

THE INDUSTRIAL DEVELOPMENT BOARD OF THE  
CITY OF PELHAM

TO

FIRST ALABAMA BANK OF BIRMINGHAM  
AS TRUSTEE

---

FIRST SUPPLEMENTAL INDENTURE

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DATED AS OF NOVEMBER 1, 1982

FIRST MORTGAGE REVENUE BOND

ALTEC INDUSTRIES, INC.  
1982 INDUSTRIAL DEVELOPMENT PROJECT

This Instrument Prepared By:

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# FIRST SUPPLEMENTAL INDENTURE

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STATE OF ALABAMA )

SHELBY COUNTY )

This FIRST SUPPLEMENTAL INDENTURE made and entered into as of November 1, 1982, by and between THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF PELHAM, a public corporation duly organized and existing under the laws of the State of Alabama (the "Board"), and FIRST ALABAMA BANK OF BIRMINGHAM, an Alabama banking corporation authorized to accept and execute trusts of the character herein set out, with its principal office located in the City of Birmingham, Alabama (the "Trustee") as Trustee under the Mortgage and Indenture of Trust dated as of November 1, 1981 and recorded in Book 417 at page 47, et seq., in the office of the Judge of Probate of Shelby County, Alabama (the "Original Indenture") between the Board and the Trustee, securing Bonds issued and to be issued as provided therein:

**W I T N E S S E T H**

WHEREAS, the Board heretofore has been organized under, and is authorized by Act No. 648, adopted at the 1949 Regular Session of the Legislature of the State of Alabama, approved September 19, 1949, as amended (said Act being codified as Code of Alabama, 1975 Sections 11-54-80, et seq., and hereinafter referred to as the "Act"), to acquire land and buildings and other improvements thereon and machinery and equipment in order to promote industry, develop trade and further the use of the agricultural products and natural resources of the State of Alabama (the "State") by inducing manufacturing, industrial, commercial and research enterprises to establish new projects in the State or to enlarge and expand existing projects located in the State; and

WHEREAS, the Board is further authorized by the Act to issue industrial development revenue bonds payable solely from the revenues and receipts derived from the leasing or sale of the land and other improvements so constructed or acquired; and,

WHEREAS, the Board made the necessary arrangements with Altec Industries, Inc., an Alabama corporation (hereinafter called the "Lessee"), for constructing and equipping a corporate headquarters office facility on real property owned by the Board (such real property and facility being collectively hereinafter called the "Project") which will be of the character and accomplish the purposes provided by the Act; and

WHEREAS, in furtherance of the above-mentioned purposes, the Board has entered into a lease agreement dated as of November 1, 1981, and an Amendment to Lease Agreement dated as of November 1, 1982 (said Lease as amended is herein called the "Lease"), with the Lessee to acquire, construct, improve and equip the Project and lease the Project to the Lessee; and

WHEREAS, the Lease provides that in order to finance the costs of acquiring, constructing, improving and equipping the Project, the Board will issue and sell its first mortgage revenue bonds and that the Board will lease the Project to the Lessee for the rental price stated in the Lease; and

WHEREAS, the Board has heretofore executed and delivered the Original Indenture to secure its registered revenue bond in the aggregate principal amount of \$1,500,000 issued to pay the initial cost of the Project, which series was designated "The Industrial Development Board of the Town of Pelham, Altec Industries, Inc. 1981 Industrial Development Project" dated November 1, 1981 (the "Original Bond") in the manner and subject to the conditions set forth in the Original Indenture, and has granted, bargained, sold, conveyed and assigned to the Trustee as security for the payment of principal, interest and premium, if any, on the Bond issued under the Original Indenture, all rights, title, and interest of the Board in the Lease, and all revenues and receipts received or to be received thereunder; and

