


LEASE AGREEMENT

STATE OF ALABAMA)
)
SHELBY COUNTY)


20061208000596520 1/30 \$98.00
Shelby Cnty Judge of Probate, AL
12/08/2006 11:51:27AM FILED/CERT

THIS LEASE AGREEMENT (hereinafter referred to as the "Lease") is made and entered into on the 1st day of December, 2006, by and between **ALABAMA POWER COMPANY**, an Alabama corporation (hereinafter referred to as the "Lessor") and the **ALABAMA 4-H CLUB FOUNDATION, INC.**, an Alabama not-for-profit corporation (hereinafter referred to as the "Lessee"). Lessor and Lessee hereinafter each may be referred to individually as "Party" and collectively as "Parties".

RECITALS:

WHEREAS, Lessor owns certain real property located in Shelby County, Alabama, said real property more particularly described below; and

WHEREAS, Lessee has instituted a program for establishing a 4-H Club Center on Lay Lake, to provide camping facilities, leadership development workshops, picnic areas, district awards programs, adult volunteer training, inservice training for professional extension employees and boat traffic (hereinafter collectively referred to as the "4-H Club Center Purposes"), and is desirous of obtaining a lease on a portion of Lessor's real property located in Shelby County, Alabama; and

WHEREAS, Lessor and Lessee previously entered into a lease agreement for a portion of Lessor's real property located in Shelby County, Alabama, dated February 3, 1978 (hereinafter referred to as the "Previous Lease"), and wish to terminate the Previous Lease and all amendments thereto and to enter into this Lease.

NOW THEREFORE, for and in consideration of One and No/100 U.S. Dollars (\$1.00) in hand paid to Lessor by Lessee, the receipt and sufficiency of which is hereby acknowledged, and the mutual covenants contained herein and for other good and valuable consideration, and intending to be legally bound hereby, Lessor and Lessee agree with each other as follows:

WITNESSETH:

That Lessor does hereby demise, let and lease unto Lessee the following real property located in Shelby County, Alabama, to wit:

That part of the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 25, Township 21 South, Range 1 East lying West of the Coosa River and that part of the E $\frac{1}{2}$ of NW $\frac{1}{4}$ and that part of the W $\frac{1}{2}$ of NE $\frac{1}{4}$ of Section 36, Township 21 South, Range 1 East lying West of the Coosa River, Shelby County, Alabama, as shown outlined in red on the

drawing marked **Exhibit "A"** attached hereto and made a part hereof (hereinafter referred to as the "Premises").

This Lease is made under the following specific terms, conditions, covenants and stipulations:

1. Previous Lease. The Previous Lease, together with all amendments thereto, is hereby terminated and of no further force or effect and is replaced in its entirety by this Lease.

2. Term. This Lease shall be for a period beginning on the 1st day of December, 2006, and expiring on the 30th day of November, 2011 (hereinafter referred to as the "Initial Lease Period"). At the end of the Initial Lease Period, Lessee shall have options to renew the Lease for the following additional periods: (a) for the five (5) year period beginning on the 1st day of December, 2011, and expiring on the 30th day of November, 2016 (hereinafter referred to as the "First Option Period"); (b) for the five (5) year period beginning on the 1st day of December, 2016, and expiring on the 30th day of November, 2021 (hereinafter referred to as the "Second Option Period"); (c) for the five (5) year period beginning on the 1st day of December, 2021, and expiring on the 30th day of November, 2026 (hereinafter referred to as the "Third Option Period"); (d) for the five (5) year period beginning on the 1st day of December, 2026, and expiring on the 30th day of November, 2031 (hereinafter referred to as the "Fourth Option Period"); (e) for the five (5) year period beginning on the 1st day of December, 2031, and expiring on the 30th day of November, 2036 (hereinafter referred to as the "Fifth Option Period"); (f) for the five (5) year period beginning on the 1st day of December, 2036, and expiring on the 30th day of November, 2041 (hereinafter referred to as the "Sixth Option Period"); (g) for the five (5) year period beginning on the 1st day of December, 2041, and expiring on the 30th day of November, 2046 (hereinafter referred to as the "Seventh Option Period"); (h) for the five (5) year period beginning on the 1st day of December, 2046, and expiring on the 30th day of November, 2051 (hereinafter referred to as the "Eighth Option Period"); and (i) for the five (5) year period beginning on the 1st day of December, 2051, and expiring on the 30th day of November, 2056 (hereinafter referred to as the "Ninth Option Period") (all such option periods each may be referred to as "Option Period" and collectively as the "Option Periods"). Lessee shall not be obligated to exercise any Option Period. Lessee's exercise of any Option Period is specifically conditioned upon the following: (a) Lessee giving to Lessor sixty (60) days' written notice, in advance of the expiration date of the period prior to the Option Period sought to be exercised and for which such written notice is provided, of Lessee's intention to exercise such Option; and (b) Lessee not being in default of any of the terms or conditions of this Lease, or being in breach of any of Lessee's representations and warranties hereunder.

3. Rent. For each lease year of the Initial Lease Period, the First Option Period, the Second Option Period, the Third Option Period, the Fourth Option Period and the Fifth Option Period, the per annum rental payment shall not be less than One Thousand and No/100 U.S. Dollars (\$1,000.00) and shall be a sum equal to the annual ad valorem tax due for the Premises on October 1st immediately preceding each such lease year, even though such sum exceeds One Thousand and No/100 U.S. Dollars (\$1,000.00). For example, should the ad valorem tax liability due for the Premises on October 1, 2011, be One Thousand Four Hundred Fifty and No/100 U.S.

Dollars (\$1,450.00), then the per annum rental payment due for the first lease year of the First Option Period shall be One Thousand Four Hundred Fifty and No/100 U.S. Dollars (\$1,450.00) for that particular lease year. Should the ad valorem tax liability due for the Premises on October 1, 2013, be Seven Hundred Fifty and No/100 U.S. Dollars (\$750.00), then the per annum rental payment due for the third lease year of the First Option Period shall be One Thousand and No/100 U.S. Dollars (\$1,000.00). The per annum rental payment shall be payable in advance on the 1st day of December of each lease year during the Initial Lease Period, and, if exercised, on the 1st day of December during each lease year of each of the First Option Period, the Second Option Period, the Third Option Period, the Fourth Option Period and the Fifth Option Period.

In the event that Lessee exercises the Sixth Option Period, then the per annum rental payment for each lease year of the Sixth Option Period and for each lease year of any Option Period exercised by Lessee thereafter shall be an amount equal to One Percent (1%) of the appraised value of the Premises as determined by an MAI appraiser retained and compensated by Lessor in Lessor's sole and absolute discretion. Said appraisal is to be conducted on a date which is not more than ninety (90) days prior to the expiration of the lease year which precedes the lease year of the Option Period for which the new per annum rental payment is being calculated. Lessor shall advise Lessee of the amount of such new per annum rental payment for each lease year of the Sixth Option Period and for each lease year of any Option Period exercised by Lessee thereafter within seventy-five (75) days prior to the beginning of each such lease year. For example, if Lessee exercises the Seventh Option Period, and if Lessor's appraiser determines on a date that is ninety (90) days prior to the expiration of the second lease year of the Seventh Option Period that the appraised value of the Premises is Two Hundred Thousand and No/100 U.S. Dollars (\$200,000.00), and if Lessor advises Lessee within seventy-five (75) days prior to the beginning of the third lease year of the Seventh Option Period that the amount of the new per annum rental payment is Two Thousand and No/100 U.S. Dollars (\$2,000.00), then the amount of the per annum rental payment for the third lease year of the Seventh Option Period shall be Two Thousand and No/100 U.S. Dollars (\$2,000.00). It shall be Lessor's option, and not Lessor's obligation, to obtain the appraisal from an MAI appraiser and to provide advice to Lessee of any new per annum rental payment which is calculated based on said appraisal as discussed in this paragraph. In the event that Lessor does not advise Lessee of any such new per annum rental payment within seventy-five (75) days prior to the beginning of any lease year of the Sixth Option Period or any lease year of any Option Period exercised by Lessee thereafter, then the per annum rental payment for such lease year shall be the preceding year's per annum rental payment. The per annum rental payment for each lease year of the Sixth Option Period and for each lease year of any Option Period exercised by Lessee thereafter shall be payable in advance on the 1st day of December of each lease year during the Sixth Option Period and each lease year of any Option Period exercised by Lessee thereafter.

Lessee agrees to deliver the per annum rental payments for each lease year of the Initial Lease Period and for each lease year of any Option Period exercised by Lessee thereafter according to the address and instructions provided in annual bills sent to Lessee by Lessor. However, Lessor's failure to provide Lessee with any annual bill shall not release Lessee from paying, nor diminish Lessee's obligation to pay, any per annum rental payment as provided for herein.

