

STATE OF ALABAMA

LEE COUNTY

NORTHEAST OPELIKA INDUSTRIAL PARK
COVENANTS AND RESTRICTIONS

This Declaration of Covenants and Restrictions is made this 30th day of April, 2003, by the Opelika Industrial Development Authority, Opelika, Alabama, herein after called "Declarant."

Whereas, the Declarant is the owner of real property hereinafter referred to as the "Property" and described in Exhibit "A" attached hereto and incorporated herein by reference.

Whereas, the Declarant intends to develop the Property to be known as the Northeast Opelika Industrial Park; and

Whereas, it is the desire and intention of the Declarant to impose upon such Property and to such other portions of the surrounding land it may acquire from time to time, mutually beneficial covenants, conditions, and restrictions, hereinafter referred to as "Covenants" under a general plan of improvement for the benefit of the Property and any said after-acquired land, the improvements thereon, and the future owners thereof.

NOW, THEREFORE, the Declarant hereby declares that the Property, and such after-acquired land as may from time to time be added to the Property pursuant to the provisions hereinafter set forth, shall be held, sold, conveyed, encumbered, rented, used, occupied, and improved subject to the following Covenants, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement, and sale of the Property and are established and agreed upon for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Property and every part thereof. All of these Covenants shall run with the title to the real property and be binding upon all parties having any rights, title, or interest in the Property or any part thereof, their heirs, successors, or assigns, and shall inure to the benefit of each owner thereof.

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 25 years from the date of the recording, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part. Enforcement shall be by proceedings at law or in equity to restrain violation or to recover damages. Invalidation of anyone of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

ARTICLE 1. DEFINITIONS

As used throughout this Declaration, the following terms, when written with initial capital letters, shall have the meanings set forth below, which meanings shall be applicable to both the singular and the plural forms and tenses of such terms.

Additional Property. The term "Additional Property" shall mean and refer to any real property lying adjacent or in close proximity to the Property, but not presently comprising any part of the Property, which Declarant may from time to time acquire and add to the Property and make subject to these Covenants.

Advisory Committee. The term "Advisory Committee" shall mean and refer to a committee of The Opelika Industrial Development Authority consisting of four members; namely, the Chairman of the Board, the Vice Chairman of the Board, the Secretary of the Board and a representative of the Northeast Opelika Industrial Park Owner's Association.

Assessment. The term "Assessment" shall mean and refer to any amounts determined by the Declarant to be necessary for the installation, maintenance, repair, or modification of any Improvements to and/or within the Common Areas.

Common Areas. The term "Common Areas" shall mean and refer to all real or personal property now or hereafter owned by the Declarant for the common use and enjoyment of the Owners. The Common areas shall include all park and recreation areas, entry features, directional signage, landscaped medians, drainage features, security areas and facilities, bicycle and pedestrian paths, or any other areas or Improvements on or within the Property that are designated as Common Areas from time to time by the Declarant.

Covenant. The term "Covenant" shall mean and refer to any and all easements, covenants, conditions, restrictions, standards, procedures, charges, liens, and regulations set forth in this Declaration.

Declarant. The term "Declarant" shall mean and refer to the Opelika Industrial Development Authority in Opelika, Alabama; and to its officers, employees, agents, and representatives.

Declaration. The term "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions, and all amendments thereto.

Improvement. The term "Improvement" shall mean and refer to any building, structure, or device constructed, erected, or placed upon any portion of the Property which in any way affects the exterior appearance of any Lot or Common Area. Improvements shall include, by way of illustration but no limitation, buildings, sheds, foundations, covered walkways, covered patios, paving, curbing, parking areas, screens, fences, walls, signs, roads, utilities, walkways, tress, shrubbery, landscaping, and any other artificial alterations to the natural condition of the Property, or any Lots or Common Areas.

Lot. The term "Lot" shall mean and refer to any unimproved portion of the Property other than a designated Common Area or a publicly dedicated street upon which it is intended that an Improvement shall be placed. A parcel of land shall be deemed an Unimproved Lot until the Improvements constructed thereon are sufficiently complete to permit the issuance of a Certificate of Occupancy therefore. Upon such issuance, such Lot and Improvements thereon shall collectively be considered to be an Improved Lot for purposes of this Declaration.

Mortgage. The term "Mortgage" shall mean and refer to any mortgage, deed of trust, or other security device encumbering a Lot or any interest therein and which shall have been duly and properly recorded in the Probate Office of Lee County, Alabama.

Mortgagee. The term "Mortgagee" shall mean and refer to the holder of any Mortgage.

Occupant. The term "Occupant" shall mean and refer to and include any Owner and the family members of any Owner; the employees, guests, invitees, tenants and agents of the Owner and their family members; and any other person who occupies or uses any Lot within the Property.

All actions and/or omissions of any Occupant are and shall be deemed to be the actions and/or omissions of the Owner.