WHEREAS, the execution and delivery of this Supplemental Indenture (the "Supplemental Indenture", the Supplemental Indenture and the Original Indenture being hereinafter collectively called the "Indenture") and the Lease have been, in all

respects, duly and validly authorized by resolution adopted by the Board; and

WHEREAS, Section 207 of the Original Indenture provides for the issuance of additional bonds for the purpose of paying the costs of completing the Project; and

WHEREAS, in order to provide funds for costs of completing the Project, the Board has duly authorized the issuance and sale of an additional bond under the Indenture in the principal amount of \$500,000, to be designated "The Industrial Development Board of the City of Pelham First Mortgage Revenue Bond, (Altec Industries, Inc. 1982 Industrial Development Project)" (hereinafter called "this Bond" or the "1982 Bond") and, together with the Original Bonds issued under the Original Indenture, the "Bonds"); and

WHEREAS \$500,000 principal amount 1982 Bond is in substantially the following form, with necessary and appropriate variations, omissions and insertions as are required or permitted by the Indenture, to wit:

[FORM OF BOND]

NO. R \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF ALABAMA  
THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE CITY OF PELHAM  
FIRST MORTGAGE REVENUE BOND  
ALTEC INDUSTRIES, INC.  
1982 INDUSTRIAL DEVELOPMENT PROJECT

KNOW ALL MEN BY THESE PRESENTS That The Industrial Development Board of the City of Pelham, a public corporation created and existing under the laws of the State of Alabama (hereinafter called the "Board"), for value received, promises to pay from the source and as hereinafter provided to First Alabama Bank of Birmingham (hereinafter called the "Payee"), or registered

assigns (hereinafter sometimes called the "Alternate Payee"), the principal sum of Five Hundred Thousand Dollars (\$500,000) and in like manner to pay interest on said sum from the date hereof at the rate of sixty-five percent (65%) (the "Applicable Percentage") of the base interest rate announced from time to time by First Alabama Bank of Birmingham, at its principal office in Birmingham, Alabama, for ninety (90) day loans to industrial borrowers of substantial sizes and high credit standing (hereinafter called the "Base Rate"), except said interest rate shall never be lower than nine percent (9%) nor higher than thirteen percent (13%) even though the Applicable Percentage of the Base Rate might otherwise require a lower or higher interest rate.

~~Said interest shall be payable semi-annually commencing May~~

1, 1983 and on each November 1 and May 1 thereafter on the amount of principal then outstanding. The rate of interest shall be determined based on the Base Rate then in effect on each May 1 and November 1 and shall apply to the payment of the succeeding ~~November 1 and May 1~~, respectively, so that the interest rate being charged at the beginning of said semi-annual period shall apply throughout the period, except the rate of interest for the first semi-annual period shall be determined based on the Base Rate in effect on the date the Bond is executed. Said principal shall be payable as follows:

<u>Payment Date</u>	<u>Principal Amount</u>
November 1, 1983	15,000
November 1, 1984	15,000
November 1, 1985	20,000
November 1, 1986	20,000
November 1, 1987	25,000
November 1, 1988	25,000
November 1, 1989	30,000
November 1, 1990	35,000

<u>Payment Date</u>	<u>Principal Amount</u>
November 1, 1991	40,000
November 1, 1992	45,000
November 1, 1993	50,000
November 1, 1994	55,000
November 1, 1995	60,000
November 1, 1996	65,000

Both principal of, and interest on this Bond are payable in lawful money of the United States of America at the principal office of the Trustee, First Alabama Bank of Birmingham, in the City of Birmingham, Alabama, or of its successor in trust.

This Bond constitutes a duly authorized issue of \$500,000 aggregate principal amount of industrial development revenue bonds issued for the purpose of completing and equipping a corporate headquarters and office facility and leasing the same to Altec Industries, Inc., an Alabama corporation, (hereinafter referred to as the "Lessee"), and paying necessary expenses incidental thereto. The Bond is issuable in the form of a single fully registered Bond only.

