

## **Covenants of Chickasaw Trail Industrial Park**

PROTECTIVE COVENANTS This Declaration of Protective Covenant affecting industrial property to be known as the Chickasaw Trail Industrial Park, hereinafter called the Park, more particularly described in special legislation passed by the State of Mississippi, made this the \_\_3rd\_\_ day of \_\_MARCH\_\_, 2005, by the Industrial Development Authority of Marshall County, hereinafter called the Authority, WITNESS:

WHEREAS, Authority is desirous of subjecting this property as it is developed to the conditions, covenants, restrictions, regulations, and reservations hereinafter set forth, all of which are for the benefit of said property and for each Owner or Lessee thereof, hereinafter called the Tenants, and shall pass with said property and every site thereof, and shall apply to and be binding upon the Tenants of any of said lands, sites or lots and his heirs, assigns, devisees, administrators, or other successors in interests;

NOW THEREFORE, the Authority hereby declares that the real property described in and referred to in Article 100 shall be held, transferred, sold, conveyed, leased, subleased, and occupied subject to the conditions, covenants, restrictions, regulations, and reservations hereinafter set forth.

### **ARTICLE I**

#### **GENERAL PROVISIONS**

##### **100. PROPERTY SUBJECT TO THIS DECLARATION**

100.01 The real property known as the Park and subjected to the protective covenants as set forth herein is located in the County of Marshall, State of Mississippi, and is more particularly described in Exhibit "A" attached hereto plus any additions thereto.

##### **101. PURPOSE**

101.01 The real property described in Article 100 is subject to the covenants, conditions, restrictions, regulations, and reservations hereby declared for the following purposes:

101.01-01 To establish the Park as an area within the community where it is deemed desirable to locate commercial industry, manufacturing, processing, retail sales, office buildings, warehousing, distribution, and related operations.

101.01-02 To ensure proper use and appropriate development and improvement of each building site.

101.01-03 To protect the Tenants of building sites against improper and undesirable use of surrounding building sites that will depreciate the value of their property.

101.01-04 To encourage the erection of attractive improvements, with appropriate placement on building sites.

101.01-05 To guard against the erection of structures built of improper or unsuitable materials.

101.01-06 To secure and maintain proper setbacks from streets and adequate open spaces between structures which will ensure a park-like character.

101.01-07 In general, to provide for a high quality of improvement of said property.

### **ARTICLE II**

#### **REGULATIONS**

##### **200. APPROVAL OF PLANS AND SPECIFICATIONS**

200.01 The Authority reserves the right to approve the architectural and engineering plans for the structures, as well as the site plans, to ensure compliance with these covenants and designated building codes. No construction or modification of existing construction shall be allowed to proceed prior to this approval. All plans and specifications shall be prepared under the direction of a professional engineer and/or architect registered in the State of Mississippi and shall bear his seal. Published codes and regulations to be complied with in the design shall be:

200.01-01 International Building Code

200.01-02 Standard Plumbing Code

200.01-03 Standard Gas Code

200.01-04 Standard Mechanical Code

200.01-05 National Electric Code

200.01-06 Flammable and Combustible Liquids Code

200.01-07 Regulations of the Mississippi Department of Environmental Quality, Bureau of Pollution Control, and U.S. Environmental Protection Agency, Mississippi State Board of Health, and any other regulatory agency of the State of Mississippi.

200.02 Prior to construction or alteration of any building or improvement on a building lot, two (2) complete sets of site plans and specifications in a format designated by the Authority for such building or alteration shall be submitted to the Authority or its Consultant, and written approval of such plan by the Authority or its

Consultant, shall be authorization to build; the Authority shall approve or disapprove such plans and specifications normally within two (2) weeks (with a maximum of 45 days) after such plans have been submitted, subject to approval by other governmental authorities. The construction and site plans shall be drawn to a scale not greater than one inch equals fifty feet and shall show the following:

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200.02-01 All lot line dimensions including a metes and bounds description.

200.02-02 Building setback, side line, and rear yard distance.

200.02-03 Location of all proposed buildings.

200.02-04 Location of off-street parking areas with dimensions showing parking spaces, access drives, traffic circulation within the parking area. This includes the location and dimensions of all loading and unloading docks and area.

200.02-05 Location and description of all proposed signs.

200.02-06 Type of surface paving and curbing.

200.02-07 A grading plan showing all storm drainage facilities and means of retention and disposal of storm water.

200.02-08 All landscaping, fences, walls or similar facilities to be provided.

200.02-09 The specific types of material to be used in construction.