Owner. The term "Owner" shall mean and refer to the record owner, including the Declarant, of fee simple title to any lot or property located within the Property, whether a corporation, partnership, proprietorship, association or other entity of any nature, including natural persons; but shall not include (a) any Mortgagee unless and until such Mortgagee has foreclosed on its Mortgage and purchased such Lot at the foreclosure sale held with respect to the foreclosure of such Mortgage. or (b) any lessee, purchaser, contract purchaser, or vendor who has an interest in any Lot solely by virtue of a lease, contract, installment contract, or other agreement.

Property. The term "Property" shall mean and refer to the real property within the boundaries described in "Exhibit A" attached hereto and incorporated by reference; and shall further refer to such Additional Property which may be made subject to this Declaration by Subsequent Amendment to this Declaration.

Sign. The term " Sign" shall mean and refer to any structure, device, or contrivance, electric or non-electric or mechanical, upon or within which any poster, bill, bulletin, printing, lettering, painting, device, or other advertising of any kind whatsoever is used, placed, posted, tacked, nailed, pasted, or otherwise fastened or affixed.

Street. The term "Street" shall mean and refer to any street, highway, road, or thoroughfare within or adjacent to the Property and shown on any recorded subdivision plat, map, or record of survey, whether designated thereon as street, boulevard, place, drive, court, terrace, way, lane, circle, or otherwise, the right-of-way for which has been dedicated to the public and been accepted by the City Council of the City of Opelika.

Subsequent Amendment. The term "Subsequent Amendment" shall mean and refer to an amendment to this Declaration that adds additional property to that subject to this Declaration, or adds new or modifies existing provisions of this Declaration.

ARTICLE 2. PROPERTY SUBJECT TO DECLARATION

General Declaration. The Declarant, its successors and assigns, declares that the Property is and shall be subject to the Covenants set forth in this Declaration. The Property and any portion thereof and each Lot and Common Areas shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon, and otherwise used, improved, and maintained subject to the terms of this Declaration. All of the above shall run with title to the Property and shall be binding upon and inure to the benefit of the Declarant and upon all Owners and Occupants of the Property, inclusive.

Additional Property. The Declarant reserves the right in its absolute discretion, at any time, to add any Additional Property to the provisions of this Declaration. Such Additional Property need not be consented to by any Owner, Occupant, or Mortgagee of any Lot. The Declarant shall subject any Additional Property to this Declaration by an instrument executed by Declarant in the manner required for the execution of deeds and recorded in the Probate Office of Lee County, Alabama, which instrument shall be deemed an amendment to this Declaration and shall refer to this Declaration stating the book and page number in the Probate Office of Lee County, Alabama, where this Declaration is recorded. This instrument shall contain an exact description of the Additional Property, state any difference which the Declarant in its sole discretion specifies to regulate and control the use of said Additional Property, and shall contain a statement that the Additional Property is conveyed subject to the provisions of this Declaration.

Development and Subdivision of Property. Without obligation, the Declarant has the express right to make any improvements and/or changes to any Common Areas and to any Lots that may be owned by the Declarant, including the installation and maintenance of any Common Areas or changes in any boundaries of any Lots owned by the Declarant, along with the installation or maintenance of any water, sewer, or other utility system or facility. The Declarant also has the express right to combine and/or re-divide any Lots owned by the Declarant; and to record, amend, revise, and otherwise add to a subdivision plat, including, without limitation, locations and dimensions of all Lots, Improvements, Common Areas, Additional Property, roads and streets, utility and drainage systems, utility and drainage easements, set-back line restrictions, lakes, retention ponds, and drainage basins. Any and all such amendments shall be binding upon the portion of the Property so indicated as if such subdivision plat were incorporated into this Declaration.

ARTICLE 3. EASEMENTS

Grant of Nonexclusive Easements. The Declarant does hereby grant to each Owner and Occupant, their heirs and assigns, the nonexclusive easement of access to and the use and enjoyment of the Common Areas, subject to the terms and conditions of this Declaration and the rules, regulations, fees, and charges that may be established by the Declarant from time to time. The nonexclusive easement granted shall be permanent and perpetual, and shall pass with the title to each Lot.

Reservation of Easements to Common Areas. There is reserved unto the Declarant its officers, employees, agents, and/or representatives, without obligation, a permanent and perpetual nonexclusive easement appurtenant over, across, through, and upon each Common Area for the purpose of maintenance, installation, repair and replacement of Improvements, as necessary for the Common areas, and for the inspection of Lots to determine compliance with the provisions of this Declaration. The Declarant shall not exercise such rights with respect to the Common Areas in such a manner as to unreasonably interfere with the rights of the Owners to the use and enjoyment of such Common Areas.