4. Lessee Rights Subject to Project License. Lessee acknowledges that a portion of the Premises are within the project boundary of the Coosa River Project which Lessor operates and maintains under the license issued by the Federal Energy Regulatory Commission (hereinafter referred to as "FERC") for Project No. P-2146 (as may be amended from time to time, and including any license that may subsequently be issued to Lessor for the Coosa River Project, together with the applicable provisions of the Federal Power Act, and the rules, regulations and orders that have been or may be issued by FERC, hereinafter referred to as the "Project License"). Specifically, any portion of the Premises which lies below the 399 foot elevation contour is within the boundary of the Coosa River Project. Lessee further acknowledges that all rights of Lessee hereunder are subject to the terms and conditions of the Project License. Lessee acknowledges and agrees that, if Lessor is required to do so in order to comply with the conditions and requirements of the Project License, or if Lessor is directed to do so by FERC, or if FERC imposes on Lessor any conditions with respect to the Lease, the Premises, the Project License or the Coosa River Project, Lessor may, in Lessor's sole and absolute discretion, cancel or terminate this Lease as to all or a portion of the Premises prior to the expiration of the Initial Lease Period and any Option Period. In the event of any such cancellation or termination of this Lease as to all of the Premises prior to the expiration of the Initial Lease Period or any Option Period, any per annum rental payments paid in advance shall be prorated based on the number of days remaining in the Initial Lease Period or any Option Period and a refund of such per annum rental payments paid in advance shall be made to Lessee based on said proration. In the event of any such cancellation or termination of this Lease as to a portion of the Premises prior to the expiration of the Initial Lease Period or any Option Period, any adjustment to future per annum rental payments for the remaining Premises shall be determined by Lessor in Lessor's reasonable discretion and Lessor shall notify Lessee of said adjustment within fifteen (15) days of such cancellation or termination.

5. Lease Termination Upon FERC Action. Lessor, without liability to Lessee shall have the right and may at any time close the Premises whenever the same may become necessary to comply with the Project License or any law, order, regulation or direction of any lawful authority or the agents, officers or representatives thereof, or in the event of any public disturbance which, in the judgment of Lessor, may appear proper or advisable. In the event of termination of this Lease by Lessor prior to the expiration of the Initial Lease Period or any Option Period in order to comply with the conditions and requirements of the Project License, or if Lessor is directed to do so by FERC, or if FERC imposes on Lessor any conditions with respect to the Lease, the Premises, the Project License or the Coosa River Project, Lessee shall remove any Improvements (as hereinafter defined) from and vacate the Premises in accordance with the terms and conditions of and within the time period permitted under paragraph 18 below unless FERC specifies an earlier date for such removal and vacation.

6. Use of Retained Property; Reservations by Lessor.

6.1 Use of Premises. The Premises during the Initial Lease Period and any Option Period shall be used and occupied by Lessee solely for the 4-H Club Center Purposes. Lessee shall not use or permit the Premises to be used for any other purpose without the prior written consent of Lessor. Lessee shall not use any portion of the Premises in any manner so as to endanger health, create a nuisance

or otherwise be incompatible with Lessor's use of the Coosa River Project for purposes authorized or required by the Project License. Lessee shall also take all reasonable precautions to ensure that the construction, operation and maintenance of all Improvements (as hereinafter defined) on the Premises will occur in a manner that will protect the scenic, recreational and environmental values of Lay Lake.

6.2 Reservations by Lessor.

Lessor expressly reserves for itself, its successors and assigns, the exclusive right to cut and remove timber from any part of the Premises. Lessor shall not be liable to Lessee, or Lessee's successors or assigns, or any of their respective officers, agents, employees, servants, guests, invitees, licensees or any other person or entity on the Premises temporarily or otherwise, for damage or claim for damages to property or injury or death to person or persons resulting from the falling of any limb or tree which may occur on the Premises, and Lessee agrees to indemnify and hold harmless Lessor, and Lessor's successors and assigns, and all of their respective officers, agents, employees and servants from any such damage or claim for damages, injury or death. Lessee agrees to inspect the trees or limbs which, in Lessee's opinion, need cutting because they are in such a state as to constitute a danger to Improvements or to persons upon the Premises. Lessee shall forthwith accomplish such cutting, but shall do no other cutting.

Lessor expressly reserves for itself, its successors and assigns, all oil, gas, coal, gravel, minerals and mining rights in and under the Premises (hereinafter collectively referred to as "Minerals"), together with the right to take all usual, necessary or convenient means for workings, extracting, preparing for use and transporting the said Minerals, and to do all things upon such Premises as may be necessary or convenient for any of such purpose. Lessor further reserves all the necessary rights to enter on the Premises and perform drilling, testing, surveying, and other surface or subsurface explorations in connection therewith.

Lessor expressly reserves for itself, its successors and assigns, the right to either permanently or temporarily, as may be required or permitted pursuant to Lessor's Project License, back-up and maintain the waters of the Coosa River and/or Lay Lake, or into the sloughs, tributaries, channels and/or creeks forming a part thereof or emptying therein, from time to time over and upon all the Premises and to raise and lower such waters as it deems necessary, and Lessor shall not be liable to Lessee, or to Lessee's successors or assigns, or any of their respective officers, agents, employees, servants, guests, invitees, licensees or any other person or entity on the Premises temporarily or otherwise, for any loss or damage whatever accruing or resulting directly or indirectly therefrom, or for any of the consequences which may result from permanently or temporarily raised water levels or floods; and it is understood that the amount of per annum rental payments as expressed herein shall not be changed by the temporary or permanent

flooding, damaging or injuring of any part of the Premises and all such damages are hereby released and discharged.

Lessor expressly reserves for itself, its successors and assigns, the right to enter the Premises at any time in pursuit of any of its business activities or corporate powers, including but not limited to, inspecting the Premises and carrying on erosion control programs, forestry programs and other like conservation programs, cutting timber or pulpwood, planting and caring for trees, weed control, and constructing, installing, operating and maintaining, upon, over, under and across the Premises, along a route to be selected by Lessor (the width of which route shall be determined by Lessor in Lessor's sole and absolute discretion), all poles, towers, wires, conduits, fiber optics, cables, transclosures, transformers, anchors of concrete, metal or other material, guy wires, and other materials, apparatuses, appliances, and other facilities of whatever type, whether now or in the future existing or known, which are useful or necessary in connection therewith (hereinafter collectively referred to as "Facilities"), for the overhead and/or underground transmission and distribution of electric power and for overhead and/or underground communication service; and also the right to clear a strip extending to either side of the center line of the lines of poles (the distance of such extension from any such center line to be determined by Lessor in Lessor's sole and absolute discretion) and keep it cleared of all trees, undergrowth or other obstructions, and the right to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside of said strip which, in the sole opinion of Lessor, might endanger, interfere with or fall upon the Facilities of Lessor. In addition, Lessor hereby reserves all easements, rights and privileges necessary or convenient for the full enjoyment and use thereof, including, without limitation, the right of ingress and egress to and from Lessor's Facilities, along with the right to construct, install, maintain, replace and repair roads for the same, and the right to excavate for installation, replacement, repair and removal of Lessor's Facilities; and also the right to cut, remove and otherwise keep clear any and all structures, obstructions or obstacles of whatever character, on, under and above said Facilities.

Lessor expressly reserves for itself, its successors and assigns and their respective agents and representatives, the right to enter the Premises at all reasonable times for the purposes of: (1) inspection thereof; (2) making repairs to the Premises; (3) exhibiting the Premises to prospective tenants, purchasers or other persons, including, but not limited to, representatives of FERC and any other regulatory agencies; and (4) during the ninety (90) day period prior to the expiration of this Lease, provided Lessee shall have vacated the Premises, to alter and otherwise prepare the Premises for reoccupancy and any such entry by or on behalf of Lessor shall not be or constitute an eviction, partial eviction or deprivation of any right of tenant, and shall not alter the obligations of Lessee hereunder or create any right in Lessee adverse to the interests of Lessor.

7. Responsibilities of Lessee; Construction Requirements.

7.1 Responsibilities of Lessee.

During the Initial Lease Period and any Option Period, Lessee shall maintain all Improvements (as hereinafter defined) on the Premises in a good state of repair, shall keep the Premises in a neat, clean and safe condition and shall promptly remove all waste, garbage, trash and other unsightly debris and material from the Premises and the waters adjacent thereto. Failure to comply with this condition to the satisfaction of Lessor shall be considered an Event of Default under this Lease.

