, page 141 and run West along a prolongation of the South line thereof a distance of 410.83 feet to its intersection with U. S. Highway 31,

together with the Building and all other improvements now or hereafter situated on the Site and forming a part thereof, not including, however, any personal property or equipment that, under the terms hereof, is, or is to become (prior to the termination of these presents), the sole property of the Company or third parties.

ARTICLE IV

AGREEMENT TO ISSUE THE BONDS
AND CONCERNING THE BUILDING

Section 4.1 Construction of the Building. The Board warrants that it has completed the construction, wholly within the boundary lines of the Site, of the Building, substantially in accordance with plans and specifications prepared by Kidd, Wheeler & Blosser, Architects of Birmingham, Alabama. The Board has paid, out of the proceeds of the borrowing evidenced by the Bond Anticipation Note and with funds supplied to it for that purpose by the Company, all the costs of the said construction of the Building.

Section 4.2 Agreement to Issue the Bond. In order to provide funds for the permanent financing of a portion of the costs of acquiring the real property specifically described in the demising clauses hereof, the costs of constructing the Building and the other Project Development Costs, the Board will, simultaneously with the delivery hereof, issue the 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 and the interest on the indebtedness evidenced by the Bond, the interest rate thereof and the provisions for prepayment of the principal indebtedness evidenced thereby prior to the maturity thereof) are hereby made a part hereof as fully and completely as it set out herein.

Section 4.3 No Warranty of Suitability by Board. Company Required to Bear Certain Costs in Certain Events. The Company recognizes that since the plans and specifications for the Building have been and are to be prepared to its order, and since the Building was constructed under its supervision and control, the Board can make no warranty, either express or implied, or offer any assurances that the Building will be suitable for the Company's purposes or needs, and the Board makes no such warranty. The Company hereby acknowledges that it has inspected the Building, and that the Building is satisfactory to it in all respects.

ARTICLE V

DURATION OF TERM AND RENTAL PROVISIONS

Section 5.1 Duration of Term. The Primary Term 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 April 1, 2005. The Board will deliver to the Company sole and exclusive

possession of the Project on the commencement date of the Primary Term, subject to the inspection and other rights reserved in Section 8.3 hereof, and the Company will accept possession thereof at such time; provided however, that the Board will be permitted such possession of the Project as shall be necessary and convenient for it to make any repairs, restorations or improvements required or permitted to be made by the Board pursuant to the provisions hereof or pursuant to the provisions of any agreement between the Board and the Company supplemental hereto.

Section 5.2 Rental Provisions. For and during the Primary Term, the Company will pay to the Board the following Basic Rent for use and hire of the Project:

(a) From the date Hereof to and including the 14th day of March, 1980, the sum of \$194.45 per diem; and

(b) On or before the 15th day of April, 1980, and on or before the 15th day of each calendar month thereafter until and including the month of March, 2005, the sum of Six Thousand Five Hundred Seventy Eight Dollars (\$6,578.00); provided that in the event that the entire indebtedness evidenced by the Bond shall be sooner paid in full pursuant to the provisions of Article XIII of the Mortgage, then the Company may use and occupy the Project without the payment of further Basic Rent hereunder to and until March 1, 2005;

provided further, that if for any reason after the payment by the Company of such amounts as are required to be paid by it pursuant to the preceding provisions of this Section 5.2, the moneys held by and available to the Mortgagee for payment of the principal of and the interest on the Bond are not sufficient to pay, on the due date thereof, any such principal or interest, the Company will promptly pay to the Mortgagee, for the account of the Board and as further Basic Rent, such amount as, when added to the aforesaid moneys held by and available to the Mortgagee, will equal the principal and interest so due with respect to the Bond.

Neither the Board nor the Mortgagee shall be obligated to give any prior notice to the Company 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 Mortgagee, shall not relieve the Company of its obligation to pay such installment of Basic Rent when it is due and payable.

So long as any of the principal indebtedness evidenced by the Bond is outstanding, all Basic Rent payments shall be made directly to the Mortgagee, for the account of the Board. In the event the due date of any installment of

Basic Rent payable hereunder is a Sunday or legal holiday in Alabama, such installment shall be due on the next preceding business day. Any Basic Rent payment due hereunder that is not paid within ten (10) days after the due date thereof shall be subject to a penalty or late charge of four percent (4%) of the amount of such installment of Basic Rent with respect to each calendar month, or portion thereof from such due date until said installment shall be paid.

Section 5.3 Obligation of Company Unconditional.
Subject to the limitation herein contained with respect to the personal liability of any general partner or any limited partner of the Company, the obligation of the Company to pay the Basic Rent, to make all other payments provided for herein and to perform and observe the other agreements and covenants on its part herein contained shall be absolute and unconditional, irrespective of any rights of set-off, recoupment or counterclaim it might otherwise have against the Board. The Company will not suspend or discontinue any such payment or fail to perform and observe any of its other agreements and covenants contained herein or (except as expressly authorized in this Lease Agreement) terminate this Lease Agreement for any cause, including, without limiting the generality of the foregoing, any acts or circumstances that may constitute an eviction or constructive eviction, 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 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 this Lease Agreement; provided, however, that the obligation of the Company so to pay the Basic Rent, and to make all other such payments required to be made herein shall be limited to the rentals and other receipts from the Project received by the Company, and any other funds of the Company that shall be available for that purpose; and in the event of the failure of the Company to perform any of its obligations hereunder, neither any general partner nor any limited partner of the Company shall be subject to any personal obligation to perform any such obligation of the Company, or subject to any personal liability to the Board, to the Mortgagee, to the holder of the Bond, or to any other person whomsoever.

The provisions of the preceding paragraph of this Section 5.3 shall continue in effect only so long as any part of the principal of or the interest (and premium, if any) on the Bond remains unpaid. Nothing herein contained shall, however, be construed to prevent the Company, at its own cost and expense and in its 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 Company deems reasonably necessary in order to secure or protect its rights of use and occupancy and other rights hereunder, and the Board will cooperate fully with the Company in any such action or proceeding.

ARTICLE VI

MAINTENANCE, TAXES AND INSURANCE

Section 6.1 Maintenance, Additions, Alterations, Improvements and Modifications. The Company will, at its own expense, (a) keep the Project in as reasonably safe condition as its operations permit, and (b) subject to the provisions of Section 6.2 hereof, keep the Building and any other improvements located on the Site in good repair and condition (reasonable wear and tear excepted), making from time to time all necessary and proper renewals thereof and repairs and replacements thereto (including, without limitation, exterior and structural repairs, renewals and replacements); provided, however, that nothing contained in this Section 6.1 shall be construed to require the Company to make any renewals, repairs or replacements that are elsewhere in this Lease Agreement expressly required to be made by the Board. The Company may, also at its own expense, make any additions, alterations, improvements or modifications to the Project that it may deem desirable for its business purposes, that do not adversely affect the structural integrity of the Building or any other structure forming a part of the Project (except to the extent permitted in Section 6.2 hereof), and that will not impair the normal use and occupancy of the Project, substantially reduce its value or change its character as a "medical clinic" under said Chapter 58 of said Title 11; provided that all such additions, alterations, improvements or modifications

(1) are located wholly within the boundary lines of the Site, or

(2) are located wholly within the boundary lines of other adjacent real property hereafter acquired by the Board, leased to the Company by the Board and subjected to the demise of these presents and to the lien of the Mortgage and with respect to which the Board and the Mortgagee have been furnished with an opinion of Counsel satisfactory to each of them to the effect that the Board has good and marketable title thereto, subject only to the lien of the Mortgage and Permitted Encumbrances, or

(3) are located wholly within the boundary lines of the Site and such other adjacent real property.

Any such adjacent real property so subjected to the demise hereof and to the lien of the Mortgage shall henceforth be considered, for purposes of this Lease Agreement, as part of the Site. All such additions, alterations, improvements and modifications so made by the Company shall become a part of the Project.