This Bond is issued under and secured and entitled to the protection given by the Mortgage and Indenture of Trust (hereinafter called the "Original Indenture"), dated as of November 1, 1981, as supplemented by a Supplemental Indenture dated as of November 1, 1982 (hereinafter called the "Supplemental Indenture" and, together with the Original Indenture, called the "Indenture"), duly executed and delivered by the Board to First Alabama Bank of Birmingham, Birmingham, Alabama, as Trustee (the term "Trustee" where used herein refers to said Trustee or its successor in trust), which Indenture is recorded in the Office of the Judge of Probate of Shelby County, Alabama. This Bond will rank equally and ratably on a parity with the Original Bond.

Reference is hereby made to the Indenture and to all indentures supplemental thereto for a description of the property mortgaged, the provisions, among others, with respect to the nature and extent of the security, and the rights, duties and obligations of the Board, the Trustee and the holders of this Bond and the terms upon which this Bond is issued and secured. Each holder, by acceptance of this Bond, consents to all of the provisions of the Indenture.

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The Board has entered into a Lease, dated as of November 1, 1981, and an Amendment to Lease Agreement dated as of November 1, 1982 (said Lease as amended is herein called the "Lease"), with the Lessee under the provisions of which the Board has leased the Project to the Lessee and the Lessee has leased the Project from the Board. The Lease provides for the payment by the Lessee of rents for the Project in installments sufficient to pay the principal of, premium, if any, and interest on this Bond as the same shall become due and payable. The Lease further provides that the rental installments shall be ~~paid directly to the~~ Trustee for the account of the Board and shall be deposited to the credit of a special fund created by the Indenture and designated "Industrial Development Bond Fund, Altec Industries, Inc. Industrial Development Project", (herein called the "Bond Fund"), which special fund is pledged to and charged with the payment of the principal of, premium, if any, and interest on this Bond issued under the Indenture, and such rental installments have been duly pledged and assigned for that purpose. In addition, all other rights of the Board under the Lease have been assigned to the Trustee to secure payment of such principal of, premium, if any, and interest on the Bond under the Indenture.

The transfer of this Bond may be registered by the holder hereof in person or by his duly authorized attorney or legal representative at the principal office of the Trustee, but only in the manner and subject to the limitations and conditions provided in the Indenture.



Prior to November 1, 1983, this Bond is subject to prepayment in the event of (1) condemnation of the Project or any part thereof, or in the event of failure of title, to the extent provided in Section 7.2 of the Lease or (2) exercise by the Lessee of the Lessee's option to purchase the Project as provided in Section 11.2 of the Lease. If any of the events described in Section 7.2 of the Lease occur, this Bond shall be subject to prepayment by the Board at any time, in whole or in part, at 100 percent of the principal amount thereof plus accrued interest to the redemption date.

The entire unpaid principal balance of this Bond or any lesser portion thereof not less than \$5,000 is subject to prepayment at the option of the Board on any interest payment date after November 1, 1983, without premium.

In addition, if a Final Determination is made that interest on this Bond is subject to federal income taxation for any reason other than the circumstances described in section 103(b)(10) of the Internal Revenue Code of 1954, as amended (relating to ~~interest on a bond held by a "substantial user"~~ of the Project or a "related person"), this Bond shall be prepaid in whole within 90 days following such Final Determination at a prepayment price equal to the entire unpaid principal balance of this Bond, plus interest accrued hereon to the date of such prepayment, and a premium equal to the amount of any additional interest required to produce an interest rate equal to First Alabama Bank of Birmingham's Base Rate in effect on each interest payment date for the period of time during which the interest income on the Bond was so subject to federal income taxation. Such a Final Determination shall be deemed to have been made upon the occurrence of either of the following: (i) the date on which the Lessee or the Trustee shall be advised by private ruling, technical advice or other written communication from an authorized official of the Internal Revenue Service that interest on this Bond is subject to federal income taxation; or (ii) the date on which the Lessee shall receive from the Bondholder notice in

writing that the Bondholder has been advised by an authorized official of the Internal Revenue Service that interest on this Bond is subject to federal income taxation; provided, that no such determination shall be deemed final unless and until the Lessee has been afforded reasonable opportunity, at the Lessee's sole expense, to contest such determination through its own action (if permitted by law) or by or on behalf of the Trustee, and such contest, if made, has been abandoned by the Lessee or a final order with respect to such contest has been entered by a court of competent jurisdiction from which no further appeal exists.