Reservation of Maintenance Easements. There is reserved unto the Declarant, its successors and assigns, a permanent and perpetual right and easement to enter upon any Lot for the purpose of mowing, cutting, removing, clearing or pruning any underbrush, weeds, stumps or any other unsightly growth, trash, garbage, rubbish, or debris so as to maintain reasonable health, fire, safety and appearance standards of the Property, with the understanding that there is no obligation on the part of the Declarant to perform such duties. The Declarant reserves the permanent and perpetual right to enter upon any Lot or Common Area for the purpose of taking any action necessary to ensure compliance with any of the provisions of this Declaration or with any applicable rules, regulations, or procedures which may be promulgated or instituted by any governmental authority. Except in an emergency situation, the Declarant shall not interfere unreasonably with the use or occupancy of any Lot or Common Area.

Rights of Entry. Unless otherwise agreed, in writing, the Declarant shall have the right, but not be obligated, to enter upon any Lot or Common Area for purposes related to emergencies, security, safety, or maintenance, which right may be exercised by the Declarant's officers, employees, agents, and/or representatives. Except in an emergency situation, such entry shall only be made during reasonable hours and after notice to the Owner or Occupant. This right of entry shall include the right of the Declarant to enter to make emergency repairs, to perform other work reasonably necessary for the proper maintenance and operation of the Property, and to cure any

condition which may increase the possibility of fire or other hazard in the event an Owner fails or refuses to cure the condition upon request of the Declarant.

ARTICLE 4. MAINTENANCE RESPONSIBILITIES

Responsibilities of Declarant. The Declarant shall maintain and keep in good condition and repair all Common Areas and the Improvements thereon.

Responsibilities of Owners. Unless specifically identified herein as the responsibility of the Declarant, it shall be the responsibility of the Owner of each Unimproved Lot to keep and maintain at all times such Lot in a neat, clean, safe, and attractive condition. Grass, hedges, shrubs, vines and similar vegetation shall be cut and trimmed at regular intervals. Trees, shrubs, and vines that die shall be promptly removed. Trash, garbage, debris, or similar materials shall not be allowed to accumulate but shall be promptly removed and properly disposed of.

Unless specifically identified herein as the responsibility of the Declarant, it shall be the responsibility of the Owner of each Improved Lot to maintain at all times all Improvements on or within such Lot in a neat, clean, safe, and attractive condition. Each Owner shall provide for the timely removal of all trash, garbage, rubbish, debris, and similar material from such Lot. During construction or installation of any Improvements on any Lot, it shall be the responsibility of each Owner to ensure that such Lot is kept free of unsightly accumulations of rubbish, trash, and scrap materials; and that construction materials and supplies and trailers and other facilities are maintained in a neat, orderly, and safe manner.

ARTICLE 5. ASSESSMENTS

Purpose. Unless otherwise agreed in writing, the Declarant may annually, or from time to time, levy an Annual and/or a Special Assessment, which Assessments shall be paid to the Declarant by the owner of each Lot within the Property. Such Assessments shall be used by the Declarant exclusively for the purpose of promoting the health, safety, security, and welfare of the Owners; for the maintenance, improvement, and operation of the Common Areas; and for any specific capital outlays for improvements and repairs to the Common Areas.

Responsibilities. The Declarant shall have the right, but not the obligation, to provide for the incorporation, at some future date determined at its sole and absolute discretion, of a non-profit corporation known as "Northeast Opelika Industrial Park Owners' Association," with a membership consisting of all of the Owners or designees of owners of sites in the park. It shall be the responsibility of the association to review proposed costs and assessments, and make recommendations to the Declarant.

After consulting with the Northeast Opelika Industrial Park Owners' Association, it shall be the responsibility of the Declarant to determine the amount of monies required to maintain, improve, and operate the Common Areas in the manner contemplated by this Declaration. After careful consideration of the recommendations of the Association, the Declarant, at its sole discretion, shall determine the amount of money so needed, and the manner in which they shall be expended.

Each Owner of a Lot, by acceptance of a deed or other instrument conveying any interest therein regardless of whether such deed or instrument contains a reference to this Declaration, is hereby deemed to covenant and agree to pay to the Declarant any Annual or Special Assessments. All such Assessments, together with interest thereon from the due date at a rate of two (2) percent per annum and costs of collection thereto or, including reasonable attorney's fees, shall be a charge upon the Lot and shall be a continuing lien upon the Lot against which such Assessment is made, and shall be the personal obligation of the Owner. No Owner of a Lot may waive or otherwise

escape liability for the Assessments provided for herein by nonuse of the Common Area or by abandonment.

Computation of Assessments. Annual Assessments shall be determined by the Declarant and shall be the amount necessary to fund the maintenance and operation of the Common Areas. Special Assessments shall be determined by the Declarant and shall be the amount necessary to fund the construction or installation of any Improvements on or within the Common Areas. Each Owner shall be assessed a charge which shall be paid directly to the Declarant and shall equal an amount that represents that proportion of the Annual Assessment or the Special Assessment as the area of the Lot owned by the Owner is proportionate to the total area of all Lots within the Property. The Common Area assessment shall be calculated on a periodic basis as determined by the Declarant.