Lessee is responsible for applying for and obtaining any and all necessary zoning variances that may be needed in order to utilize the Premises for the 4-H Club Center Purposes stated herein and will give Lessor written notice of any proposed variance to be sought.

Lessee shall comply with all laws applicable to the use of the Premises, and without limiting the generality thereof, shall comply with all applicable Federal, State and local health and safety regulations, the laws relating to the conservation of natural resources, and the preservation of public order, health and safety, and will not by any act or omission render Lessor liable for any violation thereof. Lessee will not commit any waste of property, or permit the same to be done; and upon termination of this Lease, Lessee will surrender possession of the Premises and Improvements (as hereinafter defined) thereon without notice, in as good condition as at the date of this Lease, as reasonable use and wear thereof will permit. Lessor may prescribe additional reasonable rules and regulations therefor and Lessee shall comply therewith.

No facilities or fixtures for the disposal of human waste or domestic wastewater, including but not limited to toilets, drains, pipelines, tanks, septic tanks, waste disposal field lines, or other facilities of a similar nature shall be constructed or permitted where such facilities would drain into the waters of the Coosa River or Lay Lake, or into sloughs, tributaries, channels or creeks forming a part thereof or emptying therein. Waste and sewage from toilets, baths, wash basins and sinks will not be dumped or drained into the waters of the Coosa River or Lay Lake, or into sloughs, tributaries, channels or creeks forming a part thereof or emptying therein, but must be disposed of into a septic tank and system approved by the Shelby County Health Department. No outdoor privies shall be permitted. Garbage and trash shall not be dumped into the waters of the Coosa River or Lay Lake, or into sloughs, tributaries, channels or creeks forming a part thereof or emptying therein. Lessee shall furnish and maintain solid waste receptacles in the area of the Improvements (as defined in paragraph 7.2 below) on the Premises which are of appropriate capacity and design to comply with any official solid waste management plan established for the jurisdiction in which the Premises is located. Lessee shall comply with all Federal licenses and directives, the State of

Alabama Department of Public Health and state and local regulations with respect to planning and providing for the collection, storage and disposal of solid waste. No garbage or trash shall be buried or burned on the Premises, but rather shall be carried to an approved dumping area, or otherwise disposed of in a manner approved by Lessor and local governmental authorities.

Lessee, in the use and occupancy of the Premises, shall keep neither live animals nor live fowls thereon, nor suffer its officers, agents, employees, servants, guests, invitees or licensees so to do; provided, however, that this paragraph shall not prohibit the care and maintenance of non-vicious or non-dangerous household pets.

Lessee shall not permit, allow or cause any act or deed to be performed or any practice to be adopted or followed in or about the Premises which shall cause or be likely to cause damage to any property or to the Premises or injury or death to any person. Lessee shall not suffer to be committed any offensive use of the Premises, and shall not maintain a nuisance thereon. Lessee shall not permit, allow or cause any noxious, disturbing or offensive odors, fumes or gases or any smoke, dust, steam or vapors, or any loud or disturbing noise, sound or vibration to originate in or to be emitted from the Premises.

Lessee shall maintain and limit vegetation growth on the Premises and shall comply with all ordinances applicable thereto.

Lessee shall not burn brush and/or grass on the Premises without the prior written consent of Lessor in each instance, and promises to exercise due diligence to prevent fire on the Premises and/or other lands of Lessor.

- 7.2 Construction Requirements.** Provided that Lessee shall have obtained Lessor's prior written consent in each instance, Lessee may, at Lessee's sole cost and expense, construct upon the Premises improvements, including, but not limited to, buildings, boat houses, boat ramps, exterior lighting, fences, foundations, irrigation systems, communication lines, landscaping, piers, potable water pipelines, roads, seawalls, septic systems, sidewalks, utilities, walls and other structures or facilities (hereinafter referred to collectively as "Improvements"), as are reasonable, necessary and convenient for utilization and operation of the Premises for the 4-H Club Center Purposes. Lessee shall submit to Lessor written plans for any and all proposed Improvements showing the design, elevation, location and materials of the proposed Improvements and no such Improvements shall be commenced until Lessor has provided Lessee with Lessor's written consent for such proposed Improvements, which written consent shall not be unreasonably withheld. In like manner, Lessee shall secure Lessor's written consent of any alterations or changes in design, elevation, location or materials of Improvements which exist on the Premises, which written consent shall not be unreasonably withheld. Lessee shall take all precautions during any construction and maintenance conducted on the Premises to protect Lay Dam and Lay Lake

from siltation and every form of pollution. Lessee agrees and acknowledges that it shall be considered an Event of Default under this Lease if, without Lessor's prior written consent as required under this paragraph 7.2, Lessee, or any of Lessee's successors or assigns, or any of their respective officers, agents, employees, servants, guests, invitees, licensees or any other person or entity on the Premises temporarily or otherwise, constructs, or permits the construction of, any Improvements on the Premises, or alters or changes, or permits alterations or changes, in the design, elevation, location or materials of Improvements on the Premises.

Lessee is responsible for the proper construction, design, engineering, and maintenance of all Improvements on the Premises. Any reviews of plans and specifications, or inspections of the Improvements or construction on the Premises by Lessor shall be for the sole benefit of Lessor, and shall not benefit or be relied upon by Lessee or any third parties. Lessor's review and approval of plans for Improvements on the Premises, or its review and approval of the construction or maintenance of the Premises, or its inspection of the Premises, shall not be relied upon by Lessee or any third parties as assurance, warranty or representation of any kind, expressed or implied, that Lessee's plans, or the actual construction or maintenance of the Premises, are safe, proper or adequate for the purposes intended, or are free from defect or danger or risk to persons or property, or that the Improvements are or will be structurally sound, or comply or will comply with any building or zoning codes. Lessee shall take such measures and shall install or cause to be installed such safety devices as may be necessary to ensure the safety of Lessee, and any of Lessee's successors and assigns, and any of their respective officers, agents, employees, servants, guests, invitees, licensees or any other person or entity who uses the Premises or Improvements which are or will be constructed thereon, or the lands or waters adjacent to the Premises.

8. Ad Valorem Taxes; Lease Taxes or Charges. All ad valorem taxes which may be lawfully imposed by the State of Alabama, its subdivisions or any other governmental authority upon the leasehold interest created hereunder, and upon the Improvements placed upon the Premises by Lessee, shall be paid promptly by Lessee. Lessee agrees that it shall pay, as additional per annum rental payment, before delinquency any taxes, fees or charges upon or against, or which shall be measured by, or shall or may become liens upon any per annum rental payments or income, as such, payable to or on behalf of Lessor in connection with any of the Premises or any portion thereof or any interest of Lessor therein (excluding such taxes, fees or charges as Lessor may from time to time be required to pay on such per annum rental payments in common with ordinary non-rental income received by Lessor in the regular course of its business). Nothing contained in this Lease shall require Lessee to pay any franchise, corporate, estate, inheritance, succession, stamp, transfer, income or excess profits tax of Lessor.

9. Fixtures. All furnishings, fixtures and equipment used in the Premises shall be supplied and installed at the sole cost and expense of Lessee, shall at all times be and remain the property of Lessee, and the latter shall have the right to remove the same from the Premises at any time during the Initial Lease Period or any Option Period hereof, provided that there is no Event of

Default hereunder and provided further that Lessee, at its sole cost and expense, shall repair or reimburse Lessor for the cost of repairing any and all damage to the Premises resulting from the removal of such furnishings, fixtures and equipment.

10. No Cutting of Timber. Lessee agrees not to cut down or deaden any green timber, pulpwood or trees of any kind on the Premises without the prior written consent of Lessor. Further, Lessee shall not cause or permit any others to cut any timber, pulpwood or trees of any kind on the Premises without the prior written consent of Lessor. If such written consent is granted by Lessor to Lessee, then Lessor shall have the option to either: (a) cut, remove or cause to be cut or removed, such timber, trees or saplings for the purposes of Lessor selling the same for profit; or (b) permit Lessee to cut, remove or cause to be cut or removed, such timber, trees or saplings and to receive compensation from Lessee for the market value of the same. Notwithstanding anything to the contrary in this paragraph 10, Lessee may cut such trees which constitute a danger to the Improvements or to persons who visit or occupy the Premises pursuant to paragraph 6.2 above. Lessee shall not engage in or permit any activity which may damage, destroy or injure any timber, pulpwood or other tree growth on the Premises. Prohibited activities include, but are not limited to, placing nails, spikes, screws or other metal objects in any tree on the Premises. Lessee shall report to Lessor any dead, dying or damaged timber on the Premises.