Written notice of any prepayment shall be given by the Board to the Trustee and the Bondholder at their principal offices at ~~least five days prior to the prepayment date.~~

Any partial prepayment of principal shall not postpone the due date nor change the amount of any subsequent installments coming due hereunder prior to the payment in full of the principal and interest on this bond.

This Bond is issued pursuant to and in full compliance with the Constitution and laws of the State of Alabama, particularly Act. No. 648 adopted at the 1949 Regular Session of the Legislature of the State of Alabama, approved September 19, 1949, as amended, (said Act being codified as Code of Alabama, 1975, Sections 11-54-80, et seq.) pursuant to a resolution adopted and approved by the Board, which resolution authorizes the execution and delivery of the Indenture.

This Bond is a limited obligation of the Board and is payable solely out of the revenues and receipts derived from the leasing or sale of the Project financed through the issuance of this Bond, which Project has been leased to the Lessee. This Bond does not and shall never constitute an obligation of or a charge against the general credit or taxing powers of the City of Pelham. Rental payments under the Lease sufficient for the prompt payment when due of the principal of, premium, if any, and interest on this Bond are to be paid to the Trustee for the

account created by the Board under the Indenture, and, in addition, the Project has been mortgaged to secure payment of such principal, premium, if any, and interest under the Indenture.

Altec Industries, Inc. (the "Guarantor") has guaranteed, (a) the full and prompt payment of principal of, and premium, if any, on this Bond when due and payable, whether at the stated maturity thereof, by acceleration, upon mandatory prepayment prior to maturity, or otherwise, and (b) the full and prompt payment of the interest on this Bond when due and payable. The Guarantor has also agreed to indemnify the Trustee from losses resulting from an adjudication that this Bond is invalid for whatever reason, by purchasing this Bond, within 15 days after being requested so to do, for a purchase price equal to the outstanding principal balance of this Bond plus accrued interest thereon to the repurchase date.

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In the event a Final Determination is made that interest on this Bond is subject to federal income taxation, the Guarantor has agreed to indemnify and hold harmless the Trustee from the consequences of such Final Determination by paying the Trustee an amount equal to the amount of any additional interest required to produce an interest rate equal to the Base Rate in effect on each interest payment date for the period of time during which the interest income on the Bond became so subject to federal income taxation.

The holder of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, except as provided in the Indenture, provided that nothing herein or in the Indenture stated shall affect or impair the right of any Bondholder to enforce the payment of the principal of, premium, if any, and interest on this Bond at and after the maturity thereof.

In certain events, on the conditions, in the manner, and with the effect set forth in the Indenture, the entire unpaid principal balance of this Bond may become or may be declared, due

and payable before the stated maturity thereof, together with interest accrued thereon.

Modifications or alterations of the Indenture or of any supplements thereto may be made only to the extent and in the circumstances permitted by the Indenture.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the Lease, and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law; that the issuance of this Bond, together with all other obligations of the Board, do not exceed or violate any constitutional or statutory limitation, and that the rental ~~payments under the Lease pledged to the payment of the principal~~ of, premium, if any, and interest on this Bond, as the same become due, will be sufficient in amount for that purpose.

This Bond and the income therefrom also are exempt from all taxation in the State of Alabama.