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BOOK

The Company will not permit any mechanics' or other liens to stand against the Project for labor or materials furnished it in connection with any additions, alterations, improvements, modifications, repairs or renewals so made by it. The Company may, however, at its own expense and in good faith, contest any such mechanics' liens 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 Mortgagee) be promptly satisfied.

Section 6.2 Party Wall Provisions. If the Company purchases any unimproved portion of the Site pursuant to the provisions of Section 11.3 hereof, or if the Company purchases, leases or otherwise acquires any other real property adjacent to the Site, or if any unimproved portion of the Site is released from the demise hereof pursuant to the provisions of Section 12.2 hereof, then, in any such event, all building walls now standing or hereafter erected on or contiguous to any common boundary between the Site and any real property theretofore constituting part of the Site that has been purchased by the Company, any other real property adjacent to the Site that has been purchased, leased or otherwise acquired by the Company or any real property theretofore constituting part of the Site that has been released from the demise hereof, as the case may be, shall be party walls, and each parcel of real property 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 ten 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.

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 real property 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 real property 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 real property 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 any non-loadbearing wall panels in such party wall may be removed 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, all non-loadbearing wall panels that may have theretofore been removed from such party wall shall be reinstalled or replaced with wall panels of comparable quality to those originally removed and separate utilities shall be provided for each of such parcels of real property.

The covenants and agreements on the part of the Board and the Company contained in this Section 6.2 shall run with all separate parcels of real property into which the parcel of real property described in the demising clauses hereof may be hereafter divided and shall be enforceable for the benefit of each such parcel by all future owners, lessees and mortgagees thereof.

Section 6.3 Removal of Equipment and other Personal Property. Nothing herein contained shall prevent the Company, at any time during which it is not in default hereunder, from removing from the Site or the Building any equipment or other personal property owned by it or leased by it from third parties, provided (a) that such equipment or other personal property may be removed without adversely affecting the structural integrity of the Building or any other structure forming a part of the Project or causing any material damage to the Building to any such other structure or to the Site, or (b) that if such removal results in adversely affecting the structural integrity of the Building or any such other structure or in causing any material damage to the Building or any such other structure or to the Site, the Company promptly thereafter takes such action as is necessary to restore the structural integrity of the Building or any such other structure, or to repair such damage, as the case may be.

Section 6.4 Taxes, Other Governmental Charges and Utility Charges. The Board and the Company acknowledge (a) that under present law no part of the Project owned by the Board will be subject to ad valorem taxation by the State of Alabama or by any political or taxing subdivision thereof and that under present law no part of the receipts, income or profits (if any) of the Board from the Project are subject to either Federal or Alabama taxation, and (b) that these factors, among others, induced the Company to enter into this Lease Agreement. However, the Company will pay, as the same respectively become due, (i) 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), (ii) all utility and other similar charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project, and (iii) 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 Company shall be obligated to pay only such installments as are required to be paid during the Primary Term.

The Company may, at its own expense and in its 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 part 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 Mortgagee) be paid prior to their becoming delinquent. The Board will cooperate fully with the Company in any such contest.

Section 6.5 Insurance Required. The Company 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 businesses of like size and type or as may be requested by the Mortgagee, paying as the same become due all premiums with respect thereto, including, but not necessarily limited to,

(a) insurance against loss or damage to the Building and any other improvements at the time situated on the Site by fire and lightning, 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 Alabama, to such extent as is necessary to provide for full payment of the costs of repairing 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) of the Building; 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 Site or in any way related to the Project, in the minimum amounts of \$300,000, for death of or personal or bodily injury to any one person, \$500,000 for total death and personal or bodily injury claims resulting from any one accident, and \$100,000 for property damage; and

(c) rental interruption or business interruption insurance for the payment to the Company for all rentals due to it (or due to the Board or the Mortgagee) for use and occupancy of the Building or the Project for a period of not less than six (6) months following the date of damage to or destruction of all or any portion of the Project.

All policies evidencing the insurance required by the terms of the preceding paragraphs (a) and (b) 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 by such insurer unless thirty (30) days' prior written notice of such cancellation shall have been given to the Mortgagee, and may be written with deductible amounts comparable to those on similar policies carried by persons engaged in businesses of the size and type of the Company. All such policies evidencing the insurance required by paragraph (a) of this Section 6.5 shall name as insureds the Board, the Mortgagee and the Company (as their respective interests shall appear) and shall contain standard mortgage clauses providing for all losses thereunder in excess of \$40,000 to be paid to the Mortgagee; provided that all losses (including those in excess of \$40,000) may be adjusted by the Company, subject, in the case of any single loss in excess of \$40,000, to the approval of the Mortgagee. The insurance required by paragraph (b) of this Section 6.5 shall cover the liability, in the several respects indicated, both of the Board and of the Company. All policies evidencing the insurance required to be carried by this Section 6.5 shall be deposited with the Mortgagee; provided however, that in lieu thereof the Company may deposit with the Mortgagee 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 Company will furnish to the Mortgagee evidence reasonably satisfactory to the Mortgagee 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 Mortgagee.

Section 6.6 Performance by Board or Mortgagee of Certain Company Obligations. Reimbursement of Expenses. In the event the Company fails to take out or main-

tain the full insurance coverage required by this Lease Agreement or fails to keep the Project in as reasonably safe condition as its operations permit and the Building and the other improvements located on the Site in good repair, the Board or the Mortgagee, after first notifying the Company of any such failure on its part and after the subsequent failure by the Company to take out or maintain such insurance or to take action reasonably calculated to keep the Building and other improvements located on the Site in good repair may (but shall not be obligated to) take out the required policies of insurance and pay the premiums on the same or make such repairs, renewals and replacements as may be necessary to keep the Building in good repair; and all amounts so advanced therefor by the Board or the Mortgagee shall become an additional obligation of the Company to the Board or to the Mortgagee, as the case may be, which amounts, together with interest thereon from the date thereof at the rate of 8% per annum, the Company will pay. Any remedy herein vested in the Board or the Mortgagee for the collection of rental payments shall also be available to the Board and the Mortgagee for the collection of all such amounts so advanced.

ARTICLE VII

PROVISIONS RESPECTING DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1 Damage and Destruction Provisions.

If the Building is destroyed, in whole or in part, or is damaged, by fire or other casualty, to such extent that the loss to the Building resulting therefrom is not greater than \$40,000, the Company (a) will promptly repair, replace, rebuild or restore the property damaged or destroyed to substantially the same condition as prior to the event causing such damage or destruction, with such changes, alterations or modifications as will not impair the normal use and occupancy of the Building or change the character of the Project to such extent that it will not constitute a "medical clinic" under the provisions of said Chapter 58 of said Title 11; (b) will apply for such purpose so much as may be necessary therefor of any insurance proceeds referable thereto, as well as any additional moneys required therefor; and (c) may, in the event the total costs of such repair, replacement, rebuilding and restoration are less than the amount of insurance proceeds referable thereto, retain the amount by which such proceeds exceed said total costs; provided that the Company may, if as a result of such damage or destruction it is entitled to do so under the provisions of Section 11.1 hereof, exercise the option to purchase there granted, in which event it need not repair, replace, rebuild or restore the property damaged or destroyed.

If the Building is destroyed, in whole or in part, or is damaged, by fire or other casualty, to such extent that the loss to the Building resulting therefrom is in excess of \$40,000, the Company will promptly so notify the Board and the Mortgagee in writing. If, in such event, the Company is not entitled to exercise the option to purchase granted in Section 11.1 hereof or if, in such event, being entitled to, it does not exercise such option, the Net

Insurance Proceeds recovered by the Board, the Company and the Mortgagee on account of such damage or destruction shall be paid to and held by the Mortgagee (or, if the Bond has been fully paid, the Board), whereupon

(i) the Board will proceed, as promptly as practicable under the circumstances and under such terms, conditions and contracts as shall be approved by the Company, to repair, replace, rebuild or restore the property damaged or destroyed to substantially the same condition as prior to the event causing such damage or destruction, with such changes, alterations or modifications as shall be specified by the Company and as will not impair the normal use and occupancy of the Building or change the character of the Project to such extent that it will not constitute a "medical clinic" under the provisions of said Chapter 58 of said Title 11; and,

(ii) the Mortgagee (or, if the Bond has been fully paid, the Board) will apply the Net Insurance Proceeds to payment of the costs of such repair, replacement, rebuilding or restoration, either on completion thereof or as the work progresses, as the Mortgagee or the Board, as the case may be, may elect.