11. Damage or Loss of Property. Lessor shall not be liable for any loss from the Premises of, or damage to, any property owned or held by Lessee, or any of Lessee's successors or assigns, or any of their respective officers, agents, employees, servants, guests, invitees, licensees or any other person or entity on the Premises, however occurring; provided, however, that the foregoing shall not be applicable to any loss from the Premises of, or damage to, any property owned or held by Lessee, or any of Lessee's successors or assigns, or any of their respective officers, agents, employees, servants, guests, invitees, licensees or any other person or entity on the Premises, which may result directly from: (a) the failure of Lessor to perform an act required of it under the terms and conditions of this Lease; or (b) the sole negligence of Lessor, or Lessor's officers, agents, employees or servants which occurs during the pursuit of any of Lessor's business activities; or (c) the gross negligence or willful misconduct of Lessor, or Lessor's officers, agents, employees or servants which occurs during the pursuit of any of Lessor's business activities.

12. Payment of Utilities and Services. Lessee shall procure for its own account and shall pay the cost of all water, gas, electrical power and fuel consumed in or at the Premises.

13. Insurance. Lessee shall procure and maintain, at its own cost and expense: Commercial General Liability Insurance on an occurrence basis with minimum limits of liability in an amount of not less than Five Million and No/100 Dollars (\$5,000,000.00) for bodily, personal injury or death to more than one person and in an amount of not less than One Million and No/100 Dollars (\$1,000,000.00) with respect to damage to property, which insurance shall contain a contractual liability endorsement covering the matters set forth below. Whenever, in Lessor's reasonable judgment, good business practice and changing conditions indicate a need for additional or different types insurance, Lessee shall, upon request, obtain such insurance at Lessee's expense. Lessee acknowledges and agrees that, at any time during the Initial Lease Period and any Option

Period, Lessor may, in Lessor's sole and absolute discretion, require Lessee to obtain increased amounts and types of liability insurance coverage as necessitated by changes in market and risk conditions.

All insurance required to be carried by Lessee shall name as insureds Lessor and Lessee, as their respective interest may appear, together with such other party or parties (as may be designated by Lessor) as their interest may appear. All such insurance shall be issued by a financially responsible company or companies licensed to do business in the State of Alabama and authorized to issue such policy or policies and shall contain endorsements providing as follows: (a) that any such insurance shall not be subject to cancellation, termination or change except after thirty (30) days prior written notice by registered mail to Lessor by the insurance company; and (b) that Lessor shall not be liable for any damage by fire or other casualty covered by such insurance, no matter how caused, it being understood that Lessee shall look solely to its insurer or insurers for reimbursement. Lessee waives, unless said waiver should invalidate any such insurance, its right to recover damages against Lessor. Any insurance policy procured by Lessee shall contain an express waiver of any right of subrogation by the insurance company against Lessor. All public liability and property damage policies shall contain an endorsement that Lessor, although named as an insured, shall nevertheless be entitled to recover under said policies for any loss or damage occasioned to it and to Lessor's officers, agents and employees by reason of the negligence of Lessee. The original policy or policies, or duly executed certificates for the same, together with satisfactory evidence of payment of the premium thereof shall be delivered to Lessor at the commencement of this Lease, and upon renewals of such policies not less than fifteen (15) days prior to the expiration of the term of any such coverage. The minimum limits of any insurance coverage required herein to be carried by Lessee shall not limit Lessee's liability under paragraph 19 hereof.

14. Repairs and Maintenance of Improvements; Removal. If any Improvements are substantially damaged by fire or other casualty and are not repaired within two hundred seventy (270) days of the date of such fire or other casualty, or, if Lessee fails to maintain and repair any Improvements as provided for in paragraphs 7.1 and 7.2 above, then, in either event, Lessor may, in Lessor's sole and absolute discretion and not in limitation of any of Lessor's other rights under this Lease, require Lessee to remove such substantially damaged or unmaintained Improvements from the Premises and to restore the portion of the Premises thereunder to its preexisting condition, said removal and restoration to be completed within ninety (90) days of any request by Lessor to conduct such removal and restoration. Lessee agrees and acknowledges that Lessee's failure to comply with the terms and conditions of this paragraph 14 shall be considered an Event of Default under this Lease.

15. Condemnation. In the event that the whole or any part of the Premises shall be taken by any public authority under the power of eminent domain or like power, then the term of this Lease shall terminate as to the part of the Premises so taken, effective as of the date possession thereof shall be required to be delivered pursuant to the final order, judgment, or decree entered in the proceedings in exercise of such power. All damages awarded for the taking of the Premises, or any part thereof shall be payable in the full amount thereof to and the same shall be the property of Lessor, including but not limited to, any sum paid or payable as compensation for loss of value of the leasehold of any part of the Premises. Lessee hereby assigns to Lessor, all of

Lessee's right, title and interest in and to any such award. Lessee covenants and agrees to execute, immediately upon demand by Lessor, such documents as may be necessary to facilitate collection by Lessor of any such award. Notwithstanding the foregoing, Lessor agrees to deliver to Lessee that portion of any such award which is equal to the then reasonable market value of Lessee's Improvements and fixtures.

16. Assignment or Subletting. Lessee shall not assign or in any manner transfer this Lease or any interest herein, or sublease or permit the use of the Premises or any part or parts thereof by anyone other than Lessee without first obtaining the written consent of Lessor in each instance. Each and every assignment or transfer of this Lease, or any interest herein, and each and every sublease or permit to use the Premises, shall be null and void, unless the written consent of Lessor be first obtained thereto, which written consent may be conditioned, delayed or withheld by Lessor in Lessor's sole and absolute discretion without regard to any standard of commercial reasonableness. In the event that Lessor provides such written consent to any assignment, sublease, permit or transfer of interest under this Lease, such consent shall not constitute a release, waiver, or consent to any other assignment, sublease, permit or transfer or any part thereof.

17. Events of Default; Remedies of Landlord.

17.1 Events of Default. The happening of any one or more of the following listed events (hereinafter referred to singly as an "Event of Default" and plurally as "Events of Default") shall constitute a breach of this Lease on the part of Lessee:

- (a) The failure of Lessee to pay any per annum rental payment payable under this Lease within five (5) days after the date the same shall become due;
- (b) Any failure to observe or perform any other of the terms or conditions of this Lease to be observed or performed by Lessee for more than fifteen (15) days after written notice thereof shall have been given to Lessee;
- (c) The filing by, against or on behalf of Lessee of any petition or pleading to declare Lessee a bankrupt, or the adjudication in bankruptcy of Lessee under any bankruptcy law or act;
- (d) The discontinuance of the 4-H Club Center Purposes pursuant to paragraph 17.3 herein;
- (e) The appointment by any court or under any law of a receiver, trustee, or other custodian of the property, assets or business of Lessee;
- (f) The assignment by Lessee of all or substantially all of its property or assets for the benefit of creditors;

- (g) The levy of execution, attachment or other taking of property, assets or the leasehold interest of Lessee by process of law or otherwise in satisfaction of any judgment, debt or claim; or
- (h) The occurrence of any other event specified in this Lease to be an Event of Default.

17.2 Remedies of Lessor. Upon the occurrence of an Event of Default under this Lease, Lessor, at its option (without further notice or demand of any kind to Lessee or any other person except as hereinafter expressly provided) shall have, in addition to all remedies otherwise available at law or in equity, and the remedies described elsewhere in this Lease, the following described remedies:

- (a) Lessor shall have the right to proceed by attachment, suit or otherwise to collect any delinquent per annum rental payments or other amounts due Lessor hereunder. In the event it is necessary for Lessor to bring suit for per annum rental payments or other charges as they accrue or in order to collect any damages, Lessor shall have the right to allow such per annum rental payments or deficiencies to accumulate and to bring an action on several or all of the deficiencies at one time. Any such suit shall not prejudice in any way the right of Lessor to bring a similar action for subsequent per annum rental payments or damage deficiencies.
- (b) Lessor may elect to accelerate the per annum rental payments due under this Lease by giving notice of such election to Lessee and, in such event, Lessee shall pay at once to Lessor a sum of money equal to the per annum rental payments and other charges to be paid by Lessee (as specified in paragraph 17.4 below) to Lessor for the balance of the Initial Lease Period and any Option Period of this Lease, and Lessor shall have the right to proceed by attachment, suit or otherwise to collect such sum or other amounts due Lessor hereunder.
- (c) Lessor may elect to terminate this Lease by written notice to Lessee specifying the date the Lease will terminate, which shall not be less than three (3) days after the giving of such notice, and upon such date this Lease and Initial Lease Period and any Option Period shall end. Lessor may immediately repossess the Premises and Lessee shall pay at once to Lessor as damages a sum of money equal to the per annum rental payments and other charges to be paid by Lessee (as specified in paragraph 17.4 below) to Lessor for the balance of the Initial Lease Period and any Option Period of this Lease, and Lessor shall have the right to proceed by attachment, suit or otherwise to collect such sum or other amounts due Lessor hereunder.
- (d) Lessor may elect to terminate Lessee's right of possession without terminating this Lease, in which event Lessee agrees to surrender