IN WITNESS WHEREOF, The Industrial Development Board of the City of Pelham has caused this Bond to be executed in its name with the signature of the Chairman of its Board of Directors and attested with the signature of its Secretary and its corporate seal to be hereunto imprinted, all as of the 1st day of November, 1982.

THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE CITY OF PELHAM

By: \_\_\_\_\_  
Its Chairman

(SEAL)  
ATTEST:

\_\_\_\_\_  
Its Secretary

TRUSTEE'S AUTHENTICATION CERTIFICATE

This Bond is the Bond described in the within mentioned Mortgage and Indenture of Trust.

FIRST ALABAMA BANK OF BIRMINGHAM,  
Trustee

By: \_\_\_\_\_  
Authorized Officer

ASSIGNMENT

For value received, the undersigned owner does hereby sell, assign and transfer to \_\_\_\_\_ the within Bond of The Industrial Development Board of the City of Pelham, designated as First Mortgage Revenue Bond, (Altec Industries, Inc. 1982 Industrial Development Project) and all sums of money now due and to become due on the said Bond, standing in the name of the undersigned on the books of said Board, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to effect the transfer thereof on the books of the Board or its Registrar.

Dated: \_\_\_\_\_ By: \_\_\_\_\_

[END OF FORM OF BOND]

WHEREAS, all things necessary to make the Bond, issued as in ~~this~~ Supplemental Indenture provided, the valid, binding and legal obligation of the Board according to the import thereof, and to constitute the Indenture as supplemented a valid lien on the Project and a valid pledge of the rental payments and revenues herein made to the payment of the principal of, premium, if any, and interest on the Bond, have been done and performed, and the creation, execution and delivery of this Supplemental Indenture, and the creation, execution and issuance of the Bond, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS SUPPLEMENTAL INDENTURE WITNESSETH:

That the Board, in confirmation of the Original Indenture, and in consideration of the premises and the acceptance by the

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Trustee of the trusts hereby created and of the purchase and acceptance of the Bond by the holder and owner thereof, and of the sum of One Dollar, lawful money of the United States of America, to it duly paid by the Trustee at or before the execution and delivery of these presents, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on the Bond according to its tenor and effect and the performance and observance by the Board of all the covenants expressed or implied herein and in the Bond, does hereby grant, bargain, sell, convey, mortgage and pledge unto First Alabama Bank of Birmingham, as Trustee, and unto its successors in trust, and to its assigns forever for the securing of the performance of the obligations of the Board hereinafter set forth:

I.

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The following described real estate and premises situated in the County of Shelby and State of Alabama, together with all buildings, additions and improvements now or hereafter located thereon or therein, with the tenements, hereditaments, appurtenances, rights, privileges and immunities thereunto belonging or appertaining, to-wit:

The real estate known as "Site 10, Inverness Center" more particularly described in Exhibit "A" attached hereto.

II.

All machinery, equipment and personal property acquired by the Board and installed in or about the Building or Mortgaged Property pursuant to the Lease Agreement, including without limitation any equipment and personal property acquired with the proceeds from the sale of the Bond and the equipment and personal property described in Exhibit B attached hereto and made a part hereof and any equipment and personal property acquired in substitution therefor or as a renewal or replacement thereof pursuant to the terms of the Lease and this Indenture;

III.

All rights, title and interest of the Board in the Lease, and all rentals, revenues and receipts derived or to be derived thereunder (except for payments for indemnification under Section 5.6 of the Lease) as security for the payment of the Bond and the interest thereon and as security for the satisfaction of any other obligation assumed by it in connection with such Bond; and it is mutually agreed and covenanted by and between the parties hereto for the equal and proportionate benefit and security of all and singular the present and future holders of the Bonds issued under this Indenture;

IV.

The funds held by the Trustee pursuant to the terms of this Indenture; and

V.

Any and all other real or personal property of every kind and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, hypothecated, assigned ~~or transferred~~, as and for additional security hereunder by the Board or by anyone in its behalf, or with its written consent to the Trustee which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same ~~subject~~ to the terms hereof.