200.02-10 Utilities and utility easements, including any wastewater disposal fields.

200.02-11 Plans for all signs to be erected, including details of sign location, design, size, color and lighting.

200.03 If the site plan or building plan is rejected by the Authority or its Consultant, the applicant shall revise any and all elements in the plans prior to further consideration.

200.04 After construction is completed, the Tenant shall submit to the Authority a set of reproducible "AS BUILT" plans of the building and site as completed, drawn to a scale not greater than one inch equals fifty feet.

### ARTICLE III

#### UTILITIES

##### 300. WATER

300.01 Water for fire protection, process, and portable use shall be supplied through the existing water system to Tenants at a price established by the applicable agency. Such agency shall have the right to revise any rates at its discretion. It shall be the responsibility of the Tenant to connect onto the agency-supplied water mains in the existing or proposed utility easement or road right-of-way. All water mains constructed by the Tenant shall be in conformance with the standards of the applicable agency. The Tenant is required to purchase and install a water meter at his own expense as specified by the applicable agency. The meter shall then become the property of the agency and shall be serviced and maintained by the applicable agency.

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##### 301. SANITARY SEWERAGE

301.01 It shall be the responsibility of the Tenant to connect to the nearest approved wastewater collection system in the existing or proposed utility easement or road right-of-way. With the wastewater agency's written approval, small quantities of certain industrial wastewater may be discharged into the collection system. It shall be the Tenant's responsibility to pretreat certain non-domestic waste as determined by MDEQ and the wastewater agency prior to discharge into the wastewater collection system.

##### 302. STREETS AND ROADS

302.01 It shall be the responsibility of the Tenant to construct his own entrance road, including culverts, headwalls, and drainage structures, from the edge of the existing or proposed public street or road. All roadways and driveways shall be of an impervious surface such as bituminous or asphalt concrete, concrete or brick paving materials. All roadways and driveways shall be constructed with concrete curbs and shall include adequate drainage facilities to dispose of all storm water. Construction shall conform to Mississippi's Standard Specifications for State Aid Road and Bridge Construction.

##### 303. RIGHT-OF-WAY EASEMENTS

303.01 The Authority will retain such right-of-way and easements as may be necessary for the purpose of erecting, constructing, maintaining, and operating utility service over, across, under and through the required yards of any lot, including public service wires, and conduits for lighting, power, and telephone, gas lines, sanitary sewer, storm sewer and water, and the Authority shall have the right to grant right-of-way easements to others to carry out this purpose. Any contract for the laying of such lines, conduits, wires, pipes

or sewers shall also provide that the premises shall be restored to the same condition they were prior to the doing of such work.

## ARTICLE IV

### LAND USES

#### 401. PERMITTED USES

401.01 Any industrial warehouse, distribution center, commercial industry, office building, retail sales, or manufacturing or processing establishment is permitted, except that no lot, site, land, or building shall be used, and no building or structure shall be erected or placed which is arranged, intended, or designed to be used for any purpose or business which is dangerous, unsafe, noxious, offensive or which in any way constitutes a nuisance.

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401.02 Within areas designated as "C-1" or "C-2" on the Official Zoning Map of Marshall County, Mississippi, retail, service and other establishments shall be permitted as regulated by the Official Zoning Ordinance of Marshall County, Mississippi, as amended. Provided, however, that no use prohibited by these covenants shall be permitted, notwithstanding the provisions of said zoning ordinance.

401.03 No land or building shall be used or occupied which does not conform to the standards set forth herein.

#### 402. PROHIBITED USES

The following uses are strictly prohibited unless previously approved by the Authority.

402.01-01 Residential uses, including single-family residences, duplexes, multi-family structures, manufactured housing (mobile homes and "double-wide" mobile homes) and mobile home parks or subdivisions.

402.01-02 Junkyards or salvage yards.

402.01-03 Rubbish, garbage, or trash dumps.

402.01-04 Outside storage, unless in conformance with the appropriate section herein.

402.01-05 Slaughterhouses or stockyards.

402.01-06 Asphalt, concrete manufacture, central mixing plant for cement, mortar, or paving material.

402.01-07 Processing, incineration, or storage of dead animal materials, including offal reduction; curing, tanning, and storage of hides; distillation of bones; and rendering of fat.

402.01-08 Manufacture or storage of explosives, fireworks, or gunpowder.

402.01-09 Quarrying, mining, or petroleum production.

402.01-10 Manufacture of celluloid pyrosylin or pyroxylin products.