Notice of Assessment. Notice of each Assessment shall be given by sending a written notice by postage prepaid certified mail addressed to the last known or usual post office address of the Owner of each Lot, or by posting the notice upon the Lot itself.

ARTICLE 6. DESIGN STANDARDS

General. The purpose of these design standards is to assure each Owner that the Property will be developed and constructed as a planned industrial park; that all Improvements will be of high quality and harmonious with surrounding improvements and with the natural environment; and that the development of each individual Lot will add to the aesthetic quality of the Property as a whole.

All uses allowed and all Improvements made to individual Lots and to the Property shall conform to the requirements set forth in the Land Development Regulations of the City of Opelika. In addition, all such Improvements shall conform to the standards set forth in this Article.

Uses Permitted.

A. Uses of sites are to include all types of industrial activities allowed by the M-2 zoning classification of the City of Opelika except:

1. Uses considered dangerous or unsafe such as explosives.
2. Uses considered objectionable or a nuisance by reason of odor, dust, fumes, smoke, noise, vibration, refuse matter, or water-carried waste.
3. Uses considered objectionable by reason of adverse affect on adjoining units such as junk or salvage yards.

B. All proposed users will be subject to review and approval by the Advisory Committee.

C. No Owner may use the Lot or any portion of the Property in such as manner as to increase the fire insurance rating applicable to present or future improvements of others in the immediate vicinity of the Lot.

Open Space Requirements.

A. Setback requirements are to provide sufficient space from the street and the property lines for easy access to the property, protective landscape treatment, and building expansion.

1. All buildings shall be set back at least forty (40) feet from any street right of way.
2. Side yard setbacks should be sufficiently large to provide room for expansion, parking, landscaping, or space adequate for fire and police protection. Minimum side yard setback shall be thirty (30) feet from the property line.

3. Rear yard setbacks shall be a minimum of thirty (30) feet except where buildings are backed to rail facilities. The open space may be limited to the right of way for these tracks.
4. Building canopies may not extend beyond the front or side building setback lines.
5. Adequate open space shall be provided for access parking, off-street loading, internal circulation, landscaping, and protection in relation to adjacent sites. The building to land ratio (the footprint of the building coverage on the land) shall not exceed 50% on any Lot.

B. Variations from these requirements are subject to review and approval by the Advisory Committee.

Re-Platting.

No lot shall be re-platted without the prior written approval of the Advisory Committee.

Parking Facilities.

A. All parking and loading shall be provided on the site, with on-street parking and loading not permitted. Parking and loading areas are to be paved to provide dust free, all weather surfaces. As a general rule, parking and truck loading facilities are located at the side or rear of buildings. Necessary loading on the front may be permitted only when visually screened by landscaping and other appropriate screening arrangements.

B. To ensure adequate personnel parking facilities, space for parking should be related to both the size of the building and number of expected employees, inasmuch as there may be wide variance in the number of employees using the same size of building, depending on the nature of operations or building use. In addition, adequate space must be allocated to permit expansion of parking area upon conversion of use.

1. Parking in relation to personnel:

- 1 space for each 1 1/2 plant employee
- 1 space for each managerial personnel
- 1 visitor parking space for each 10 managerial personnel

2. Parking in relation to floor area (worker density):

- 1 space for each 1,000 square feet of gross floor area used for warehousing and distribution
- 1 space for each 500 square feet of gross floor area used for manufacturing
- 1 space for each 250 square feet of office floor area

3. Parking stalls for passenger cars shall be nine (9) feet in width for employee parking and ten (10) feet in width for visitor parking.

C. Major variations from these parking requirements may be made only upon review and approval of the Advisory Committee.

Off-Street Loading.

A. Truck and trailer maneuvering areas shall be entirely off-street and no backing allowed onto the public street. Truck maneuvering areas shall be provided and maintained in accordance with the following.

Aggregate Floor Area (Square Feet)	Number of Required
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<u>or Industrial Development</u>	<u>Spaces</u>
-Under 10,000	0
-10,000 to 24,999	1
-25,000 to 59,999	2
-60,000 to 119,999	3
-120,000 to 199,000	4
-200,000 to 290,000	5
-For each additional 90,000 square feet over 290,000 square feet or fraction thereof	1

Fencing.

Fences are not considered desirable and will be allowed only for protection of storage areas and for essential security needs. The location and type of all fences must receive approval. Chain link fences will be considered only if they are screened by landscaping material that will grow to a height equivalent to that of the fence. Vinyl-covered chain link fencing may also be considered. No fences of any kind shall be allowed in any required yard or setback.

Utilities.

All utility lines, pipes, conduits, and wiring for electrical, gas, telephone, water, sewer, cable television, security, or any other utility service for any portion of the Property shall be installed and maintained below ground.