SUBJECT HOWEVER to Permitted Encumbrances as hereinafter defined.

TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby and hereafter conveyed and assigned, or agreed or intended so to be, to the Trustee and its respective successors in said Trust and assigns forever;

IN TRUST, NEVERTHELESS, upon the terms and conditions herein set forth;

PROVIDED, HOWEVER, that if the Board, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of, premium, if any, and the interest due or to become due



on the Bond, at the times and in the manner mentioned in the Bond according to the true intent and meaning thereof, and shall cause the payments to be made into the Bond Fund as required under Article 5 hereof, or shall provide, as permitted hereby, for the payment thereof by depositing with the Trustee the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments by the Board this Indenture and the rights hereby granted shall cease, determine and be void; otherwise this Indenture shall remain in full force and effect.

THIS SUPPLEMENTAL INDENTURE FURTHER WITNESSETH, and it is expressly declared, that the Bond issued and secured hereunder is to be issued, authenticated and delivered, and all said property, rights and interest, including, without limitation, the amounts hereby assigned and pledged, are to be dealt with and disposed of subject to the terms of the Indenture as supplemented.

#### ARTICLE I

All words and phrases defined in Article I of the Lease and in Article I of the Original Indenture shall have the same meaning in this Supplemental Indenture. All terms used herein which are defined in the recitals hereto (other than the Form of Bond) shall have the meanings there given to them unless the context otherwise requires.

#### ARTICLE II

##### THE ADDITIONAL BONDS

Section 201. Issuance of 1982 Bond. There shall be issued under and secured by the Indenture, an additional bond of the Board in the principal amount of \$500,000 for the purpose of providing funds for completing the Project. Said additional bond



shall be designated "The Industrial Development Board of the City of Pelham, First Mortgage Revenue Bond (Altec Industries, Inc. 1982 Industrial Development Project)" (herein called the "1982 Bond"), shall be dated as of November 1, 1982, shall be in such form, shall bear interest at such rate, shall be payable at such time or times and in such amounts, shall be subject to prepayment at such times and under such conditions, and shall set forth such other terms as in the form of Bond hereinabove set forth. Said 1982 Bond shall rank equally and ratably on a parity with the Original Bond.

Section 202. Execution. The 1982 Bond shall be executed and attested on behalf of the Board with the signatures of the Chairman or Vice Chairman and the Secretary of its Board of Directors and shall have imprinted thereon the corporate seal of the Board. In case any officer whose signature shall appear on the Series B Bond shall cease to be such officer before the authentication and delivery of such 1982 Bond, such signature shall nevertheless be valid and sufficient for all purposes, ~~the same as if he had remained in office until authentication and delivery.~~

Section 203. Authentication. Only such 1982 Bond as shall have endorsed therein a certificate of authentication substantially in the form hereinabove set forth, duly executed by the Trustee, shall be entitled to any right or benefit under the Indenture. No 1982 Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee.

Section 204. Form of 1982 Bond. The 1982 Bond to be issued under this Supplemental Indenture shall be substantially in the form hereinabove set forth with such appropriate variations, omissions and insertions as are permitted or required by this Supplemental Indenture.

Section 205. Delivery of 1982 Bond. Upon the execution and delivery of this Supplemental Indenture, the Board shall execute and deliver to the Trustee and the Trustee shall authenticate the

1982 Bond and deliver it to the purchaser thereof as directed by the Board but only after there has been filed with the Trustee:

1) An executed counterpart of this Supplemental Indenture.  
2) An executed counterpart of the Amendment to Lease Agreement.

3) A copy, duly certified by the Secretary or Assistant Secretary of the Board of Directors of the Board, of the resolution theretofore adopted and approved by said Board of Directors authorizing the execution and delivery of the Additional Bond, Supplemental Indenture and Amendment to Lease Agreement.