402.01-11 In the event any question shall arise as to whether or not a use of property within the Park is permitted or prohibited by these Covenants, the Authority hereby retains the right to make a final determination as to what uses are, in fact, permitted or prohibited.

## ARTICLE V

### REGULATIONS

#### 501. REQUIRED CONDITIONS

501.01 Setbacks – Front setback on all buildings shall be located at least one hundred (100) feet from the front property line bordering on any road or street. Building setback from adjoining property line shall be a minimum of twenty-five (25) feet, so that access to rear of buildings can be maintained for fire protection and other reasons.

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501.02 Accessory and Storage Buildings – Accessory buildings shall be located at least twenty-five (25) feet from a principal building, unless it is an integral part of the main building and is necessary for the manufacturing process. All materials and equipment shall be stored in completely enclosed buildings or shall otherwise be screened by such walls, fences, and/or landscaping as may be determined by the Authority to be adequate to appropriately screen such materials and equipment from area outside the lot boundaries. All outside storage shall be confined to the rear two-thirds (2/3) of any building side or lot.

501.03 Maximum Building Coverage – The total floor area of all buildings shall not exceed one-half (1/2) of the total lot area.

501.04 Exterior Walls – The exterior walls of all buildings erected on the property shall be of generally

accepted permanent material approved by the Authority. Metal buildings will be permitted provided that they meet standards enumerated below. Tenants shall submit to the Authority detailed plans and specifications for initial construction prior to the beginning of construction; and the Authority's written approval shall be proof of compliance with this requirement. No building or structure shall be erected, permitted, or placed on any part of said real estate unless the front of exterior structure thereof is of stone, brick, reinforced concrete, glass, equivalent masonry construction or a combination of these materials. Metal buildings shall have a minimum gauge of 26 for walls with 24-gauge minimum for metal roofs. Finish shall be either galvalume or baked on enamel finish. Roofs, eaves, and building corners shall be encased in metal trim. Roofs and walls shall be insulated and must meet local fire code.

501.05 Site Orientation – All buildings shall have their major orientation and main entrance to the front of the site parallel with the public street or road. For corner lots, the Authority will consider angles other than parallel.

501.06 Landscaping and Buffer Areas – Buffer areas shall be reserved along property lines as required by the Authority. These areas shall be used for landscaping, drainage and utility easements, sidewalks, signage, street furnishings and hardware. Each Tenant shall be required to leave untouched as much as possible the existing vegetation and natural amenities of the terrain. Any proposed clearing or removal must be approved by the Authority. Each Tenant shall not injure, remove or destroy any live trees over 6" in caliper without prior consent of the Authority. All building sites upon which a building is constructed shall be landscaped in accordance with a landscaping plan submitted to and approved by the Authority. Landscaping plans shall be submitted prior to the commencement of any construction and all landscaping plans, once approved, shall not be altered without the prior approval of the Authority.

501.07 Landscaping Outside of Building Lines – All areas between required building lines and property lines not used for drives, walks, parking and loading areas must be attractively landscaped and maintained so as to create a landscape buffer along all property lines. It shall also be the responsibility of each Tenant to landscape and maintain the areas between such Tenant's property lines and the paved areas of all public streets or roads adjacent to the building site. All loading areas shall be adequately screened from adjacent roadways and/or adjacent sites.

501.08 Structure Heights – Prior to construction or alteration of any structure in the Park, the Tenants involved shall file with Chief, Airports Branch, Federal Aviation Agency, Jackson, Mississippi, FAA form number 7460-1 entitled "Notice of Proposed Construction or Alteration" or its equivalent and shall obtain from said agency approval of or notice of absence of jurisdiction over the contemplated construction, if said approval is required.

501.09 Rubbish – A lot shall not be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers, located anywhere on the lot except in the front yard, and such containers shall be property screened so as to be not visible from any adjacent lot or public road or street.

501.10 Off-Street Parking – No parking or loading shall be permitted on any street or road, either public or private, or at any place other than the paved parking or loading areas provided in accordance with the following, and each Tenant shall be responsible for compliance by its employees and visitors.

501.10-01 Location – Off-street parking areas shall be located at least 25 feet from a public street and at least 5 feet from a building or property line. However, no more than fifty percent (50%) of the required front yard may be used for parking.

501.10-02 Paving – All driveways and parking areas shall be constructed with a hard surfaced pavement and shall include adequate drainage facilities to dispose of all storm water.

501.10-03 Off-street parking areas shall be used for the parking of passenger vehicles or commercial and other vehicles incident to the business conducted on the property. No commercial repair work or any services of any kind shall be conducted on such parking areas.