possession and vacate the Premises immediately and deliver the possession thereof to Lessor, and Lessee hereby grants Lessor full and free license to enter in and upon the Premises or any part thereof, and to expel or remove Lessee or any other person or party who may be occupying or within the Premises or any part thereof, and remove any and all property therefrom. Such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Lessee without terminating this Lease or releasing Lessee in whole or in part from Lessee's obligations to pay per annum rental payments and other charges and perform any of the terms and conditions to be performed by Lessee as provided in this Lease and without being deemed in any manner guilty of trespass, eviction or forcible entry or detainer, and without becoming liable for any loss or damage which may be occasioned thereby, and without relinquishing Lessor's rights as herein provided. If Lessor re-enters the Premises without terminating this Lease, then Lessor may relet the Premises or any part or parts thereof, either in the name of Lessor, Lessee or otherwise, for a term which may at Lessor's option be less than or exceed the term which would otherwise have constituted the balance of the Initial Lease Period or any Option Period hereunder and upon such other terms and conditions as Lessor, in its sole discretion, may deem advisable. Lessee or its legal representative shall pay Lessor for each month of the lease year or years which would otherwise have constituted the balance of the Initial Lease Period or any Option Period, any deficiency between (i) the sum of one-twelfth (1/12th) of the per annum rental payments which otherwise would have been paid by Lessee during each of the remaining lease years had there been no Event of Default, one-twelfth (1/12th) of the taxes and insurance on the Premises, and all charges that otherwise would have become due, and (ii) the net amount, if any, of the per annum rental payments collected on account of the lease or leases of the Premises for each month of the period which would otherwise have constituted the balance of the Initial Lease Period or any Option Period. The refusal or failure of Lessor to relet the Premises or any part or parts thereof shall not release or affect Lessee's liability for damages. There shall be added to the said deficiency such expenses as Lessor may incur in connection with any reletting (such as court costs, reasonable attorneys' fees and disbursement, brokerage and expenses for putting and keeping the Premises in good order or for preparing the same for reletting). Any deficiency shall be paid in monthly installments by Lessee on the first day of each month and any suit brought to collect the amount of the deficiency for any month shall not prejudice in any way the rights of Lessor to collect the deficiency for any subsequent month by a similar proceeding. No such re-entry or taking possession of the Premises by Lessor shall be construed as an election on its part to terminate this Lease unless a written notice of such termination be given to Lessee or unless the termination thereof be decreed by a court of competent jurisdiction. If the rental payments collected from any such reletting are

more than sufficient to pay the full amount of the per annum rental payments reserved hereunder, together with the costs set forth herein, Lessor, at the end of the Initial Lease Period or any Option Period hereof, shall apply any surplus to the extent thereof (without interest) to the discharge of any obligation of Lessee to Lessor under the terms and conditions of this Lease. Any remaining balance shall belong to Lessor. In all events Lessor may terminate the Lease for such breach at any time thereafter and after such termination Lessee shall not be entitled to any claim whatsoever, of any kind or nature, for any excess rental payments that may be collected by Lessor. The reletting of the Premises beyond the date originally fixed for expiration of the Initial Lease Period or any Option Period hereof shall not be deemed to release Lessee from its obligations hereunder. An election to re-enter the Premises (without terminating the Lease) and the reletting or not reletting of the Premises shall not thereafter prevent Lessor from electing to terminate the Lease for such previous breach. In the event it is necessary for Lessor to bring suit for such per annum rental payments or other charges as they accrue or in order to collect any damages, Lessor shall have the right to allow such per annum rental payments or deficiencies to accumulate and to bring an action on several or all of the deficiencies at one time. Any such suit shall not prejudice in any way the right of Lessor to bring a similar action for subsequent per annum rental payments or damage deficiencies.

17.3 Discontinuance of 4-H Club Center Purposes; Termination. In the event that the 4-H Club Center Purposes are abandoned and discontinued by Lessee for three-hundred sixty-five (365) consecutive days at any time during the Initial Lease Period or any Option Period, this Lease shall be considered as terminated by Lessee and any rights acquired by Lessee under this Lease shall revert to Lessor forthwith. In the event of termination of the Lease due to abandonment and discontinuance of the 4-H Club Center Purposes under this paragraph 17.3, the Improvements on the Premises shall be disposed of in the manner provided under paragraph 18 herein.

17.4 Calculation of Rent in Certain Circumstances. For purposes of computing the per annum rental payments and other charges due in the event that Lessor elects to accelerate the per annum rental payments hereunder pursuant to paragraph 17.2(b), or elects to terminate this Lease pursuant to paragraph 17.2(c), the per annum rental payments payable to Lessor under this Lease shall include all per annum rental payments which otherwise would have been paid by Lessee during each of the remaining lease years for the Initial Lease Period or any Option Period had there been no Event of Default, average monthly taxes and insurance payments, and all charges that otherwise would have become due. In addition, damages shall include interest on past due per annum rental payments and other charges and Lessor's reasonable attorneys' fees and court costs incurred in connection with the termination of this Lease because of Lessee's breach.

17.5 Costs of Collection. If Lessee defaults in any of its obligations hereunder, then Lessor, to the extent not otherwise recovered, shall be entitled to recover its reasonable attorneys' fees, paralegals' fees, expert witnesses' fees and court costs incurred by reason of Lessee's default. If Lessee shall default under any of the terms and conditions of this Lease on its part to be performed or observed, Lessor shall be entitled to interest on any monies expended on behalf of Lessee and any costs or expenses incurred by Lessor, at a rate per annum equal to the lesser of (i) the highest rate allowable by law, or (ii) twelve percent (12%) per annum. Lessee expressly waives all exemptions secured to Lessee under the laws of the State of Alabama or any State in the United States as against the collection of any debt herein or hereby incurred or secured.

18. Improvements at Lease Expiration or Termination. Upon the expiration of the Initial Lease Period or any Option Period hereof, or the earlier termination by Lessor for breach by Lessee of the terms and conditions hereof, Lessor shall have for sixty (60) days thereafter the right (but not the duty) at its option: (a) to buy, or to provide a third party to buy, the Improvements erected on the Premises at the then reasonable market value thereof; or (b) to require Lessee to remove all of the Improvements on the Premises. If such value cannot be agreed upon by the Parties hereto, each Party shall appoint an arbitrator and the two arbitrators shall then determine the reasonable market value thereof. In the event the two arbitrators so appointed cannot agree as to such value, each arbitrator shall appoint a disinterested person to act with them and a majority of the arbitrators and the disinterested persons shall determine such value and the Parties hereto shall be bound by such determination of value. In the event Lessor fails to exercise the foregoing option to buy or furnish a buyer, Lessee shall remove from the Premises the Improvements constructed thereon by it, provided: (a) that when such removal is effected, Lessee will restore the Premises to its preexisting condition as of the date of this Lease; and (b) the removal of such Improvements shall be completed within one hundred eighty (180) days after Lessor has given Lessee notice that it will not exercise its option to buy such Improvements. In the event Lessee fails to completely remove the Improvements constructed on the Premises by Lessee, Lessor may remove, or cause to be removed, such Improvements at the cost of and for the account of Lessee.

19. Indemnity. Lessor as an important condition of agreeing to this Lease, has specifically bargained for Lessee to provide the following protection, on which both Parties hereto have specifically focused in the bargaining process, and which shall apply in all events and under all circumstances:

To the extent allowed under applicable law, Lessee agrees and covenants to release, indemnify, hold harmless and defend Lessor and Lessor's officers, agents, employees and servants from any and all claims, damages, suits, or actions of any character and any loss, cost or expense for damages to property and for injury or death to persons arising out of, related to, or in any way associated or connected with or growing out of any use or occupancy by Lessee of the Premises; provided, however, that the foregoing indemnity will not be applicable if such loss, cost or expense is caused by the negligence or willful acts of Lessor, or Lessor's officers, agents, employees or servants. Such release, indemnity, hold harmless and defense agreement shall apply without limitation to all

persons and shall specifically apply for any claims, damages, injuries, suits or actions of any character for injuries or damage suffered by Lessee, or any of Lessee's heirs, successors, assigns, or any of their respective officers, agents, employees, servants, guests, invitees, licensees or any other person or entity on the Premises temporarily or otherwise, based upon any injury or death to person or persons or damage to property resulting from or in connection with any use or occupancy of the Premises by Lessee, or any of Lessee's heirs, successors, assigns, or any of their respective officers, agents, employees, servants, guests, invitees, licensees, or any other person or entity on the Premises temporarily or otherwise.