4) A request and authorization to the Trustee on behalf of the Board and signed by the Chairman or Vice Chairman, and the Secretary or an Assistant Secretary, of the Board to deliver the 1982 Bond to the purchaser therein identified upon such payment to the Trustee, for the account of the Board of a specified sum plus any accrued interest.

5) A certificate signed by the Lessee certifying that no event of default under the Original Indenture or Lease will result from the issuance of the 1982 Bond.

6) A valid and effective amendment to the Guaranty, pursuant to which such 1982 Bond is subjected to the terms of the Guaranty.

7) An opinion of bond counsel acceptable to the Trustee to the effect that the Amendment to Lease Agreement and the Supplemental Indenture have been properly authorized and executed and that issuance of the 1982 Bond will not affect the tax exempt status of interest payable on the Original Bonds.

### ARTICLE III

Section 301. Application of Proceeds; Payments into the Bond Fund. There shall be deposited into the Bond Fund established by Section 502 of the Original Indenture a portion of the proceeds for the sale of the 1982 Bond consisting of accrued interest on the 1982 Bond. The balance of the proceeds of the

sale of the 1982 Bond shall be deposited in the Construction Fund established by Section 601 of the Original Indenture. The Board hereby covenants and agrees that, so long as the 1982 Bond is outstanding, it will deposit, or cause to be paid to the Trustee for deposit in the Bond Fund for its account, sufficient sums from revenues and receipts derived from the lease of the Project, whether or not under and pursuant to the Agreement, promptly to meet and pay the principal, interest and premium, if any, on the 1982 Bond as the same become due and payable; provided, however, that nothing herein shall be construed as requiring the Board to use any funds or revenues from any source other than receipts and revenues derived from the lease of the Project or payment pursuant to the Guaranty.

#### ARTICLE IV

##### SPECIAL COVENANTS

Section 401. Covenants and Representation Regarding the Small Issue Exemption. The Board warrants and represents that it has filed with the ~~Internal Revenue Service~~ all statements (based on information supplied by the Lessee) required pursuant to Section 103(b)(6)(D) of the Code for the purpose of making an election to qualify the 1982 Bond as a small issue, the interest of which is exempt from federal income taxation. The Board understands, on the basis of the representations on the part of the Lessee and the aforesaid election, (i) that the interest income on the 1982 Bond will [except as provided in Section 103(b)(10) of the Code] be exempt from taxation by the United States of America under the provisions of Section 103 of the Code, and (ii) more particularly, that the general provisions of Section 103(b) of the Code, denying to the interest income of public securities of the general nature of the 1982 Bond exemption from federal income taxation, are not now applicable to the 1982 Bond because it comprises an issue in the aggregate authorized face amount of \$10,000,000 or less, determined as provided in Section 103(b)(6)(D) of the Code.

Section 402. Covenant Against Arbitrage. The Board hereby covenants and agrees with the Trustee and the holder of the Bonds that the proceeds of the 1982 Bond shall not be used or applied by it in such manner as to constitute the Bonds "arbitrage bonds" as that term is defined in Section 103(c) of the Code. Without limiting the generality of the foregoing, the Board and the Trustee covenant for the benefit of the holder of the 1982 Bond that they will make no use, or allow the use of the proceeds of the Bonds which, if such use had been reasonably expected on the date of issuance of the Bonds, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 103(c) of the Code.

#### ARTICLE V

Section 501. Confirmation of Original Indenture. As supplemented by this Supplemental Indenture, the Original Indenture is in all respects ratified and confirmed, and the Original Indenture and this Supplemental Indenture shall be read, taken and construed as one and the same instrument so that all of the rights, remedies, terms and conditions, covenants and agreements of the Original Indenture shall apply and remain in full force and effect with respect to this Supplemental Indenture and to the 1982 Bond issued hereunder, and the 1982 Bond will be deemed to be a Bond within the meaning of the Original Indenture and shall rank equally and ratably on a parity with the Original Bond.