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501.10-04 Lighting – Area lighting, if any, shall be arranged so that the direct source of lighting is away from adjacent streets and residential districts.

501.10-05 Areas utilized for parking must be screened, modulated or interrupted from the view of access streets and adjacent properties. This may be accomplished by employing one or all of the following techniques, but any single technique, or combination, must not obstruct the vision within twenty feet (20') of an intersecting street, driveway or roadway:

(a) LINEAL MASSES OF SHRUBS This method requires use of shrubs that will achieve a height from four (4) to six (6) feet within three (3) years. Minimum size of five (5) gallons required.

(b) LINEAL OR GROUPED MASSES OR MAJOR SCALE TREES This method requires use of trees that shall ultimately provide foliage that is visible above the roofline from within the total site.

(c) LINEAL OR GROUPED MASSES OF SMALLER SCALE TREES This method requires use of trees that shall ultimately provide foliage or shade patterns on either horizontal or vertical planes.

(d) PARKING LOT TREES Trees equal in number to one (1) per each twenty-five (25) parking spaces may be provided in all parking areas. Minimum size: not less than three (3) inches in diameter measured two (2) feet above the ground.

(e) BERMING This method, which must be used in combination with at least one of the other techniques herein, requires berming to an elevation of not less than four (4) feet nor more than six (6) feet on all sides exposed to streets or other properties. Said berm to be planted in grass or other ground cover.

501.10-06 Loading and Unloading – For each industry, at least one (1) loading and unloading space shall be provided and shall be located in an area other than the front yard.

501.10-07 Building Foundation – The finished floor elevation of all buildings including basements which contain materials subject to damage by flooding shall be elevated or flood-proofed at or above the 100-year flood elevation as projected by the office of the Federal Insurance and Hazard Mitigation (FIHM).8

## 502. PERFORMANCE STANDARDS

502.01-01 Fire and Explosion Hazards – All activities shall be conducted only in structures which conform to the National Board of Fire Underwriters Standards and the state fire code concerning the plant operation and storage of explosive raw materials, fuels, liquids, and finished products. Any activity which would increase the fire hazards of adjacent property is prohibited.

502.01-02 Radioactivity – All activities located within the Park shall comply with the Code of Federal Regulations, “Standards for Protection Against Radiation.”

502.01-03 Smoke, Fumes, Gases, Dust, Odors, Noise – There shall be no excessive emission of any smoke, fumes, gas, dust, odors, or noise. These and any other atmospheric pollutants which constitute a nuisance or are obnoxious or injurious to other Tenants or neighboring property owners are prohibited. In any case, the limit of such emission of air pollutants shall be subject to the regulations of the Mississippi Department of Environmental Quality, Bureau of Pollution Control.

502.01-04 Liquid or Solid Wastes – The discharge of untreated industrial wastes into a stream or open or closed drain is prohibited. All methods of industrial sewage and solid waste treatment and disposal shall be approved by the applicable governing body and the appropriate state and federal agencies. More specifically, all sanitary waste shall be discharged into a sanitary sewer system or other system as approved by the Department of Environmental Quality or by the applicable state health department. The volume, quality, and strength of all liquid waste shall be discharged into a sewer in strict accordance with regulations of state and federal law.

502.01-05 Vibration and Electrical Emissions – There shall be no vibration or electrical emissions which are discernible to the human sense of feeling beyond the immediate site on which such activity is conducted.

502.01-06 Site Drainage – No driveways, walks, parking areas, etc., may be constructed across any drainage ditch, channel, or swale, without providing adequate culverts or waterway openings for natural drainage. Such culverts or structures shall provide the minimum waterway opening and shall be at the proper gradient. No rain and storm water runoff or such drainage as roof water, street pavement, and surface water caused by natural precipitation or groundwater from footing or foundation drains or other subsurface water drainage shall at any time be discharged into or permitted to flow into the sanitary sewer system.

## 503. SIGNS

503.01 Signs are permitted as hereinafter regulated, provided that no sign shall be permitted which is not accessory to the business conducted on the property.

503.02 Business signs may be erected, provided that the sum area of all signs does not exceed two (2) square feet per linear foot of building frontage. Such signs may be attached to the principal building and shall not extend more than five (5) feet above the roofline.

503.03 In addition to building signs, each separate lot may have one freestanding nameplate sign which is accessory to the business conducted on the premises. Any free standing nameplate sign as permitted by this section must meet all of the following requirements:

503.03-01 The height shall not exceed six (6) feet.