Any balance of the Net Insurance Proceeds remaining after payment of all the costs of such repair, replacement, rebuilding or restoration shall be held by the Mortgagee and credited upon that portion of the principal indebtedness evidenced by the Bond that is last due and payable (viz., in the inverse order in which installments of such principal are due and payable) due to be paid by the Company hereunder or, if the Bond has been fully paid and if the Company is not then in default hereunder, to the Company. In the event said proceeds are not sufficient to pay in full the costs of such repair, replacement, rebuilding or restoration, the Company will, to the extent that the rentals and other receipts from the Project, or any other available funds of the Company are sufficient for such purpose, but subject to the limitation respecting the personal liability of any general or any limited partner of the Company hereinafter set forth, (1) 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 available therefor, or (2) will advance to the Board and the Mortgagee the moneys necessary to complete said work, in which case the Board will proceed so to complete said work, and the Board and the Mortgagee will, upon completion of and payment in full for such work, return to the Company any portion of such advance that is not needed therefor. The Company shall not, by reason of the payment of such excess costs (whether by direct payment thereof or advances to the Board or Mortgagee therefor), be entitled to any reimbursement from the Board or to any abatement or diminution of the rental provided for herein.

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If, after being furnished with the necessary funds (whether by the Company, from insurance proceeds or from both sources), the Board fails or refuses after reasonable request so to take any action required to repair, replace, rebuild or restore the property damaged or destroyed, the Company may, for and in the name and behalf of the Board, take such action as is required to accomplish such repair, replacement, rebuilding or restoration, in which case it shall be entitled to reimbursement for the costs thereof from the funds referred to above, to the extent such funds are sufficient therefor.

In no event shall the Board undertake the work of any repair, replacement, rebuilding or restoration unless and until (A) it has been notified in writing by the Company that the Company irrevocably relinquishes any right it may have, on account of such damage or destruction, to exercise the option to purchase granted in Section 11.1 hereof, or (B) the time within which the Company must exercise such option has expired without the Company having exercised such option. If, however, as a result of such damage or destruction (irrespective of whether the loss resulting therefrom is greater than \$40,000 or not), the Company is entitled to exercise such option and duly does so in accordance with the applicable provisions of said Section 11.1, then neither the Company nor the Board shall be required to repair, replace, rebuild or restore the property damaged or destroyed, in which event so much (which may be all) of any Net Insurance Proceeds referable to such damage or destruction as shall be necessary to provide for full retirement of the Bond (as specified in Section 11.1 hereof) shall be paid or credited by the against the principal indebtedness evidenced by the Bond that is last due and payable and the excess thereafter remaining (if any) shall be paid to the Company after or simultaneously with the exercise by the Company of such option.

Anything herein contained to the contrary notwithstanding, in the event that the said insurance proceeds, or the rentals and other receipts from the Project, or any other moneys of the Company that shall be available for that purpose are not sufficient to repair, replace, rebuild or restore the property so damaged or destroyed, neither any general partner nor any limited partner of the Company shall be subject to any personal liability or personal obligation so to repair, replace, rebuild or restore any such property so damaged or destroyed, or to pay all or any portion of the costs of any such repair, replacement, rebuilding, or restoration.

Section 7.2 Condemnation Provisions. If the Project or any part thereof is taken under the exercise of the power of eminent domain by any governmental authority or person, firm or corporation acting under governmental authority, the entire condemnation award, including any that may be recoverable by the Company, shall be paid to the Mortgagee (or, if the Bond has been fully paid, to the Board) and applied as hereinafter provided:

(a) Taking of All or Substantially All the Project. If all or substantially all the Project is taken by such eminent domain proceeding, this Lease Agreement shall terminate [except as to the provisions of this paragraph (a)] as of the forty-fifth (45th) day after the receipt by the Mortgagee or the Board of the entire final condemnation award unless the Company has theretofore exercised the option to purchase granted in Section 11.1 hereof. The Board will, as promptly as practicable following the receipt by the Mortgagee or by it, as the case may be, of the entire final condemnation award, notify the Company of the date on which the Mortgagee or it (as the case may be) received such entire final condemnation award, and will, on the forty-fifth (45th) day after such receipt, furnish to the Company a statement in writing of the amount of the Net Condemnation Award.

If the total of all such amounts is insufficient to pay and retire all the then outstanding indebtedness evidenced by the Bond [including, without limitation, principal, premium (if any), interest to maturity or earliest practicable prepayment date (as the case may be), expenses of redemption and any other fees, charges and disbursements] in accordance with the applicable provisions of the Mortgage, then the Company will, to the extent of any moneys available to it for that purpose, pay to the Board and the Mortgagee the amount of any such deficiency as additional Basic Rent; provided, that in the event that the moneys available to the Company shall not be sufficient to pay any deficiency, then neither any general partner nor any limited partner of the Company shall be subject to any personal liability or any personal obligation to pay any such deficiency.

If the total of all such amounts is in excess of the sum needed to pay and retire all the outstanding indebtedness evidenced by the Bond, as aforesaid (or if the Bond has been fully paid), then such excess (or, if the Bond has been fully paid, such total amount) shall be paid to the Company.

(b) Taking of Less Than All or Less Than Substantially All the Project. If less than all or less than substantially all the Project is taken by such eminent domain proceeding, this Lease Agreement (including, without limitation, the provisions hereof relating to the payment of Basic Rent) shall continue in full force and effect but with the following consequences:

(1) If no part of the Project is taken or damaged and if in the Company's opinion the reasonable use and occupancy of the Project is not impaired by such tak-

ing, the Net Condemnation Award referable thereto shall be paid to the Mortgagee and applied or credited to that portion of the principal indebtedness evidenced by the Bond that is last due and payable (viz., in the inverse order in which such installments of principal are due and payable) or, if the Bond has been fully paid and if the Company is not then in default hereunder, to the Company.

(2) If any part of the Building is taken or damaged or if in the Company's opinion the reasonable use and occupancy the Project is impaired by such taking, the Board will proceed, as promptly as practicable under the circumstances and upon such terms as shall be approved in writing by the Company, to repair, replace, rebuild or restore the portion or portions of the Project taken or damaged or to rearrange the facilities then forming a part of the Project so as to make them suitable for the Company's uses, and the Mortgagee (or, if the Bond has been fully paid, the Board) will apply the Net Condemnation Award referable to such taking to payment of the costs of such repair, replacement, rebuilding, restoration or rearrangement. If the Net Condemnation Award is in excess of the costs of such repair, replacement, rebuilding, restoration or rearrangement, the excess shall be paid to the Mortgagee and applied or credited to that portion of the principal indebtedness evidenced by the Bond that is last due and payable (viz., in the inverse order in which such installments of principal are due and payable) or, if the Bond has been fully paid and if the Company is not then in default hereunder, to the Company. If the Net Condemnation Award is not sufficient to pay all the costs of such repair, replacement, rebuilding, restoration or rearrangement, the Company will, to the extent of any moneys available to it for that purpose, pay any deficiency; provided, that in the event that the moneys available to the Company shall not be sufficient to pay any such deficiency, then neither any general partner nor any limited partner of the Company shall be subject to any personal liability or any personal obligation to pay any such deficiency. In the event that the Company shall pay any such deficiency, it shall not, by reason of any such payment, be entitled to any reimbursement from the Board or to any abatement or diminution of the rental provided for herein. If, after being furnished with the necessary funds (whether by the Company, from condemnation proceeds or from both such sources), the Board fails or refuses after reasonable request so to repair, re-

place, rebuild or restore the portion or portions of the Project taken or damaged or to rearrange the facilities then forming a part of the Project so as to make them suitable for the Company's uses, as the case may be, the Company may, for and in the name and behalf of the Board, perform the work of such repair, replacement, rebuilding, restoration or rearrangement, in which case it shall be entitled to reimbursement for the costs thereof from the funds referred to above, to the extent that such funds are sufficient therefor.

