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## ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS is made and entered into by DEAN HOFFMAN, an individual (the "Owner"),

### WITNESSETH:

Simultaneously with the execution and delivery hereof, The Industrial Development Board of the Town of Pelham, a public corporation and instrumentality under the laws of the State of Alabama (the "Board"), is issuing its First Mortgage Industrial Revenue Bonds (Engineered Control Systems Project), Series 1985, in the principal amount of \$140,000 (the "Bonds") under and pursuant to a Mortgage and Trust Indenture dated as of October 1, 1985 (the "Indenture"), between the Board and Central Bank of the South (the "Trustee"). The proceeds derived from the issuance of the Bonds will be applied to the acquisition, construction and installation of an industrial project (the "Project") on the land described on Exhibit A hereto which will be leased by the Board to the Owner pursuant to the terms of a Lease Agreement dated as of October 1, 1985 (the "Lease"), and subleased by the Owner. Pursuant to a Guaranty Agreement dated as of October 1, 1985 (the "Guaranty"), between the Owner and the Trustee, the Owner will unconditionally guarantee the payment of the principal of and the interest on the Bonds. Central Bank of the South has agreed to purchase the Bonds, but it has advised the Board and the Owner that it is not willing to purchase the Bonds unless the Owner enters into this Agreement. The Owner has requested that the Board issue the Bonds and apply the proceeds as aforesaid and is willing to enter into this Agreement in order to induce Central Bank of the South to purchase the Bonds, to enhance the marketability of the Bonds and thereby achieve a lower interest cost on the Bonds, which will in turn be reflected in lower rental costs to the Owner under the Lease, and to induce the purchase of the Bonds by all who shall at any time become holders of the Bonds.

NOW, THEREFORE, in consideration of the premises, the Owner hereby covenants and agrees with the Trustee as follows:

Section 1. Assignment. As additional security for the payment of the principal of and the interest on the Bonds and the performance of all obligations of the Owner under the Lease and under the Guaranty and all obligations of the Board under the Indenture, the Owner does hereby grant, transfer and assign unto the Trustee and its successors and assigns the following:

(a) All leases and subleases, written or oral, and all agreements for use or occupancy of any portion of the Project, any and all extensions and renewals of said leases, subleases and agreements and any and all further leases, subleases or agreements, now existing or hereafter made, including subleases thereunder, upon or covering the use or occupancy of all or any part of the Project, including, without limitation, the Sublease Agreement between the Owner and Engineered Control

Systems, Inc. dated as of October 1, 1985, all such leases, subleases, agreements and tenancies heretofore mentioned being hereinafter collectively referred to as the "Subleases".

(b) Any and all guaranties of the lessee's performance under any of the Subleases; and

(c) The immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due or to which the Owner may now or shall hereafter (including during the period of redemption, if any) become entitled or may demand or claim, arising or issuing from or out of the Subleases or from or out of any part of the Project, or any part thereof, including but not limited to minimum rents, additional rents, percentage rents, parking charges, tax and insurance premium contributions, and liquidated damages following default, the premium payable by any lessee upon the exercise of any cancellation privilege provided for in any of the Subleases, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to any part of the Project, together with any and all rights and claims of any kind which the Owner may have against any lessee under the Subleases or against any subtenants or occupants of any part of the Project, all such monies, rights and claims described in this paragraph being hereinafter referred to as the "Rents".

Section 2. Representations and Warranties. The Owner does hereby represent and warrant that:

(a) The Owner has, or will have, good title to the Subleases and Rents hereby assigned and good right to assign the same, and no other person, corporation or entity has any right, title or interest therein.

(b) The Owner has, or will have, duly and punctually performed all and singular the terms, covenants, conditions and warranties of the existing Subleases on the Owner's part to be kept, observed and performed.

(c) The Owner has not previously sold, assigned, transferred, mortgaged or pledged the Subleases or the Rents, whether now due or hereafter to become due, except as aforesaid.

(d) No Rents due for any period subsequent to the date hereof have been collected, and no payment of any of the Rents has otherwise been anticipated, waived, released, discounted, set off or otherwise discharged or compromised.

(e) The Owner has not received any funds or deposits from any lessee in excess of one month's rent for which credit has not already been made on account of accrued rents.

(f) No lessee under any existing Sublease is in default under any of the terms thereof.

Section 3. Covenants of the Owner. To protect the security of this Agreement and the assignment made hereby, the Owner covenants and agrees:

(a) To observe, perform and discharge all obligations, covenants and warranties provided for under the terms of the Subleases to be kept, observed and performed by the Owner, and to give prompt notice to the Trustee in the event the Owner fails to observe, perform and discharge same.

(b) To enforce or secure in the name of the Trustee the performance of each and every obligation, term, covenant, condition and agreement to be performed by any lessee under the terms of the Subleases.

(c) To appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Subleases or the obligations, duties or liabilities of the Owner and any lessee thereunder, and, upon request by the Trustee to do so in the name and on behalf of the Trustee but at the expense of the Owner, and to pay all costs and expenses of the Trustee, including reasonable attorneys' fees, in any action or proceeding in which the Trustee may appear.

(d) Not to receive or collect any Rents from any present or future lessee of the Project or any part thereof for a period of more than one month in advance, or pledge, transfer, mortgage or otherwise encumber or assign future payments of the Rents.

(e) Not to waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge any lessee of the Project of and from any obligations, covenants, conditions and agreements by said lessee to be kept, observed and performed, including the obligation to pay rent in the manner and at the place and time specified in any Sublease.

(f) Not to cancel, terminate or consent to any surrender of any Sublease, or modify or in any way alter the terms thereof without, in each such instance, the prior written consent of the Trustee.