No Owner shall erect, or grant to any person, firm or corporation the right, license, or privilege to erect or use or permit the use of overhead wires, poles, or overhead facilities of any kind for electrical or telephone service, except such poles and overhead facilities as may be required at those places where distribution facilities enter and leave the Property. Nothing herein shall be construed to prohibit overhead lighting on streets, common areas, or Lots where serviced by underground wires or cables.

In order to permit installation of underground electric service no owner shall commence construction of any Improvement until such Owner (1) notifies the electric utility that such construction is proposed; (2) grant, in writing, to the electric utility such rights and easements as the utility requires in connection with its construction, operation, maintenance, and removal or underground service laterals; and, (3) otherwise complies with the applicable rules and regulations for underground distribution on file with and approved by the Alabama Public Service Commission. If required by the electric utility, such electric utility, its successors and assigns, may retain title to the underground service lateral and outdoor metering trough or power box (exclusive of circuit breakers), and said service entrance facilities provided by such utility will remain personal property belonging to such utility, its successors and assigns, in accordance with the requirements of the Alabama Public Service Commission.

Dumpsters/ Waste Disposal.

All dumpsters and/or similar waste receptacles shall be located in the side or rear yards of any Lot, shall be placed on a concrete pad, and shall be screened and secured as required by the Opelika Land Development Regulations.

Mailboxes.

Only one (1) mailbox shall be allowed on any Lot, and shall be of a type, design, color, and location approved by the Advisory Committee.

Building Design.

A. In addition to meeting all approved building codes, the quality of the architectural design should enhance the appearance of the industrial park. All designs, alternations, additions or remodeling are subject to the prior review and approval of the Advisory Committee.

1. The outside wall of all buildings shall be of masonry construction, its equivalent, or better. The use of other materials may be permitted where such use will not be adverse to adjoining properties.
2. Accessory buildings, markings, and enclosures will be consistent as to design and quality of materials used with the building to which they are accessories.
3. Building height shall not exceed thirty-five (35) feet or two stories.
2. Colors for all exterior surfaces of any structure shall be approved by the Declarant and shall be compatible with the natural environment of, and the other developments in, the Property.
3. Pitched roofs are preferred for all structures.
4. Unless otherwise approved by the Advisory Committee, all electrical, gas, telephone, and cable television meters shall be located at the side or rear of all structures.
5. All exterior heating, ventilating, and air compressor units and equipment shall be located at the side or rear of structures. If such units are visible from the street they shall, if feasible, be screened from view by approved walls, fences, or landscaping.

Signs.

It is the intent of the Declarant that a uniform system of signage be used throughout the Property. To achieve this, only wall and ground signs shall be used on individual Lots; no roof signs will be permitted. An overall signage plan for each Lot shall be submitted to and approved by the Advisory Committee.

1. All signs, whether free-standing or attached to the building, shall be of durable construction and shall not exceed the height of the roof line of the building or buildings situated on said lot.
2. The location, size and construction of all signs will be in keeping with the character of the industrial park and subject to prior review and approval of the Advisory Committee.

The following standards shall apply to all wall signs:

1. A single sign may be placed on any wall facing a street of the main structure on each Lot. Such sign may identify the firm and/or its product or service.
2. All signs shall be fixture signs mounted on the wall. Neither signs painted on the wall nor signs projecting more than twelve (12) inches will be permitted.
3. The maximum size for a wall sign identifying a single business on a Lot shall be proportional to the dimensions of the wall on which it is located.

The following standards shall apply to all ground signs:

1. A single sign may be placed on the ground in the front yard and in close proximity to the main structure. Such sign may identify the firm, and/or its product or service.
2. The maximum size for a ground sign shall be proportional to the size and area of the building wall in front of which it is located.
3. For a structure with multiple tenants the building complex or uses may be identified with two (2) ground signs.

The following standards shall apply to all signs:

1. No sign shall be located closer than fifteen (15) feet to any property line.

2. Signs may be illuminated. Such illumination shall not consist of moving, flashing, blinking or similar animated lighting. Internally lit signs are preferred. If external lighting is employed, such light shall be soft, shall be directed only upon and confined to the actual sign, and the source shall not be visible from the street on any adjacent Lot.
3. Internal directional signs may be used to facilitate vehicular and pedestrian circulation. Such directional signs must be approved.

Landscape Treatment.

A Landscape treatment is required. All landscape regulations of the City of Opelika shall be enforced. "Green" treatment of the site may be in the form of grass lawns and ground covers, shade trees in parking areas, street trees, plantings in areas used as dividers, and in areas otherwise unusable. Landscape treatment includes the use of walls, screening terraces, fountains, pools and other water arrangements. Landscaping can be used to mark entrance points, parking areas; it can be used to shield or define service areas and property divisions, and to enhance building scale and forms.

B. Landscape treatment should not interface with a sight line requirement of circulation, nor block needed views of buildings or their means of identification. All landscaping should be designed for minimum maintenance. In an area or spot excessively difficult to maintain, paving or terracing may be used, considered and designed as part of the landscaping treatment.