The provisions of the preceding subparagraph (2) to the contrary notwithstanding, in no event shall the Board undertake the work of any repair, replacement, rebuilding, restoration or rearrangement thereunder unless and until (A) it has been notified in writing by the Company that the Company irrevocably relinquishes any right it may have, on account of such condemnation, to exercise the option to purchase granted in Section 11.1 hereof, or (B) the time within which the Company must exercise such option has expired without the Company having exercised such option. If, however, as a result of such taking, the Company is entitled to exercise such option and duly does so in accordance with the applicable provisions of said Section 11.1, then the Board shall not be required to repair, replace, rebuild or restore the portion or portions of the Project taken or damaged or to rearrange the facilities then forming a part of the Project nor shall any of the other provisions of said subparagraph (2) apply in such case, and so much (which may be all) of the Net Condemnation Award referable to such taking as may be necessary to provide for full payment and retirement of the Bond (as specified in Section 11.1 hereof) shall be applied or credited by the Mortgagee to that portion of the principal indebtedness evidenced by the Bond that is last due and payable (viz., in the inverse order in which such installments of principal are due and payable) and the excess thereafter remaining (if any) shall be paid to the Company after or simultaneously with the exercise by the Company of such option.

The Board will cooperate fully with the Company 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 Company 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 Company.

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 by any such eminent domain proceeding, this Lease Agreement (including, without limitation, the provisions hereof relating to the payment of Basic Rent) shall, unless as a result thereof the Company is entitled to exercise the option to purchase granted in Section 11.1 hereof and duly does so in accordance with the provisions of said Section 11.1, continue in full force and effect, but with the consequences specified in the remaining provisions of this Section 7.3. If the period of such taking expires on or before the expiration of the Primary Term, the Company 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 as nearly as practicable to the condition existing immediately prior to such taking, with such changes, alterations and modifications as will not impair its functional utility or change its character to such extent that it will not constitute a "medical clinic" under the provisions of said Chapter 58 of said Title 11. If such taking occurs during the Primary Term but the period of such taking expires after the expiration of the Primary Term, the Company shall be entitled to receive that portion of the award allocable to the period from the date of such taking to 11:59 o'clock, P. M., on April 1, 2005, and the Board shall be entitled to the remainder thereof; provided however, that if within thirty (30) days after such taking the Company exercises the option to renew granted in Section 11.2 hereof and pays to the Board the aggregate of the cash rentals that would, under the provisions of said Section 11.2, come due during the period commencing on April 1, 2005 and continuing until the expiration of such taking or March 31, 2010 (whichever is earlier), it (rather than the Board) shall be entitled to receive that portion of the award allocable to the period from 11:59 o'clock, P. M., on April 1, 2005 to and including the date of expiration of such taking or March 31, 2010 (whichever is earlier), and the Board shall be entitled to the remainder thereof (if any).

If such taking occurs during the renewal term and the period thereof expires during the renewal term, the Board shall be entitled to receive the entire condemnation award made therefor; provided however, that if within thirty (30) days after such taking the Company pays to the Board the aggregate of the cash rentals that would, under the provisions of Section 11.2 hereof, come due during the period of such taking, it (rather than the Board) shall be entitled to receive the aforesaid entire condemnation award. If such taking occurs during the renewal term but the period thereof expires after March 31, 2010, the Board shall be entitled to receive the entire condemnation award made therefor; provided however, that if within thirty (30) days after such taking the Company pays to the Board the aggregate of the cash rentals that would thereafter come due during the remainder of the renewal term under the provisions of Section 11.2 hereof, then it (rather than the Board) shall be entitled to receive that portion of the award allocable to the period from the date of such taking to and including March 31, 2010, and the Board shall be entitled to the remainder thereof.

Section 7.4 Condemnation of Company-Owned Property. The Company shall be entitled to any condemnation award or portion thereof made for damages to or takings of its own property, as well as all other sums awarded as compensation for the interest of the Company in the part of the Project taken and as damages to the interest of the Company in any part thereof not taken, but there shall be deducted therefrom, or paid directly by the Company, all attorneys' fees and other expenses incurred in connection with the receipt of such award or sum or portion thereof.

Section 7.5 Provisions Relating to the Incurring of Certain Expenses after the Bond is Paid. The Board will not, at any time after full payment of the Bond, 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 Company.

ARTICLE VIII

PARTICULAR COVENANTS OF THE COMPANY

Section 8.1 General Covenants. The Company will not do or permit anything to be done on or about the Project that will affect, impair or contravene any policies of insurance that may be carried on the Project or any part thereof against loss or damage by fire, casualty or otherwise. The Company will, in the use of the Site, the Building, and the public ways abutting the Site, comply with all applicable lawful requirements of all governmental bodies, subject, however, to the Company's right to contest, in good faith, any such requirements.

Section 8.2 Release and Indemnification Covenants. The Company releases the Board from, and covenants and agrees that the Board shall not be liable for, and agrees to hold the Board harmless against liability for, any loss or damage to property or any injury to or death of any person that may be occasioned on account of any defect in the Site or the Building, including any expenses incurred by the Board in connection with the defense of any claim against it arising out of any such loss, damage, injury or death; provided, however, that nothing herein contained shall be construed to indemnify the Board against, or to release the Board from liability for, any loss or damage that may result from wanton misconduct on the part of the Board or from its own intentional wrongful acts. The Company will provide for and insure, in the public liability policies required in paragraph (b) of Section 6.5 hereof, not only its own liability in respect of the matters there mentioned but also the liability herein assumed. The Board will not, without

the prior written consent of the Company, settle or consent to the settlement of any prospective or pending litigation for which the Company is or may be obligated, under the provisions of this Section 8.2, to indemnify the Board, and the Company shall have full and complete control of any such litigation, including (without limitation) the right to select counsel for the Board.

Section 8.3 Inspection of Project. The Company will permit the Board, the Mortgagee and their duly authorized agents at all reasonable times, upon reasonable prior notice, to examine and inspect the Project or any part thereof. So long as any of the indebtedness evidenced by the Bond is outstanding and unpaid, the Company will also permit the Mortgagee and its duly authorized agents to take such action as may be necessary and convenient to cause the Project to be kept in reasonably safe condition, and the Building and any other improvements located on the Site to be kept in good repair and condition, all as and to the extent provided in Sections 6.1 and 6.6 hereof.

Section 8.4 Agreement to Maintain Existence. So long as any of the entire indebtedness evidenced by the Bond remains unpaid, the Company will maintain its existence as a limited partnership under the laws of Alabama, and will not dissolve or dispose of all or substantially all its assets in a single transaction or in a series of related transactions. In the event of the retirement, death, insanity or mental incapacity of any general partner of the Company, the business of the Company shall be continued by the remaining general partner or general partners thereof.

Section 8.5 Annual Audits and Other Reports. The Company will maintain proper books of record and account in which it will make full and correct entries of all its business activities in accordance with generally accepted accounting principles. Within ninety (90) days following the close of each of its fiscal years, it will furnish to the Mortgagee

(a) a consolidated balance sheet and statements of earnings and partners' equity showing the financial condition of the Company at the close of such fiscal year, and

(b) such supporting notes as, in the opinion of the accounting firm certifying such balance sheet and statements, are necessary for a reasonably complete understanding of such balance sheet and statements.