This indemnification clause shall be given effect in accordance with its plain meaning and no rule of interpretation shall be given effect as to construe it contrary to the party responsible for its drafting. This indemnification shall survive the expiration or earlier termination of this Lease.

20. Hazardous Materials; Governmental Regulations.

- (a) During the Initial Lease Period and any Option Period, no Hazardous Materials (as hereinafter defined) will be contained in, treated, stored, handled, generated, located on, discharged from, or disposed of on, used on, or constitute a part of, the Premises; provided, that nothing herein shall prevent Lessee from storing and using Hazardous Materials in the ordinary course of conducting the 4-H Club Center Purposes on the Premises so long as all required certifications, licenses or permits for the storage and use of such Hazardous Materials under the applicable Environmental Laws (as hereinafter defined) have been obtained and remain in full force and effect so long as such Hazardous Materials remain on or are used on any part of the Premises, and copies thereof have been provided to Lessor. As used herein, the term "Hazardous Materials" includes, without limitation, any asbestos, urea formaldehyde foam insulation, flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, pesticides, insecticides, nematocides, fungicides, rodenticides, herbicides, dessicants, and/or defoliants, or related or unrelated substances or materials defined, regulated, controlled, limited or prohibited in the Alabama Pesticide Act, Ala. Code § 2-27-1 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq., the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901, et seq.), the Clean Water Act (33 U.S.C. Sections 1251, et seq.), the Clean Air Act (42 U.S.C. Sections 7401, et seq.), the Toxic Substances Control Act (15 U.S.C. Sections 2601, et seq.), each such Act as amended from time to time, and in the rules and regulations adopted and publications promulgated pursuant thereto, and in the rules and regulations of the Occupational Safety and Health Administration, as amended from time to time, or in any other federal, state or local environmental law, statute, code, ordinance, rule, regulation, or administrative or judicial order or decree now or hereafter in effect (hereinafter collectively referred to as "Environmental Laws"). During the Initial Lease Period and any Option Period,

Lessee shall comply in all respects with all applicable Environmental Laws and, upon request, Lessee shall provide Lessor with copies of any and all federal, state and/or local certifications, licenses or permits that authorize Lessee to store and use Hazardous Materials. Acquisition and compliance with such certifications, licenses or permits, however, remains the responsibility of Lessee.

- (b) During the Initial Lease Period and any Option Period, Lessee shall ensure that all of the Premises complies in all respects with all applicable Environmental Laws.
- (c) During the Initial Lease Period and any Option Period, Lessee promptly shall comply with all present and future laws, statutes, codes, ordinances, rules, regulations, administrative or judicial orders and decrees affecting the Premises or any part thereof. Without limiting the foregoing, Lessee shall be responsible for any required compliance with the Americans With Disabilities Act of 1990, ("ADA") (42 U.S.C. Sections 12101, et seq.) as amended from time to time, and in the rules and regulations adopted and publications promulgated pursuant thereto.
- (d) During the Initial Lease Period and any Option Period, Lessee shall give immediate oral and written notice to Lessor of its receipt of any notice of a violation of any federal, state or local law, statute, code, ordinance, rule, regulation, or administrative or judicial order or decree covered by this paragraph 20, or of any notice of other claim relating to the environmental or physical condition of the Premises, or of Lessee's discovery of any matter which would make the representations, warranties and/or covenants herein inaccurate or misleading in any respect.
- (e) Lessee agrees to and does hereby indemnify and hold Lessor, and Lessor's officers, agents, employees and servants, harmless from all loss, cost, damage, claim and expense incurred by Lessor on account of (i) the violation of any representation or warranty set forth in this paragraph 20, (ii) Lessee's failure to perform any obligations of this paragraph 20, (iii) Lessee's or the Premises's failure to fully comply with all Environmental Laws, with all occupational health and safety laws, rules and regulations, or with the ADA, as applicable, or (iv) any other matter related to environmental or physical conditions on, under or affecting the Premises. This indemnification clause shall be given effect in accordance with its plain meaning and no rule of interpretation shall be given effect as to construe it contrary to the party responsible for its drafting. This indemnification shall survive the expiration or earlier termination of the Lease. However, this indemnification clause shall not apply to any new Hazardous Materials first stored, generated or placed on the Premises after the expiration or earlier termination of the Lease and the subsequent vacation of the Premises by Lessee.

21. Fluctuations in Water Levels. Lessee is informed and understands that in the operation of Lessor's business there will be major fluctuations in the level of the water adjacent to and abutting the Premises. It is understood and agreed that the rights of the Lessee hereunder shall

be subject at all times to the right of the Lessor, its successors and assigns, to raise and lower the waters of Lay Lake or any extensions of such waters from time to time in the operations of its dams or dams and works, whether upstream or downstream from the Premises, and to flood such Premises and any other lands owned by it or which it has the right to flood, continuously or from time to time, and the Lessor shall not be liable for damages of any nature whatsoever which may result directly or indirectly from such flooding or by reason of the maintenance or operations of its said dam or dams and works. In the event the water level of Lay Lake is to be raised pursuant to issuance of a license after date hereof by the Federal Power Commission and should Lessor notify Lessee at the address and in the manner provided in paragraph 34 hereof, at least six (6) months in advance of the date on which such raise in water level is expected to commence, Lessee shall promptly after receipt of such notice, submit to Lessor written plans and specifications and pertinent elevations for rearrangement or relocation of any improvements which will be adversely affected by such new water elevation so as to avoid such adverse effect. In such event Lessor shall promptly approve such plans or return them to Lessee for changes and resubmitting to Lessor. After receiving written approval of Lessor of such plans and specifications and pertinent elevations for rearrangement or relocation of those improvements, Lessee shall complete such rearrangement or relocation at least three (3) months prior to such date of expected commencement of raise in water level. At least three (3) months prior to such date, Lessee shall tear down and remove all Improvements or parts thereof which are not to be a part of the approved, rearranged, or relocated Improvements and in the event Lessee does not tear down and remove all such improvements or parts thereof within such time, Lessor shall have the right to remove the same at the expense of Lessee or to flood or cover the same with water. Lessee is the party responsible under this lease and nothing it executes in the way of a sublease shall grant to anyone any rights which may vary the terms of this Lease.

22. Sign; Public Access. Lessee shall erect and maintain a sign or signs on the Premises which shall contain a credit to the effect that the use of the Premises was made available to Lessee by Lessor as a public service. Lessee shall permit equal and unobstructed use of such facilities to all members of the public without regard to race, color, religious creed, or national origin.

23. Identity of Interest. The execution of this Lease or the performance of any act pursuant to the terms and conditions hereof shall not be deemed or construed to have the effect of creating between Lessor and Lessee the relationship of principal or agent or of partnership or of joint venture and the relationship between them shall be that only of Lessor and Lessee.

24. Waiver. The failure of Lessor to insist upon strict performance of any of the terms or conditions of this Lease or to exercise any option herein conferred in any one or more instances shall not be construed as a waiver or relinquishment of any such terms or conditions, but the same shall be and remain in full force and effect. The receipt by Lessor of any per annum rental payment, with knowledge of the breach of any term or condition hereof, shall not be deemed a waiver of such breach, and no waiver by Lessor of any terms or conditions hereof shall be deemed to have been made unless expressed in writing and signed by Lessor.

25. Fire Prevention and Control. Lessee shall not build, start or set fires on the Premises and shall take all reasonable precautions to prevent forest fires on the Premises; provided,

however, that Lessee and Lessee's licensees, guests and invitees may use indoor fireplaces and outdoor barbecue grills or pits which have been approved by Lessor. If Lessee discovers or learns of any fire on the Premises or in the vicinity thereof, Lessee shall immediately notify Lessor and the Alabama Forestry Commission and take all reasonable measures to control and extinguish the fire and to prevent or minimize damage to persons, land and personal property.

26. Interference with Lessor Activities. Lessee recognizes the primary right of Lessor to the ownership, use and possession of the Premises. Lessee shall not interfere with any of the rights of Lessor reserved under this Lease or with the rights of any other person, firm or corporation holding any interest in the Premises.

27. No Warranty. Lessor makes no warranty that it has good title to the Premises and shall not be liable to Lessee for failure of its title or right to possession of any part of the Premises. Lessor further makes no warranty that the Premises or the waters adjacent thereto are safe or suitable for the purposes for which they are permitted to be used under the terms and conditions of this Lease.