C. Outside storage of materials will be permitted only where such storage is visually screened from all approaches.

D. The entire area of any Lot containing a building site, including the area between the Lot line and street curb line, shall be landscaped except for those areas covered by the building, paved areas and railroads. Expansion areas may be grassed until such time as construction on the expansion areas commence.

E. Planting beds shall be mulched with pine straw and maintained weed-free and in an orderly appearance.

F. All landscaping shall be installed within 60 days of the occupancy or substantial completion, as determined by the Committee, or a building, whichever occurs first.

ARTICLE 7. APPROVAL AND CONSTRUCTION OF IMPROVEMENTS

Approval of Plans. The Advisory Committee shall approve all plans and specifications for the construction of all Improvements on any Lot within the Property. Prior to the commencement of construction of any Improvement, the Owner therefore shall submit to the Advisory Committee two (2) copies of plans and other materials relating to such Improvements as specified below:

1. A site plan, accurately drawn to scale by an architect, engineer, surveyor, or landscape architect registered in the State of Alabama. Such site plan shall show the proposed location of all Improvements, including but not limited to: structures to be erected on the Lot; all driveways, parking areas, service areas, walkways, decks, terraces, patios, outbuildings, and storage areas.
2. A landscaping plan showing all areas to be left in their natural state; and the proposed design of all landscaped areas and facilities, including placement and type of vegetation, walkways, ornamental structures and features and similar facilities.

3. A foundation plan, floor plan(s), and exterior elevations of all sides of all structures to be constructed on the Lot.
4. A lighting plan, including specifications and drawings of all fixtures, for all exterior lighting to be installed on the Lot.
5. A signage plan, showing the size, location, and design of all proposed signs to be installed on the Lot.
6. If requested by the Declarant, written specifications for any improvement; and samples indicating the nature, color, and type of any exterior materials to be used in the construction of any Improvement on the Lot.
7. Any other plans, specifications, information, or documentation as may be required by the Advisory Committee to complete its review.

The Advisory Committee shall determine whether the plans and specifications and other information submitted by an Owner for approval are acceptable. One copy of all plans, specifications and related data so submitted shall be retained in the records of the Declarant; and one copy shall be returned to the Owner submitting same, and marked "Approved", "Approved as Noted" or "Disapproved" as appropriate.

The Advisory Committee shall have the right to disapprove any plans and specifications upon any finding that such proposed Improvements are inconsistent with the objectives and purposes of this Declaration. Any failure to comply with any of the provisions of this Declaration or of the Design Standards described in Article 6 therefore; or any failure to provide requested information; shall also be grounds for disapproving the plans and specifications for any proposed Improvements on a Lot.

The Advisory Committee shall have the right to approve submitted plans and specifications with conditions or stipulations with which the Owner shall be obligated to comply and which must be incorporated into all plans and specifications for such Improvements. Approval of plans and specifications by the Advisory Committee in any particular case shall not be deemed an approval of, or otherwise obligate the Advisory Committee to approve, similar plans and specifications for any of the elements or features for the Improvements of any other Lot within the Property.

Any revisions, modifications, or changes in any plans or specifications previously approved by the Advisory Committee must in turn be approved by the Advisory Committee in the same manner specified above.

In the event that the Advisory Committee fails to approve in writing any proposed plans and specifications within thirty (30) days after such plans and specifications have been deemed complete and accepted for review by the Declarant, then such plans and specifications so submitted shall be deemed to have been approved.

If construction of the Improvements, as evidenced by the obtaining of a Building Permit from the City of Opelika, has not been started within one (1) year of approval of the plans and specifications for such Improvements by the Declarant, then no construction may be commenced and the Owner shall be required to resubmit all plans and specifications to the Declarant for review and approval in the same manner as specified above.

Site Preparation and Landscaping. To preserve to the maximum extent possible the natural vegetation and plant life on the Property, and to enhance the aesthetic appearance of the Property, no tree cutting, clearing of vegetation, grading, excavation, or filling of any nature shall be

implement or installed by any Owner on any Lot unless and until the landscaping plans therefore have been submitted to and approved by the Advisory Committee in accordance with the procedures described above.

Construction Without Approval. If any Improvements are initiated, installed, maintained, altered, replaced, or relocated on any Lot without Declarant approval of the plans and specifications for the same; or, the Declarant determines that any approved plans and specifications for any Improvements or landscaping are not being complied with; then, in either event, the Owner of such Lot shall be deemed to have violated this Declaration, and the Declarant shall have the right to exercise any of the remedies set forth in Article 8 below.

Variances. The Declarant shall have the right to grant variances from the provisions of Article 6 with respect to any Lot. A request for a variance shall be submitted in writing to the Declarant; and, upon approval by the Declarant, shall be evidenced by a written variance executed on behalf of the Declarant.