Such balance sheet and statements shall be accompanied by a certificate or opinion of an independent public accounting

firm, in a standard form approved by the American Institute of Certified Public Accountants.

The Company will also furnish to the Board, to the Mortgagee and to White Investment Company, Inc., an Alabama corporation and the fiscal adviser to the Board in connection with the issuance of the Bond (at the address of said White Investment Company, Inc. that shall be on file with the Mortgagee and the Company from time to time), not less than thirty (30) days after each January 31 and each July 31 so long as any portion of the principal indebtedness evidenced by the Bond remains unpaid, a statement of the source and application of funds respecting the Project (viz., cash received and cash expended) for the six months' period ending on each such January 31 or July 31, as the case may be.

Section 8.6 Further Assurances. The Company will, at its 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 Mortgagee, or either, in and to the Project. The Company 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 Mortgagee are necessary for the perfection, preservation, protection and securing of such interests.

Section 8.7 Required Life Insurance. Contemporaneously with the delivery of this Lease Agreement, the Company has assigned to the Mortgagee policies of life insurance on the lives of each of the following persons, each of whom is either a general partner or a limited partner of the Company, issued by an insurer acceptable to the Mortgagee, in the following respective amounts:

<u>Name of Insured</u>	<u>Initial Face Amount of Policy</u>
Stacey J. Childs	\$480,000
Jorge A. Caceres	160,000
C. Paul Perry	80,000
Joel A. Wissing	80,000
Total Initial Face Amount of the said policies	\$800,000

The Company represents (i) that the persons hereinabove listed as the insureds under the said insurance policies presently constitute all the general partners or limited partners of the Company; and (ii) that the Company has an insurable interest in the life of each of the aforesaid persons because of their anticipated services to the Company and their knowledge of and experience in the administration of its business. In view of the fact that this Lease Agreement constitutes the source of the revenues that the Board has pledged for payment of the principal of and the interest on the Bond and has been transferred and assigned to, and pledged with the Mortgagee as a part of the property

covered by the Mortgage, the parties recognize that the Mortgagee also has an insurable interest in the life of each of the aforesaid persons.

The face amount of all policies constituting Required Life Insurance shall be in the amount of not less than 100% of the principal amount of the principal indebtedness evidenced by the Bond that shall be outstanding from time to time, and shall insure the lives of each of the aforesaid persons in proportions as nearly equal to the proportions set forth above as shall be practicable. All policies of Required Life Insurance shall be assigned to, and deposited with, the Mortgagee.

The Company agrees to maintain each of the said insurance policies in effect and to pay all premiums with respect thereto, as the said premiums become due.

In the event of the death of any of the aforesaid persons, all proceeds of Required Life Insurance shall be paid to the Mortgagee, and shall be applied for prepayment of the principal indebtedness evidenced by the Bond prior to the maturity thereof, all pursuant to and in accordance with Article VI of the Mortgage.

ARTICLE IX

CERTAIN PROVISIONS RELATING TO ASSIGNMENT, SUBLEASING AND MORTGAGING AND TO THE BONDS

Section 9.1 Provisions Relating to Assignment and Subleasing by Company. The Company may assign this Lease Agreement and the leasehold interest created hereby, and may sublet the Project or any part thereof, without the necessity of obtaining the consent of either the Board or the Mortgagee; provided, however, that no assignee or sublessee or anyone claiming by, through or under any such assignment or sublease shall by virtue thereof acquire any greater rights in the Project or in any part thereof than the Company then has under this Lease Agreement, nor shall any such assignment (except an assignment resulting from or incident to a consolidation, merger or transfer under the conditions specified in and meeting the requirements of Section 8.4 hereof) or subleasing or any dealings or transactions between the Board or the Mortgagee or any sublessee or assignee in any way relieve the Company from primary liability for any of its obligations hereunder. Thus, in the event of any such assignment or subleasing, the Company shall continue to remain primarily liable for payment of the rentals herein provided to be paid by it and for performance and observance of the other agreements and covenants on its part herein provided to be performed and observed by it.

Section 9.2 Mortgaging of the Project by Board.

The Board may mortgage the Project to the Mortgagee as security for the payment of the principal of and the interest on the Bond, subject to this Lease Agreement (which Lease Agreement and the estate of the Company hereunder shall be junior and subordinate to the lien of the Mortgage), and may assign its interest in and pledge any moneys receivable under this Lease Agreement to the Mortgagee as security for payment of the principal of and the interest on the Bond. The Board may in the Mortgage obligate itself to follow the instructions of the Mortgagee or the holder of the Bond in the election or pursuit of any remedies herein vested in it. In the event that the Board's interest in this Lease Agreement is so assigned and pledged to the Mortgagee, the Mortgagee shall have all rights and remedies herein accorded the Board, and any reference herein to the Board shall be deemed, with the necessary changes in detail, to include the Mortgagee; and the Mortgagee and the holder of the Bond shall be deemed to be third party beneficiaries of the covenants and agreements on the part of the Company herein contained and shall, to the extent contemplated by the Mortgage, be entitled to enforce performance and observance of the agreements and covenants on the part of the Company contained herein to the same extent as if they were parties hereto. Subsequent to the issuance of the Bond and prior to its payment in full, the Board and the Company shall have no power to modify, alter, amend or (except as specifically authorized herein) terminate this Lease Agreement without the prior written consent of the Mortgagee and then only as provided in the Mortgage. The Board will not, so long as the Company is not in default hereunder, amend the Mortgage or any mortgage supplemental thereto without the prior written consent of the Company.

Without the prior written request or consent of the Company and the Mortgagee, the Board will not, at any time while the Company is not in default hereunder, hereafter issue any bonds or other securities (including refunding securities), other than the Bond, that are payable out of or secured by a pledge of the rentals and other receipts derived by the Board from the Project, nor, without such consent, will the Board, at any time while the Company is not in default hereunder, 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 Prepayment of Basic Rent. The Company may, at its option at any time and from time to time, prepay directly to the Mortgagee, for the account of the Board, such amount of Basic Rent as shall be sufficient to enable the Board to prepay, in advance of the due date or dates thereof, all or any portion of the then outstanding principal of the Bond, in accordance with its terms. In the event of such prepayment, the Board will cause the amount of Basic Rent so prepaid to be applied to prepayment of the principal indebtedness evidenced by the Bond, in accordance with the provisions of the Mortgage, on the earliest practicable date after receipt of such prepaid Basic Rent on which, under its terms, such principal indebtedness may be prepaid, and will take all action necessary under the provisions of the Mortgage to effect such prepayment. The

Board recognizes that under the provisions of Section 5.2 hereof, any such prepayment of Basic Rent will result in a total or partial abatement of the Basic Rent that would thereafter have come due under the provisions of said Section 5.2, had it not been for such prepayment.

Section 9.4 References to Bond Ineffective after Bond Paid. Upon full payment of the entire indebtedness evidenced by the Bond, all references in this Lease Agreement to the Bond and the Mortgagee shall be ineffective and neither the Mortgagee nor the holder of the Bond shall thereafter have any rights hereunder saving and excepting any that shall have theretofore vested. For purposes of this Lease Agreement, the Bond shall be deemed fully paid if there exists, with respect thereto, the applicable conditions specified in Section 13.1 of the Mortgage.

In the event the Bond is fully paid prior to the last maturity or due date thereof, the Company shall be entitled to use and occupancy of the Project from the date of such payment until 11:59 o'clock, P. M., on April 1, 2005, without the payment of any further Basic Rent but otherwise on all the same terms and conditions hereof. All moneys remaining in the hands of the Mortgagee after full payment of the Bond are hereby assigned by the Board to the Company, and the Board will cause the Mortgagee to pay all such moneys to the Company.