28. Lessee's Further Representations and Warranties. Lessee represents and warrants to Lessor the following: (a) during the course of negotiations for and consummation of this Lease, Lessee is being and has been represented by counsel of Lessee's own selection; and (b) Lessee is entering into this Lease in order to use the Premises substantially for Lessee's own use and benefit.

29. Recording of Lease. Lessee shall be solely responsible for recording this Lease in the Office of the Judge of Probate of Shelby County, Alabama at Lessee's sole cost and expense. Lessee acknowledges that each Option Period after the Third Option Period shall be null and void in the event that Lessee fails to record this Lease in the Office of the Judge of Probate of Shelby County, Alabama within one (1) year of execution hereof and that, in the event of such failure, Lessor shall have no obligation to extend, and Lessee shall have no right to enforce, any Option Period after the Third Option Period.

30. Leasehold Encumbrance.

30.1 Encumbrance of Leasehold Estate. Lessee may, at any time and from time to time, encumber Lessee's leasehold interest, by deed of trust, mortgage or other security instrument in favor of a Leasehold Mortgagee (as hereinafter defined) without obtaining the consent of Lessor but no such encumbrance shall constitute a lien on the fee title of Lessor in and to the Premises and the indebtedness secured by the encumbrance shall at all times be and remain inferior and subordinate to all the conditions, covenants and obligations of this Lease and to all the rights of Lessor under this Lease and any such deed of trust or mortgage shall contain such express subordination language. Lessee may not otherwise encumber Lessee's leasehold interest in the Lease without Lessor's prior written consent which Lessor may withhold in its sole and absolute discretion and any such encumbrances of Lessee's leasehold interest without such written consent shall be null and void. Any encumbrance by Lessee of its leasehold estate shall

be without cost or expense to Lessor and, to the extent Lessor incurs any cost or expense in respect thereto, Lessee shall promptly reimburse Lessor for such costs or expenses.

30.2 Leasehold Financing.

30.2.1 Leasehold Mortgage. As used herein, (a) the term "Leasehold Mortgage" shall be deemed to mean each and every recorded mortgage, deed of trust, deed to secure debt, collateral assignment of lease, or other similar instrument in favor of a Leasehold Mortgagee creating a lien or other encumbrances (regardless of the priority thereon) on Lessee's interest in the Lease (hereinafter referred to as the "Leasehold Interest"), and any modification of any of the terms thereof, including, without limitation, any extension, renewal or refinancing of any indebtedness secured thereby or any additional advances secured by any Leasehold Mortgage or any additional Leasehold Mortgage given to secure the same; (b) the term "Leasehold Mortgagee" shall be deemed to mean, (i) to the extent regularly engaged in the business of commercial real estate lending, any insurance company, bank or trust company, educational or charitable institution, union, pension, profit or retirement fund or trust, real estate investment trust, other financial or lending institution or any other Person providing financing, and its respective permitted successors and assigns or designees or (ii) any other party to whom Lessor has given its prior written consent for the proposed Leasehold Mortgage in question, and such party's permitted successors and assigns or designees. Lessee shall not have the right to encumber its Leasehold Estate for indebtedness unrelated to the ownership, development, financing or refinancing of the Premises.

30.2.2 Lessor's Agreements with Leasehold Mortgagees. If, pursuant to the terms of this Lease, Lessee mortgages its Leasehold interest, and if any Leasehold Mortgagee shall send to Lessor notice as provided in paragraph 34 of its taking of a Leasehold Mortgage, together with the address of such Leasehold Mortgagee to which notices required or permitted hereunder are to be sent, then, until such Leasehold Mortgage shall be satisfied,

- (a) No modification or amendment to this Lease shall be effective without the prior written consent of Leasehold Mortgagee, which consent shall not be unreasonably withheld;
- (b) Leasehold Mortgagee shall have the right, but not the obligation, to perform any covenant or agreement under this Lease to be performed by Lessee (including, without limitation, the exercise of any right of first refusal or renewal or other options), and Lessor shall accept such performance by any Leasehold Mortgagee as if performed by Lessee and all payments so made and all things so done and performed by Leasehold Mortgagee shall be effective to

prevent a termination of this Lease to the same extent as if done or performed by Lessee;

- (c) Each Leasehold Mortgagee shall have the right, but not the obligation, to cure Lessee's defaults within a thirty (30) day period (hereinafter referred to as the "Mortgagee's Grace Period") following the expiration of Lessee's grace period applicable to such default subject to extension of such thirty (30) day period as provided in paragraph 30.3 below; provided, however, that each Leasehold Mortgagee's exercise of such right shall not diminish, lessen or limit Lessor's remedies under the Lease, other than Lessor's remedies with respect to termination of the Lease; and
- (d) Provided that Lessee or such a Leasehold Mortgagee, as applicable, shall have obtained Lessor's prior written consent in each instance which Lessor agrees not to unreasonably withhold, Lessee may assign its Leasehold Interest to any Leasehold Mortgagee, and such Leasehold Mortgagee may subsequently assign such Leasehold Interest. Any Leasehold Mortgage or assignment by any Leasehold Mortgagee of such Leasehold Interest shall be null and void without such prior written consent from Lessor.

Lessor acknowledges that AuburnBank, an Alabama banking corporation (hereinafter referred to as "Auburn") holds a Leasehold Mortgage on the Leasehold Interest and shall be deemed a Leasehold Mortgagee under this Lease. Lessor further acknowledges that Auburn has satisfied the notice requirement in this paragraph 30.2.2, and Auburn shall be entitled to all rights and privileges of a Leasehold Mortgagee under this Lease for so long as Auburn holds a Leasehold Mortgage on the Leasehold Interest. For purposes of Lessor providing notices required or permitted hereunder to Auburn, Auburn's address shall be as follows:

100 N. Gay Street
Auburn, Alabama 36830
Attention: Robert Smith
Phone: (334) 821-9200
Fax: (334) 887-2725

30.3 Notification of Leasehold Mortgagee. If Lessor shall intend, by reason of any default by Lessee, to terminate this Lease prior to the stated expiration of the term hereof, then, following Mortgagee's Grace Period, Lessor shall notify Leasehold Mortgagee of such intention (hereinafter referred to as "Lessor's Notice of Intent to Terminate"), and the reasons therefor at least thirty (30) days in advance of the proposed effective date for such termination (hereinafter referred to as the "Proposed Termination Date"). Leasehold Mortgagee, in addition to any and all rights hereunder that it may have, shall have the right to (a) postpone the Proposed Termination Date for a period of not more than thirty (30) days

thereafter, unless a longer period of time shall be needed to obtain possession of the Premises from Lessee and (b) cure such default, in which event the date of termination shall be postponed for such reasonable longer period, not to exceed ninety (90) days, provided such Leasehold Mortgagee, within thirty (30) days following receipt of Lessor's Notice of Intent to Terminate shall have: (i) cured all defaults, if any, then existing which may be cured by the payment of a sum of money (excepting obligations of Lessee to discharge liens, charges or encumbrances against Lessee's Leasehold Interest); (ii) initiated, and be diligently pursuing steps to cure any defaults relating to the failure to maintain the Premises in accordance with the provisions hereof; and (iii) initiated, and be diligently pursuing, steps to acquire the Leasehold Interest by foreclosure of its Leasehold Mortgage or otherwise. As a further condition to the postponement of the Proposed Termination Date, Leasehold Mortgagee shall perform or cause to be performed all of Lessee's ongoing obligations under the Lease during such period of postponement. If (x) Leasehold Mortgagee or its representative shall obtain possession of the Premises or shall have acquired Lessee's Leasehold Interest by foreclosure, power of sale or other enforcement proceeding under the Leasehold Interest in lieu of foreclosure, or through settlement of, or arising out of, any pending or threatened foreclosure proceeding (any of the foregoing being referred to as an "Enforcement Proceeding"); (y) a lease assumption agreement shall have been delivered to Lessor by such Leasehold Mortgagee with respect to covenants and conditions contained in this Lease on Lessee's part to be performed (other than any covenant not susceptible of performance other than by Lessee (a "Personal Covenant")); and (z) such Leasehold Mortgagee shall have complied or shall have commenced to comply and shall be diligently pursuing steps to cure all defaults relating to the failure to maintain the Premises in accordance with any obligation on Lessee's part to be performed under this Lease (other than any Personal Covenant), including the curing of all defaults susceptible of being cured by such Leasehold Mortgagee, Lessor's rights with respect to cancellation, termination or acceptance of surrender of this Lease as a result of a specific Event of Default by Lessee shall be of no further force and effect and shall lapse. No Leasehold Mortgagee shall be required to continue to proceed to obtain possession, continue in possession of the Premises as Leasehold Mortgagee, or to continue to prosecute any Enforcement Proceeding or any other remedy, if and when such default(s) which were the basis for the Lease termination shall be cured. If more than one Leasehold Mortgagee shall seek to exercise the rights provided for in this paragraph 30.3, the Leasehold Mortgagee with most senior lien priority shall be entitled, as against the others, to priority in the exercise of such rights. Lessor shall not be obligated to give any notice of written demand to any Leasehold Mortgagee until Lessor has been furnished with written notice of the name and address of the Leasehold Mortgagee in accordance with the provisions hereof.