Inspection. The Declarant, or any officer, employee, agent, or representative thereof, may at any reasonable time, and from time to time, enter upon and inspect any Lot or any Improvements being constructed on installed thereon, to determine whether the approved plans and specifications therefore are being complied with. Any such entry shall not be deemed a trespass or any other wrongful act by the Declarant or the officer, employee, agent, or representative thereof.

Subsurface Conditions. The approval by the Declarant of any plans or specifications for any Improvements shall not be construed in any respect as a representation or warranty by the Declarant to the Owner submitting such plans and specifications or to any of the successors or assigns of such Owner, that the surface or subsurface conditions of such Lot are suitable for the construction of the Improvements proposed by such plans and specifications. It shall be the sole responsibility of each Owner to determine the suitability and adequacy of surface and subsurface conditions for any construction.

Limitation of Liability. It is expressly provided that neither the Declarant, nor the City of Opelika, nor any officer, employee, agent, or representative thereof shall have any liability of any nature whatsoever for any damage, loss, or prejudice suffered, claimed, paid, or incurred by any Owner on account of: (a) any defects in any plans or specifications submitted, reviewed, or approved in accordance with the provisions of this Article; (b) any defects, structural or otherwise, in any work done according to such plans and specifications; (c) the failure to approve, or the disapproval of, any plans, drawings, specifications, or other similar information submitted by any Owner pursuant to the provisions of this Article; (d) the construction or performance of any work related to such plans and specifications; (e) bodily injuries, including death, to any Owner, Occupant, or the respective family members, guests, employees, servants, agents, invitees, or licensees of any such Owner or Occupant, or any damage to any structure(s), Improvements, or the personal property of any Owner, Occupant, or the respective family members, guests employees, servants, agents, invitees, or licensees of such Owner or Occupant, which may be caused by, or arise as a result of, any defect, structural or otherwise, in any Improvements or the plans and specifications therefore, or any past, present, or future soil and/or subsurface conditions, known or unknown (including without limitation sink holes, underground mines, tunnels, water channels, and limestone formations on or under any Lot); and (f) any other loss, claim, damage, liability, or expense, including court costs and attorneys' fees, suffered, paid, or incurred by any Owner, or Occupant arising out of or in connection with the use and occupancy of any Lot and/or any Improvements situated thereon.

Commencement and Completion of Construction. Upon commencement of construction of any Improvements, construction work thereon shall be prosecuted diligently and continuously, and shall be completed within one (1) year of the commencement of said construction, such completion to be evidenced by the issuance of a Certificate of Occupancy by the City of Opelika.

ARTICLE 8. GENERAL PROVISIONS

Duration. The provisions of this Declaration shall be perpetual in duration, shall run with and bind all of the Property, and shall inure to the benefit of the Declarant and all Owners, their respective heirs, successors, assigns, executors, administrators, and personal representatives.

Interpretation. The Declarant shall have the sole right to construe and interpret the provisions of this Declaration and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, the Declarant's construction or interpretation shall be final and binding upon all Owners and the Property benefited or bound by the provisions hereof.

In all cases the provisions set forth and provided for in this Declaration shall be construed together and given that construction or interpretation which, in the opinion of the Declarant, will best achieve the intent of the Declarant's purposes for the development of the Property.

Amendment. The Declarant may at any time amend this Declaration by a written instrument filed and recorded in the Probate Office of Lee County, Alabama, without obtaining the approval of any Owner or Mortgagee. Any such Amendment shall be effective upon recording in the Probate Office of Lee County, Alabama.

Enforcement. In the event that any Owner or Occupant or their respective officers, agents, employees, agents, contractors, or invitees violates any of the provisions of this Declaration, the Declarant shall have the power to take the following actions, as appropriate:

1. Impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon the Lot and shall be a personal obligation of such Owner which is guilty of such violation.
2. Suspend an Owner's and/or Occupant's rights to use any of the facilities in the Common Areas.
3. Enjoin any further construction on any Lot and require the removal or correction of any work in place which does not comply with the approved plans and specifications for such Improvements.
4. Enter upon any Lot and take all action necessary to determine the extent of and/or to extinguish any violation or breach.
5. Initiate proceedings at law or in equity against any person or persons violating or attempting to violate any provision of the Declaration, either to restrain such violation and/or recover damages; and against the land, to enforce any provision of this Declaration or any lien created by the provisions of this Declaration.

All costs and expenses incurred by the Declarant in enforcing any of the provisions of this Declaration, including without limitation attorneys' fees, court costs and expenses of witnesses, engineers, architects, designers, land planners, and any other persons involved in the correction of nonconforming work, the completion of uncompleted work, or in any judicial proceeding in causing any Owner or such Owners' officers, employees, agents, contractors, or invitees to comply with the terms and provisions of the Declaration shall be paid by such Owner, shall

constitute an individual assessment against such Owner, and if the same is not paid when due, shall be subject to a lien upon the Lot.