(g) Promptly upon the execution by the Owner of any future lease, (i) furnish the Trustee with the name and address of the lessee thereunder, the term of such Sublease and a description of the premises covered thereby and, upon request of the Trustee, a copy of such lease, and (ii) execute all such further assignments of such Sublease and the Rents therefrom as the Trustee may require.

(h) To pay over to the Trustee immediately upon receipt any and all sums received by the Owner as creditor with respect to an assignment for the benefit of creditors in bankruptcy, reorganization, arrangement, insolvency, dissolution or receivership proceedings, or as payment, premium or other consideration in connection with the cancellation or modification of any Sublease, whereupon the Trustee shall apply any funds so received to the payment of rentals due under the Lease or the payment of debt service due on the Bonds, as the case may be.

Section 4. Rights of the Owner Prior to Default. So long as there shall exist no default by the Owner in the observance and performance of any obligation,

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covenant or warranty set forth herein, and no "Event of Default" has occurred and is continuing under the Lease, the Indenture or the Guaranty, the Owner shall have the right under a license granted hereby (but limited as provided in the following section) to collect, receive and retain, but not prior to accrual, all of the Rents arising from or out of the Subleases.

**Section 5. Rights of Trustee Upon Default.** Upon or at any time after default in the observance or performance of any obligation, covenant or warranty set forth herein, or the occurrence of any "Event of Default" under the terms of the Lease, the Indenture or the Guaranty, the Trustee, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies:

(a) to terminate the license hereby granted to the Owner to collect the Rents as aforesaid, and, without taking possession, in the Trustee's own name, to demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor, and after deducting all necessary and reasonable costs and expenses of collection, including reasonable attorney's fees, to apply the net proceeds thereof to the payment of all rentals due under the Lease Agreement or to the payment of the principal of and interest due on the Bonds, as the case may be;

(b) without regard to the adequacy of the security, with or without any action or proceeding, through any person or by agent, or by a receiver to be appointed by court, and irrespective of the Owner's possession, to enter upon, take possession of, manage and operate the Project or any part thereof for the account of the Owner, make, modify, enforce, cancel or accept surrender of any Sublease, remove and evict any lessee, increase or reduce rents, decorate, clean and make repairs, and otherwise do any act or incur any cost or expenses the Trustee shall deem proper to protect the security hereof, as fully and to the same extent as the Owner could do if in possession, and in such event to apply any funds so collected to the operation and management of the Project (including payment of reasonable management, brokerage and attorney's fees) and payment of any rentals due under the Lease or debt service due on the Bonds, as the case may be; and

(c) to take whatever legal proceedings may appear necessary or desirable to enforce any obligation or covenant or agreement of the Owner under this Agreement or by law.

The collection of the Rents and application thereof as aforesaid or the entry upon and taking possession of the Project or both shall not cure or waive any default or waive, modify or affect any notice of default under the Lease the Indenture, the Bonds or hereunder, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by the Trustee, once exercised, shall continue for so long as the Trustee shall elect, notwithstanding that the collection and application aforesaid of the Rents may have cured the original default. If the Trustee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default.

Section 6. Termination. This Agreement and the assignment made herein shall remain in effect until the payment in full of the principal of and the interest on the Bonds and the payment, performance and observance of all obligations secured hereby. Upon the termination of this Agreement, the Trustee shall execute and deliver all such releases and other documents as are necessary to effect the termination hereof upon the request of the Owner and at the expense of the Owner.

Section 7. Binding Effect. This Agreement shall run with the land described on Exhibit A hereto and shall bind the Owner and his successors and assigns.

Section 8. Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses, or sections of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part thereof.

IN WITNESS WHEREOF, the Owner has hereunto set his hand and seal, in five (5) counterparts, each of which shall be deemed an original, and has caused this Assignment Agreement to be dated as of October 1, 1985, although actually executed and delivered on October 15, 1985.

WITNESS:

1 Cert. [Signature]

  
DEAN HOFFMAN (SEAL)

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that DEAN HOFFMAN, whose name 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 said instrument, he executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal of office, this 15th day of October, 1985.

[ NOTARIAL SEAL ]

Beverly Mostafavi  
Notary Public

My Commission Expires:

10/25/87

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**EXHIBIT A**  
**to**  
**ASSIGNMENT OF LEASES AND RENTS**  
**by**  
**DEAN HOFFMAN**

The following described parcel of land located in the City of Pelham in Shelby County, Alabama:

Part of the E 1/2 of SW 1/4 of Section 30, Township 19 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows: From the Southwest corner of Lot 3B, 2nd Amendment Commercial Subdivision Riverchase East First Sector, a map of which is recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 6, page 139, run in a Northerly direction along the West line of said Lot 3B, for a distance of 28.21 feet to an existing iron pin, being the point of beginning; thence continue in a Northerly direction along said West line of Lot 3B for a distance of 134.64 feet to an existing iron pin; thence turn an angle to the left of 90 degrees and run in a Westerly direction for a distance of 323.48 feet to a point on the East right of way line of Business Center Drive; thence turn an angle to the left of 89 degrees 57 minutes and run in a Southerly direction along said East right of way line for a distance of 134.64 feet to an existing iron pin; thence turn an angle to the left of 90 degrees 03 minutes and run in an Easterly direction for a distance of 323.60 feet to the point of beginning.

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STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED

1985 OCT 22 PM 3 28

*Thomas G. Saunders, Jr.*  
JUDGE OF PROBATE

**RECORDING FEES**

|               |                 |
|---------------|-----------------|
| Recording Fee | \$ 17.50        |
| Index Fee     | 1.00            |
| <b>TOTAL</b>  | <b>\$ 18.50</b> |