503.03-02 No freestanding nameplate sign shall be nearer than ten (10) feet from any abutting street right-of-way or property line.

503.03-03 The area of the sign shall not exceed nine (9) square feet.

503.03-04 In the event there is more than one (1) Tenant in the business building, each Tenant is entitled to one (1) nameplate sign attached to the freestanding sign provided. However, each such nameplate sign shall

be of uniform dimensions and lettering, and no nameplate sign shall exceed nine (9) square feet in area.

503.04 No sign shall be lighted by means of flashing or intermittent illumination.

503.05 There shall be no sign erected which will obstruct the vision of motor vehicle operators.

503.06 Traffic control, parking and directional signs conforming generally in size, shape, and type to recognized traffic signs are permitted.

503.07 One (1) sign, not exceeding thirty-two (32) square feet in area offering for sale or lease the site on which the sign is located is permitted.

503.08 All signs must meet the regulations and requirements of sign ordinances adopted by the applicable municipality or government body.

#### 504. FENCES

504.01 There shall be no fences located in the required front yard of a lot, and no fence, wall, hedge or shrub, plant or tree which obstructs site lines at elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on a corner within the triangular area formed by street right-of-way lines and a line connecting them at points

fifty (50) feet from the intersection of the street right-of-way lines.

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504.02 Security chain link fences are permitted as well as security guard houses.

### ARTICLE VI

#### MAINTENANCE

##### 601. MAINTENANCE

601.01 Each Tenant shall at all times keep his landscaping, premises, building, improvements, and appurtenances in a safe, clean, neat and sanitary condition and shall comply with all laws, ordinances, and regulations pertaining to health and safety. Each Tenant shall provide for the removal of trash and rubbish from his premises. All buildings, signs, improvements, lighting, and other appurtenances shall be maintained in good repair and working order, and all painted surfaces shall be kept clean and well painted.

601.02 During construction, it shall be the responsibility of each Tenant to ensure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, shacks, and the like are kept in a neat and orderly manner.

601.03 The Authority agrees to maintain all undeveloped parcels and rights-of-way owned by it within the Park in a manner compatible with the provisions stated in this Article.

### ARTICLE VII

#### ADDITION OF TERRITORY

##### 701. ADDITION OF TERRITORY

701.01 The Authority may, from time to time, and at any time during the pendency of these restrictions, add additional land to the lands described in Exhibit "A" attached hereto and be made a part thereof. Once a notice of addition to the lands described in Exhibit "A" is recorded, the Covenants contained in this Declaration shall apply to the added land in the same manner as if it were originally covered by this declaration, and thereafter, the rights, powers, and responsibilities of the Authority with respect to the added land shall be the same as with respect to the original land, and the rights, privileges, duties, and liabilities of the Tenants within the added land shall be the same as in the case of the original land.

### ARTICLE VIII

#### INVALIDATION

##### 801. WAIVER

801.01 Any waiver of failure to enforce any provision of these Covenants shall not be deemed a waiver or abandonment of such provision as it may apply in any other situation or to the same or similar situation in any other location in the Park or of any other provision.<sup>11</sup>

##### 802. COURT ADJUDICATION

802.01 Invalidation by court adjudication of any of the provisions herein shall not affect the validity of any other provision, and all other provisions thereof shall remain in full force and effect.

ARTICLE IX  
ENFORCEMENT

901. ENFORCEMENT

901.01 Enforcement of these Covenants may be either by injunction or by action at law for damages, but no such litigation may be maintained by any person other than the Authority.

ARTICLE X  
SUBLEASE

1001. SUBLEASE

1001.01 All subleases must be approved in writing by the Authority.

ARTICLE XI  
DURATION OF COVENANTS

1101. DURATION OF COVENANTS

1101.01 These Covenants shall run with the land. At any time the Authority or any Tenant in the Park may, by a written declaration, signed by them, and presented to the Authority, make a request to change, alter, amend, or extend such Covenants. The Authority may change, alter, amend or extend such Covenants as requested, subject to approval by both the Authority and the majority of the tenants/landowners within the Park, with the tenants/landowners voting according to the acreage within the Park that they own. The Authority will record such change, alteration, amendment or extension in the Office of the Chancery Clerk of Marshall County, whether by request from any Tenant or by its own initiative.

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EXECUTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2005.

INDUSTRIAL DEVELOPMENT AUTHORITY  
OF MARSHALL COUNTY

BY: \_\_\_\_\_

CHAIRMAN ATTEST:

\_\_\_\_\_  
SECRETARY

Amended:

March 3, 2005

August 4, 2005

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