30.4 Liability of Leasehold Mortgagee. No Leasehold Mortgagee or other Person succeeding to the Leasehold Interest through or subsequent to an Enforcement Proceeding shall be liable for Lessee's Leasehold Interest, unless and until such

time as such Leasehold Mortgagee or its representative takes possession of the Premises or becomes the owner of the Leasehold Interest. Provided that Leasehold Mortgagee or any other foreclosure sale purchaser has obtained the prior written consent of Lessor in each instance which Lessor agrees not to unreasonably withhold, Leasehold Mortgagee, or any other foreclosure sale purchaser, may be recognized as Lessee under this Lease.

- 30.5 Notice of Exercise of Options.** If Lessee shall fail, within ten (10) days of the commencement of the ninety (90) day period prior to any Option Period permitted in this Lease, to exercise any right to extend this Lease for any Option Period contained in this Lease, then Lessor shall send notice to Leasehold Mortgagee of such failure within fifteen (15) business days of the end of said ten (10) day period, and Leasehold Mortgagee shall have ten (10) business days after receipt of such notice to exercise such right on Lessee's behalf; provided, however, that Leasehold Mortgagee exercises such right within such ninety (90) day period prior to any Option Period.
- 30.6** The parties acknowledge that the Premises and this Lease are subject to Lessor's mortgage with The Chemical Bank and Trust Company (predecessor to the J. P. Morgan Chase Bank) as trustee, dated January 1, 1942 (hereinafter referred to as the "Indenture").
- 30.7 Certain Rights of Lessor.** Notwithstanding anything else contained herein to the contrary, in the event of a foreclosure of the lien of a Leasehold Mortgagee, Lessor shall have the unilateral right to pay to Leasehold Mortgagee an amount equal to the unpaid principal balance of, plus accrued and unpaid interest on, the indebtedness held by Leasehold Mortgagee, together with all other sums due and owing under the Leasehold Mortgage, in which event this Lease shall terminate and be of no further force and effect. Lessor shall have the right to make such payments and thereby terminate this Lease or a New Lease for a period of ninety (90) days following written notice from Leasehold Mortgagee that foreclosure proceedings have been concluded in accordance with the provisions of the Leasehold Mortgage. In the event Lessor shall exercise such right, Lessee agrees to credit any amounts paid by Lessor in the exercise of such right against any reasonable market value of the Improvements on the Premises due under paragraph 18 herein. Upon Lessor's request, Leasehold Mortgagee shall provide Lessor with a written payoff statement which sets forth all amounts due for the unpaid principal balance of, plus accrued and unpaid interest on, the indebtedness held by Leasehold Mortgagee, together with all other sums due and owing under the Leasehold Mortgage. The provisions of this paragraph 30.7 shall be binding upon the purchaser of the Leasehold Estate at any foreclosure sale, if such purchaser is other than Leasehold Mortgagee. In the event that Leasehold Mortgagee does not exercise any of its rights under paragraphs 30.3 within the time frames and according to the conditions set forth in said paragraph, then Leasehold Mortgagee's rights and the Leasehold Mortgage shall terminate. Upon satisfaction or termination of the Leasehold Mortgage, Leasehold Mortgagee

agrees to provide Lessor with a written release or satisfaction of the Leasehold Mortgage in recordable form for recordation by Lessor.

30.8 Leasehold Mortgagees Bound. By taking a Leasehold Mortgage in this Lease, each Leasehold Mortgagee agrees to be bound by all of the terms, conditions and provisions contained herein.

31. Governing Law. This Lease shall be governed by and interpreted under the laws of the State of Alabama.

32. Headings. Headings herein are inserted for the convenience of reference only and shall have no application in the interpretation or construction of this Lease.

33. Partial Invalidity. If any of the terms or conditions of this Lease shall be held void or unenforceable, the other terms and conditions shall survive and remain in full force and effect.

34. Notices. Any notices to Lessor or Lessee shall be given in writing, personally, by certified or registered U.S. Mail, or by any form of express delivery requiring a signed receipt, or by facsimile (followed by a copy in the U.S. Mails or such express delivery), directed to the respective addresses set forth below:

34.1 To Lessor: Alabama Power Company
Corporate Real Estate Department
Post Office Box 2641
Birmingham, Alabama 35291
Attention: Robert E. Southerland
Phone: (205) 257-4411
Fax No.: (205) 257-1220

34.2 To Lessee: Alabama 4-H Club Foundation, Inc.
226 Duncan Hall
Auburn University
Birmingham, Alabama 36849
Attention: Thomas R. Elliott, Board Secretary - Treasurer
Phone: (334) 844-5526
Fax No.: (334) 844-5530

34.3 Notice given personally, by facsimile or express delivery shall be deemed given when received. Notice given by certified or registered U.S. Mail shall be deemed given three (3) Business Days after mailing.

35. Performance. In the event that the time for performance of any obligation hereunder shall fall or expire on a day other than a business day, then the time for performance of such obligation shall be extended to the next succeeding business day. For purposes of this Lease, a

business day shall be any day other than Saturdays, Sundays and days on which the Corporate Real Estate Department at Lessor's headquarters is authorized to be closed.

36. Binding on Successors, Heirs, Executors, etc. The terms and conditions contained in this Lease shall bind and inure to the benefit of Lessor and Lessee and their respective successors and assigns; provided, that this clause shall not act to constitute Lessor's consent to any assignment, sublease, permit or transfer by Lessee except in strict accordance with the terms and conditions of this Lease.

37. Merger; Entire Agreement; Modifications. It is understood and agreed that all undertakings and agreements previously had between the Parties and their counsel or other representatives are merged in this Lease, which alone fully and completely expresses their agreement and that the same is entered into after full investigation, neither Party relying upon any statement or representation, or warranty not embodied in this Lease, made by or on behalf of the other. This Lease and any Exhibits, Riders or Addenda attached hereto state the entire agreement between the parties and merge in this Lease all statements, representations, agreements and covenants heretofore made, and any other statements, representations, agreements and covenants not incorporated herein are void and of no force and effect. This Lease may not be altered, amended, changed or modified in any way except in a writing executed by a duly authorized representative of both Lessor and Lessee.

38. Counterparts. This Lease may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

[Remainder of Page Left Intentionally Blank. Lessor and Lessee Signatures on Next Page.]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease to be executed effective as of the date first above written (which shall be the date of this Lease), although actually executed on the dates set forth beneath their respective names.

LESSOR:

Witness or Attest:

By: Sherri L. Findley
Print Name: Sherri L. Findley
Its: Admin. Assistant

ALABAMA POWER COMPANY

By: [Signature]
Print Name: Robert E. Southland
Its: TEAM LEADER - SALT & PEPPER

LESSEE:

Witness or Attest:

By: Gaines Smith
Print Name: GAINES SMITH
Its: Extension Intern Director

ALABAMA 4-H CLUB FOUNDATION,
INC.

By: Thomas R. Elliott
Print Name: THOMAS R. ELLIOTT
Its: SECRETARY - TREASURER

[Notarial Acknowledgments of Lessor and Lessee Signatures on Next Page.]

STATE OF ALABAMA)
)
COUNTY OF JEFFERSON)

I, Karen B. Jones, a Notary Public in and for said County in said State, hereby certify that Robert E. Southerland, whose name as Team Leader of **ALABAMA POWER COMPANY**, a corporation, 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 instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 29th day of November, 2006.

Karen B. Jones
Notary Public

[Notarial Seal]

My Commission Expires: 8/27/09

STATE OF ALABAMA)
)
COUNTY OF Lee)

I, Andrea Musso, a Notary Public in and for said County in said State, hereby certify that Thomas Elliott, whose name as Secretary-Treasurer of **ALABAMA 4-H CLUB FOUNDATION, INC.**, a corporation, 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 instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 1st day of December, 2006.

Andrea Musso
Notary Public

[Notarial Seal]


My Commission Expires: June 9, 2009

[Exhibit A on Following Page.]

EXHIBIT "A"

Drawing of Premises

See attached.


20061208000596520 29/30 \$98.00
Shelby Cnty Judge of Probate, AL
12/08/2006 11:51:27AM FILED/CERT

Alabama 4-H Center