The Declarant shall not take any enforcement action under the terms of this Section unless written demand to cease and desist from, or correct, any alleged violation shall be served upon the Owner responsible for such violations. Such demand shall specify the nature of the alleged violation, the action required to abate such violation, a time period of not less than ten (10) days during which the violation may be abated without further sanction if such violation is a continuing one; or, if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration may result in the imposition of sanctions.

Failure by the Declarant to enforce any provision of this Declaration for any period of time shall in no event be deemed to be a waiver or estoppel of the right to thereafter enforce the same. No liability shall attach to the Declarant for failure to enforce any provision of this Declaration.

Severability. If any provision of this Declaration, or the application thereof to any person, Lot, or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Declaration or the application of such provisions to persons, Lots, or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision shall be valid and enforceable to the fullest extent permitted by law.

No Trespass. Whenever the Declarant and/or its officers, employees, agents, representatives, successors, and assigns are permitted or required under the provision of this Declaration to enter upon and take action within any portion of a Lot, the entering thereon and the taking of such action shall not be deemed a trespass.

Reservation of Rights. No sale, transfer, conveyance, lease, pledge, encumbrance or other hypothecation of any Lot by the Declarant to a third party shall constitute or be deemed a transfer of any of the rights reserved herein to the Declarant unless express reference is made in such instrument of conveyance to the specific rights created in this Declaration which Declarant is transferring to any such third party.

Further Assurances. Each Owner covenants and agrees to execute, sign, and deliver, or cause to be executed, signed, and delivered and to otherwise do or make, or cause to be done and made, any and all agreements, instruments, papers, deeds, acts, or things, supplemental, conformity, or otherwise which may be reasonably requested by the Declarant for the purpose of or in connection with clarifying, amending, or otherwise consummating any of the transactions and matters herein.

Notices. Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Declarant; or, if no such address has been so designated, at the address of such Owner's respective Lot within the Property.

Binding Effect. The terms and provisions of this Declaration shall be binding upon each Owner, Occupant, and Mortgagee and the respective officers, employees, agents, representatives heirs, executors, administrators, successors, and assigns of each Owner, Occupant, and Mortgagee, and shall inure to the benefit of the Declarant, all of the Owners, and their respective Mortgagees, officers, employees, agents, representatives, heirs, executors, administrators, successors, and assigns.

Waiver. No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches that may occur.

ARTICLE 9. RECAPTURE OF UNUSED LAND:

A 1. The Opelika Industrial Development Authority reserves the right to reacquire the site from any purchaser, Lessee or its successor or assigns, at the original purchase price, if construction or a proposed facility has not begun within twenty-four (24) months of the sale date.

2. Any Owner, Lessee, or Assignee having the right to acquire ownership of the property who desires to re-plat any of the lots for the purpose of selling unimproved land, shall first secure the written permission of the Advisory Committee for such re-platting. Upon such re-platting the Authority reserves the right to purchase or reacquire such re-platted property at a per acre price equal to the price paid by the party re-platting the property.

3. The Authority shall have thirty (30) days to exercise its option to reacquire the property and to pay all amounts due to the owner or option holder, after notice is received from the Owner or the party holding the option of its intent to dispose of the surplus land, or re-plat; otherwise, such option shall be forfeited and become null and void.

IN WITNESS WHEREOF, the Authority, has caused these Covenants and Restrictions to be signed on its behalf by its Chariman, Ronald P. Wilson, and its seal hereunder affixed and attested by its Secretary, Alfred F. Cook Jr., on this the 30th day of April, 2003.

OPELIKA INDUSTRIAL DEVELOPMENT
AUTHORITY

By: _____

Ronald P. Wilson
Its Chairman
Address: Opelika Industrial Development
Authority
Post Office Box 965
Opelika, Alabama 36803
Phone: (334) 705-5115
Fax: (334) 705-5113

ATTEST:

Alfred F. Cook, Jr.
Its Secretary

STATE OF ALABAMA
COUNTY OF LEE

I, the undersigned authority, hereby certify that Ronald P. Wilson and Alfred F. Cook, Jr., whose names as Chairman and Secretary, respectively, of the OPELIKA INDUSTRIAL DEVELOPMENT AUTHORITY, a public corporation, who are known to me, acknowledged before me on this _____ day, that, being informed of the contents of the foregoing contract, that as such officers and with full authority, they voluntarily executed the same for and as the act of the corporation.

GIVEN under my hand and seal of office this the ____ day of _____, 2003.

NOTARY PUBLIC

Exhibit "A"

LEGAL DESCRIPTION OF THE LAND

Northeast Opelika Industrial Park as recorded in Plat Book 20 at Page 162, in the Office of the Judge of Probate of Lee County, Alabama, on June 15, 1999.

The above description being taken from survey prepared by James L. McCrory, R. L. S., Alabama Registration No. 12493, on June 14, 1999.