Section 9.5 Disposition of Trust Fund Moneys after Payment of Bond. If, after full payment of the Bond with moneys paid to or for the account of the Board by the Company hereunder, any moneys respecting the Project or the Bond then remain in the hands of the Mortgagee, the Board

(a) hereby assigns to the Company the amount by which the sum of such remaining moneys exceeds the total of all amounts (if any) then owed hereunder by the Company to the Board or the Mortgagee, and

(b) will cause the Mortgagee to pay to the Company the moneys assigned to it in the foregoing clause (a) of this sentence.

Further, if, after the Company has provided to or for the account of the Board moneys sufficient to provide for full payment of the Bond, the Mortgagee is obligated, under the provisions of Section 14.3 of the Mortgage, to pay or return any moneys to the Board, the Board will in turn pay such moneys to the Company or cause the Mortgagee to pay such moneys to the Company.

The preceding provisions of this Section 9.5 shall survive the expiration or prior termination of this Lease Agreement.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default Defined. The following shall be "events of default" under this Lease Agreement, and the terms "event of default" or "default" shall mean, whenever they are used in this Lease Agreement, any one or more of the following events:

(a) failure by the Company to pay the Basic Rent hereinabove provided, or the disbursements of the Mortgagee, which failure shall have continued for a period of ten (10) days after such Basic Rent or such disbursements (as the case may be) shall have become due and payable;

(b) failure by the Company to perform or observe any of its other agreements or covenants contained in this Lease Agreement, which failure shall have continued for a period of thirty (30) days after written notice specifying, in reasonable detail, the nature of such failure and requiring the Company to perform or observe the agreement or covenant with respect to which it is delinquent shall have been given to the Company by the Board or the Mortgagee, unless (i) the Board and the Mortgagee shall agree in writing to an extension of such period prior to its expiration, or (ii) the Company 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; or

(c) the dissolution or liquidation of the Company or the filing by the Company of a voluntary petition in bankruptcy, or its failure promptly to lift any execution, garnishment or attachment in aid of collection of any debt or obligation of the Company in an amount which, if immediately collected in full, would seriously impair the ability of the Company to carry on its operations, or its adjudication as a bankrupt, an assignment by it for the benefit of creditors, the entry by it into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction as having been filed

in good faith of a petition applicable to it in any proceeding for its reorganization under federal Bankruptcy Code, as amended, or the filing by the Company of a petition for an arrangement under the provisions of the federal Bankruptcy Code, as amended.

The term "force majeure" as used in paragraph (b) of this Section 10.1 means acts of God or the public enemy, strikes, labor disputes, lockouts, work slowdowns or stoppages or other industrial disturbances, insurrections, riots or other civil disturbances, orders of the United States of America, the State of Alabama or any department, agency or political subdivision of either thereof, or of 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 Company.

Section 10.2 Remedies on Default. Whenever any such event of default shall have happened and be continuing, the Board and the Mortgagee, or the Mortgagee on behalf of the Board, may take any one or more of the following remedial steps:

(a) they or it may re-enter and take possession of the Project, exclude the Company from possession thereof and rent the same for the account of the Company, holding the Company liable for the balance due hereunder;

(b) they or it may terminate this Lease Agreement, exclude the Company from possession of the Project and lease the same for the account of the Board and the Mortgagee, holding the Company liable for all rent due up to the date such lease is made for the account of the Board and the Mortgagee;

(c) they or it may have access to, and inspect, examine and make copies of, the books, records and accounts of the Company, but if and only if any portion of the entire indebtedness evidenced by the Bond is then outstanding; and

(d) they or it may take whatever other action at law or in equity may appear necessary or desirable to collect the rent then due, or to enforce any obligation, covenant or agreement of the Company under this Lease Agreement.

Section 10.3 No Remedy Exclusive. No remedy herein conferred upon or reserved to the Board or the Mort-

gagee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Board or the Mortgagee 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 a default or a threatened default by the Company hereunder, the Board or the Mortgagee 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 this Lease Agreement, the Company will, if the Board or the Mortgagee are 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 Mortgagee, as the case may be, reasonable attorneys' fees and other expenses so incurred by the Board or the Mortgagee.

Section 10.5 No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. Further, neither the receipt nor the acceptance of rental hereunder by the Board, or by the Mortgagee on its behalf, shall be deemed to be a waiver of any breach of any covenant or condition herein contained or of any default even though at the time of such receipt or acceptance there has been a breach of one or more covenants or conditions on the part of the Company herein contained or a default by the Company hereunder (or both) and the Board or the Mortgagee (or both) have knowledge thereof.

ARTICLE XI

OPTIONS

Section 11.1 Option to Purchase - Casualties.

The Company shall have, and is hereby granted, the option to purchase the Project, at any time while this Lease Agreement is in full force and effect, if

(a) the Building is damaged or destroyed, by fire or other cause, to such extent that, in the written opinion of the Company filed with the Board and the Mortgagee, (i) it cannot reasonably be restored to the condition thereof immediately preceding such damage or destruction within a period of six (6) consecutive months, or (ii) the Company will thereby be denied, or is likely to be thereby denied, normal use and occupancy of the Building for a period of not less than six (6) consecutive months, or (iii) the cost of restoration thereof would exceed by more than \$40,000 the sum of the Net Insurance Proceeds referable to such damage or destruction, plus that amount of and such loss resulting from such damage or destruction with respect to which the Company is self-insured by virtue of the deductible amounts and co-insurance permitted under the provisions of this Lease Agreement, 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 is taken, 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 written opinion of the Company, filed with the Board and the Mortgagee, the Company will thereby be denied, or is likely to be thereby denied normal use and occupancy of the Building for a period of not less than six (6) 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 Company in good faith, this Lease Agreement becomes void or unenforceable or impossible of performance in accordance with the intent and purposes of the parties hereto, as expressed herein, or unreasonable burdens or excessive liabilities are imposed on the Board or the Company, including (without limiting the generality of the foregoing) any changes in the tax laws of the United States or the State of Alabama that will render the leasing of the Project from the Board hereunder significantly less advantageous economically to the Company.

To exercise such option, the Company

(i) shall, within one hundred eighty (180) days following the event authorizing the exercise of such option, give written notice to the Board and the Mortgagee of such exercise;

(ii) shall specify therein the date of purchase, which shall be not less than fifteen (15) nor more than ninety (90) days after the date such notice is mailed; and

(iii) shall on the date of purchase pay to the Mortgagee (for the account of the Board), as and for the purchase price of the Project, an amount which, when added to the total amount of any Net Insurance Proceeds or Net Condemnation Award and any other funds of the Company or the Board in the hands of the Mortgagee and referable to any damage, destruction or condemnation authorizing the exercise of such option, will be sufficient to pay, retire and redeem all the then outstanding indebtedness evidenced by the Bond on the earliest practicable date next succeeding the date of purchase on which under its terms it may be so prepaid, including, without limitation, principal, premium (if any), all interest to mature until and on such date, expenses of redemption and any charges and disbursements of the Mortgagee; provided, however, that if on the date of purchase the Bond has been paid in full, the Company shall not be required to pay any such amount in order to entitle it to exercise such option, in which event 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 Company simultaneously with or promptly after the exercise of such option.

Upon receipt of said sum (if payment of any such sum is required), and if at such time the Company is not in default in payment of the Basic Rent due hereunder, the Board will, by statutory warranty deed or other appropriate conveyance or instrument, transfer and convey the Project (or such portion - which may be none - thereof as is then in existence and is owned by the Board, and in its then condition, whatever that may be) to the Company.

In the event that at the time of the exercise of any option to purchase herein granted, there have not been collected by the Board, the Mortgagee or the Company the entire insurance proceeds or condemnation award referable to any damage, destruction or condemnation authorizing the exercise of such option, all Net Insurance Proceeds and all Net Condemnation Awards thereafter collected and referable to such damage, destruction or condemnation shall be paid to the Company, and the Board will take all actions necessary to cause the amount of any such award or proceeds to be paid

to the Company. The provisions of this paragraph shall survive the expiration of the term of this Lease Agreement or any termination hereof unless at the time of such expiration or termination the Company is in default in the payment of any sums herein required to be paid by it. .

Section 11.2 Option to Renew. The Company shall have the right and option, herein granted by the Board, to renew the term of this Lease Agreement for the period commencing at 11:59 o'clock, P. M., on April 1, 2005, and continuing until 11:59 o'clock, P. M., on March 31, 2010; provided, however, that such option shall not be exercisable at any time prior to full payment of the Bond unless the Company is not in default hereunder. To exercise such option to renew, the Company shall so notify the Board in writing (a) not less than sixty (60) days prior to the expiration of the Primary 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 Primary Term, within the applicable period specified in Section 7.3 hereof but in any event prior to the expiration of the Primary Term. The cash rental due by the Company during such renewal term shall be the sum of \$1,000 per year, payable yearly 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 Company exercises the option to renew granted in this Section 11.2, 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 11.3 Option to Purchase. If the Company pays the rental herein reserved to the Board, it shall have the right and option, herein granted by the Board, to purchase the Project from the Board at any time during the term (Primary or renewal) of this Lease Agreement after payment in full of the principal of and the interest (and premium, if any) on the Bond and all disbursements of the Mortgagee, at and for a purchase price of \$1,000.00. To exercise any such purchase option, the Company shall notify the Board in writing not less than fifteen (15) days prior to the date on which it proposes to effect such purchase and, on the date of such purchase, shall pay the aforesaid purchase price to the Board in bankable funds, whereupon the Board will, by statutory warranty deed or other appropriate instrument of conveyance, transfer and convey the Project (in its then condition, whatever that may be) to the Company. Nothing herein contained shall be construed to give the Company any right to any rebate to or refund of any rental paid by it hereunder prior to the exercise by it of the purchase option hereinabove granted, even though such rental may have been wholly or partially prepaid.

Section 11.4 Options - In General. Except to the extent otherwise specifically provided in Section 11.2 and Section 11.3 hereof, each of the options herein granted to the Company may be exercised by it even though it is at the time in default hereunder, it being understood and agreed, however, that all other applicable conditions specified herein to the exercise of such option (including payment of any sums herein required) are met.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Covenant of Quiet Enjoyment. Surrender. So long as the Company performs and observes all the covenants and agreements on its part herein contained, it shall peaceably and quietly have, hold and enjoy the Project during the Primary Term (and, if the Company exercises the option to renew granted in Section 11.2 hereof, the renewal term), subject to all the terms and provisions hereof. At the end of the Primary Term, or renewal term, as the case may be, or upon any prior termination of this Lease Agreement, the Company will (unless it has simultaneously purchased the Project from the Board) surrender possession of the Project peaceably and promptly to the Board in as good condition as at the beginning of the Primary Term, excepting only (a) loss by fire or other casualty, (b) alterations, changes or improvements made in accordance with the provisions of this Lease Agreement, (c) acts of governmental or condemning authorities, and (d) ordinary wear and tear.

Section 12.2 Retention of Title to Project by Board. Without the prior written consent of the Company, the Board will not itself, at any time during which the Company is not in default hereunder, (a) sell, convey or otherwise dispose of all or any part of the Project (except to the Company as hereinabove provided), (b) except as provided in Section 9.2 hereof, mortgage or otherwise encumber the Project or any part thereof, or (c) dissolve or do anything that will result in the termination of its corporate existence except as provided in Section 8.6 of the Mortgage. The Board will, however, grant (subject to the lien of the Mortgage) such utility, access and other similar easements over, across or under the Site as shall be requested by the Company and as in the judgment of the Company are necessary or convenient for the reasonable use and occupancy of the Building. The Company may at any time and from time to time and for the purpose of promoting the public health of the inhabitants of the Municipality and of the surrounding territory, or of the people of the State of Alabama, release to the Board, from the demise of this Lease Agreement, any unimproved portion or portions of the Site, or any interest therein, provided that the Company shall not, by reason of any such release, be entitled to any

abatement or diminution of the Basic Rent or any other amount payable hereunder. From and after any such release of any portion of the Site, the term "Site," as used in this Lease Agreement, shall be construed to refer to the real property that immediately prior thereto constituted the Site less and except that portion thereof so released.

Section 12.3 This Lease a Net Lease. The Company recognizes and understands that it is the intention hereof that this lease be a net lease and that until the Bonds are fully paid all Basic Rent be available for payment of principal and interest (and premium, if any) on the Bond. This Lease Agreement shall be construed to effectuate such intent.

Section 12.4 Notices, Consents, etc. All notices hereunder shall be deemed sufficient and properly given if in writing and sent by United States registered or certified mail, postage prepaid, addressed, if to the Board, c/o City Hall, Alabaster, Alabama 35007; if to the Company, at Shelby Office Plaza, Alabaster, Alabama 35007 (Attention: General Partner); and if to the Mortgagee at Post Office Box 32820, Louisville, Kentucky 40232 (Attention: Mortgage Loan Department). The Board, the Company and the Mortgagee 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 Company or the Mortgagee pursuant to the provisions of this Lease Agreement 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 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 Board, the Company or the Mortgagee by a duly authorized attorney at law shall be valid and effective to the same extent as if signed 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 Company 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 Company by an Authorized Company Representative; and each of the parties and the Mortgagee are authorized to act and rely upon any such requests, consents or approvals so signed.

Section 12.5 Certain Prior and Contemporaneous Agreements Cancelled. This Lease Agreement shall completely and fully supersede all other prior or contemporaneous agreements (including, but without limitation, the Con-

struction Financing Agreement), both written and oral, between the Board and the Company relating to the acquisition of the Site, the construction of the Building and the leasing of the Project to the Company. Neither the Board nor the Company shall hereafter have any rights under any such prior or contemporaneous agreement but shall look solely to this Lease Agreement for definition and determination of all their respective rights, liabilities and responsibilities respecting the leasing of the Project to the Company. The Company and the Board acknowledge that they have no outstanding agreement, commitment or understanding, either express or implied, for the grant to the Company of any option to purchase the Project or any part thereof or of any option to renew the term of this Lease Agreement, other than those contained in Article XI hereof.

Section 12.6 Limited Liability of Board. The Board is entering into this Lease Agreement pursuant to the authority conferred upon it in Chapter 58 of Title 11 of the Code of Alabama of 1975. 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 Bond and the rentals and other receipts to be derived from the Project or any part thereof, including insurance and condemnation proceeds.

Section 12.7 Binding Effect. This Lease Agreement shall inure to the benefit of, and shall be binding upon, the Board, the Company, and their respective successors and assigns.

Section 12.8 Severability. In the event any provision of this Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. Without in any way limiting the generality of the foregoing, the Company specifically acknowledges and agrees that the several purchase and renewal options granted it 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 Company from fully performing and observing any of the agreements and covenants on its part herein contained.

Section 12.9 Article and Section Captions. The article and section headings and captions contained herein are included for convenience only and shall not be consider-

ASSIGNMENT OF RENTALS

8021

, 19 80

This Agreement, entered into this _____ day of _____, 1980, between Greater Shelby Office Plaza, Ltd., a limited partnership organized under the laws of the state of Alabama

(hereinafter referred to as OWNER), and COMMONWEALTH LIFE INSURANCE COMPANY, Commonwealth Building, Louisville, Jefferson County, Kentucky, (hereinafter referred to as Assignee),

WITNESSETH:

FOR VALUE RECEIVED, and as additional security for the indebtedness herein-after mentioned, the Owner hereby assigns, sets over, transfers and conveys unto the Assignee, all the right, title and interest of the Owner in and to the rents, issues, profits, revenues, royalties, rights and benefits, hereinafter referred to as "rents", which Owner may now or in the future be entitled to receive from the property described in Exhibit A attached hereto and made a part hereof. The term of this Assignment shall be until that certain First Mortgage Revenue Bond (Greater Shelby Office Plaza Project) Series 1980 issued by the Medical Clinic Board of the Town of Alabaster, Ala., for the sum of Eight Hundred Thousand Dollars, (\$800,000.00) and the accompanying Mortgage hereinafter called "Mortgage", made, executed and delivered by Owner to Assignee, covering the buildings, improvements and other property used with or situated on the above described land, shall have been fully paid and satisfied, or until the expiration of the period of redemption, if any, at which time this Assignment is to be fully satisfied, cancelled, and released, and the satisfaction of said Mortgage shall constitute a release hereof.

And to that end the Owner hereby further assigns, sets over, transfers and conveys unto the said Assignee all leases of said premises, including guaranties thereof, now made, executed or delivered, whether written or verbal, or to be hereafter made, be the same written or verbal.

Notwithstanding that this instrument is a present assignment of said rents and leases, it is understood and agreed that the Owner has permission to collect the rents and manage said real estate and improvements the same as if this assignment had not been given, if and so long only, as there shall not be any default whatever with respect to the payments of principal and/or interest due on said indebtedness or in the performance of any other obligation to be performed under the aforementioned Bond and Mortgage and this Assignment, but this permission terminates automatically on the occurrence of any such default or breach of covenant.

1. In furtherance of the foregoing assignment, Owner hereby irrevocably appoints and constitutes Assignee his true and lawful attorney-in-fact with full power of substitution for and on behalf of Owner and hereby authorizes Assignee by its employees or agents, at its option, and without notice after the occurrence of a default as aforesaid, to enter upon the mortgaged premises and to collect, in the name of Owner or in its own name as Assignee, the rents accrued but unpaid and in arrears at the date of such default, as well as the rents thereafter accruing and becoming payable during the period of the continuance of the said or any other default; and to this end, Owner further agrees that he or it will facilitate in all reasonable ways Assignee's collection of said rents, and will, upon request by Assignee, execute a written notice to each tenant directing the tenant to pay rent to Assignee, but this assignment shall become operative without the execution of any such notice.

2. Owner also hereby authorizes Assignee upon such entry, at its option, but without the assumption of any of Owner's obligations as lessor, and without releasing Owner from any obligation herein or under the terms of any lease, to take over and assume the management, operation and maintenance of the said mortgaged premises, to endorse any checks, drafts or orders evidencing the payment of rentals under any leases thereof, and to perform all acts necessary and proper and to expend such sums out of the income of the mortgaged premises as may be needful in connection therewith, in the same manner and to the same extent as Owner theretofore might do, including the right to effect new leases, to cancel or terminate existing leases, to alter or amend the terms of existing leases, to renew existing leases, or to make any other acts to tenants. Owner hereby waives all claims against Assignee out of such

management, operation and maintenance, excepting the liability of Assignee to account as hereinafter set forth. Owner shall indemnify and save harmless Assignee from any and all cost, expenses or liability under the leases or by reason of this assignment and against all claims or demands whatsoever, which may be asserted against it by reason of any alleged obligation of Assignee to perform or discharge any of the terms of the leases.

3. Assignee shall, after payment of all proper charges and expenses, including reasonable compensation to such Managing Agent as it may select and employ, and after the accumulation of a reserve to meet taxes, assessments, water rents, sewer charges, insurance costs, and other charges in requisite amounts, credit the net amount of income received by it from the mortgaged premises by virtue of this assignment, to any amounts due and owing to it by Owner under the terms of mortgage and the bond secured thereby, but the manner of the application of such net income and what items shall be credited, shall be determined in the sole discretion of Assignee. Assignee shall not be accountable for more moneys than it actually receives from the mortgaged premises.

4. The rights of the Assignee under this Assignment may be exercised by Assignee without regard to other security and without releasing Owner from any obligation. Owner shall at all times be responsible for the full performance of all his obligations and covenants under the leases and shall enforce, at his cost and expense, the full performance of all of the conditions, obligations and covenants under the leases to be observed and performed by the lessees. Owner shall at all times appear and defend any action growing out of or in any manner connected with any lease of the whole or any part of mortgaged premises.

5. Owner hereby covenants and warrants to Assignee that neither he nor it, nor any previous owner, has executed any prior assignment or pledge of the rents, issues or profits of the mortgaged premises, nor any prior assignment or pledge of his or its interest in any lease of the whole or any part of the mortgaged premises and that the leases now executed are in full force and effect with no modification or amendments thereto, other than as previously disclosed to Assignee, and with no default thereunder. Owner also hereby covenants not to collect the rents of the said mortgaged premises in advance, other than as required to be paid in advance by the terms of the rental agreement, under which payable, and further covenants that he or it will not, without the prior written consent of Assignee, alter or amend the provisions of any lease of any portion of the mortgaged premises, consent to the termination thereof, give his or its consent, where required, to the assignment thereof or subletting thereunder, and will not do any act which would destroy or impair the benefits to Assignee of this assignment.

6. It is not the intention of the parties hereto that an entry by Assignee upon the mortgaged premises under the terms of this instrument shall constitute Assignee a "mortgagee in possession" in contemplation of law, except at the option of Assignee.

7. This assignment shall remain in full force and effect as long as the mortgage indebtedness remains unpaid in whole or in part.

8. The provisions of this instrument shall be binding upon Owner and his or its heirs, devisees, legal representatives, successors and assigns and shall enure to the benefit of Assignee and its successors and assigns. The word "Owner" shall be construed to mean any one or more persons or parties who are holders of the legal title or equity of redemption to or in the aforesaid mortgaged premises. The word "bond" shall be construed to mean the instrument, or instruments, given to evidence the indebtedness held by Assignee against the mortgaged premises; and the word "mortgage" shall be construed to mean the instrument securing the said indebtedness, owned and held by the Assignee, whether such instrument be mortgage, loan deed, trust deed, vendor's lien or otherwise.

9. No lessee need determine whether or not a default has occurred making this assignment operative, but shall pay over the rent to Assignee upon notice from it to do so, and upon so doing shall be relieved from liability therefor to Owner in all respects.

10. Owner has obtained an agreement from each lessee of any portion of the mortgaged premises that it will give to Assignee, at the address set forth above, a copy of any communication to Owner requesting performance or relating to any default by Owner, in connection with its lease of the mortgaged premises.

IN WITNESS WHEREOF, Owner has executed this agreement in manner and form proper and sufficient in law.

Greater Shelby Office Plaza, Ltd.

By: Ray J. Childs
General Partner

Owner

SEAL

(or)

Attest:

Secretary

By _____
President

Owner

BOOK 34 PAGE 990

STATE OF ALABAMA)

COUNTY OF Jefferson

I, Sandra K. Morris, a Notary Public in and for said county in said state, hereby certify that Harry J. Childs, whose name as a general partner of GREATER SHELBY OFFICE PLAZA, LTD., a limited partnership 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 within instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited partnership.

GIVEN under my hand and official seal of office, this 21st day of February, 1980.

[NOTARIAL SEAL]

Sandra K. Morris
Notary Public

BOOK 34 PAGE 991

EXHIBIT A

Lot B, according to the Amended Map of Greater Shelby Office Plaza as recorded in Map Book 7, page 141 in the Probate Office of Shelby County, Alabama. ALSO a 30 foot easement for ingress and egress more particularly described as follows: A 30 foot strip lying North of and parallel to the following line; begin at the Southwest corner of Lot B according to the Amended Map of Greater Shelby Office Plaza recorded in Map Book 7, page 141 and run West along a prolongation of the South line thereof a distance of 410.83 feet to its intersection with U. S. Highway 31

STATE OF ALA. SHELBY CO.
JUDGE OF PROBATE

1980 FEB 25 PM 12: 25

Thomas A. Shumway, Jr.
JUDGE OF PROBATE

Rec. 6.00

Sub. 1.00

7 0 0

Inst. # 1997-39211

12/02/1997-39211
02:25 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE

043 MCD 114.50