#### ARTICLE VI

Section 601. Performance of Covenants. The Board covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions set forth in this Supplemental Indenture, in the 1982 Bond executed, authenticated and delivered hereunder and in all of its proceedings pertaining hereto. The Board covenants that it is duly authorized under the Constitution and laws of the State of Alabama, including particularly and without limitation the Act, to issue the 1982 Bond

authorized hereby and to execute this Supplemental Indenture, and to pledge the amounts hereby pledged in the manner and to the extent herein set forth; that all action on its part necessary for the issuance of the 1982 Bond and the execution and delivery of this Supplemental Indenture has been duly and effectively taken, and that the 1982 Bond in the hands of the holder and owner thereof is and will be a valid and enforceable obligation of the Board according to the terms thereof and hereof.

Section 602. Trustee's Consent. The Trustee does hereby consent to the execution of the Amendment to Lease Agreement.

Section 603. Original Bonds Purchaser's Consent. The holder of 100% in principal amount of the Original Bond outstanding does hereby consent to the execution of this Supplemental Indenture, the Amendment to Lease Agreement and to the provisions hereof and thereof.

IN WITNESS WHEREOF, the Industrial Development Board of the City of Pelham has caused these presents to be signed in its name and behalf and its corporate seal to be hereunto affixed and attested all by its duly authorized officers, and to evidence its acceptance of the trusts created hereby, and its consent to this Supplemental Agreement, First Alabama Bank of Birmingham has caused these presents to be signed in its name and on its behalf as Trustee and as purchaser of the Original Bond by its duly authorized officer and its official seal to be affixed and the same to be attested, all as of the 1st day of November, 1982.

THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE CITY OF PELHAM

By:

Daniel M. Spitzer  
Its Chairman

ATTEST:

J. Max Year  
Secretary

FIRST ALABAMA BANK OF BIRMINGHAM,  
TRUSTEE

By: Ray J. Burdwell  
Its Vice President-Corporate Trust  
Manager

[SEAL]

FIRST ALABAMA BANK OF BIRMINGHAM  
as Purchaser of the Original Bonds

By: William E. Jordan  
Its Executive Vice President

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STATE OF ALABAMA )

JEFFERSON COUNTY )

I, the undersigned, a Notary Public in and for said County in said State, do hereby certify that Daniel M. Spitler whose name as Chairman of the Board of Directors of The Industrial Development Board of the City of Pelham is signed to the foregoing First Supplemental Indenture, and who is known to me, and known to be such officer, acknowledged before me on this day that, being informed of the contents of said First Supplemental Indenture, such officer in the capacity as such and with full authority, executed the same voluntarily for and as the act of the Board.

Given under my hand and seal of office this the 1st day of November, 1982.

P. J. Burdwell  
Notary Public

STATE OF ALABAMA )

JEFFERSON COUNTY )

I, the undersigned, a Notary Public in and for said County in said State, do hereby certify that Roy D. Birdwell, whose name as Vice President-Corporate Trust Manager of First Alabama Bank of Birmingham is signed to the foregoing First Supplemental Indenture, and who is known to me, and known to be such officer, acknowledged before me this day that, being informed of the contents of the said First Supplemental Indenture, he, in his capacity as such officer and with full authority, executed the same voluntarily for and as the act of said Bank.

Given under my hand and seal of office this the 1st day of November, 1982.



E. J. Jordan  
Notary Public

STATE OF ALABAMA )

JEFFERSON COUNTY )

I, the undersigned, a Notary Public in and for said County in said State, do hereby certify that William E. Jordan, whose name as Executive Vice President of First Alabama Bank of Birmingham is signed to the foregoing First Supplemental Indenture, and who is known to me, and known to be such officer, acknowledged before me this day that, being informed of the contents of the said First Supplemental Indenture, he, in his capacity as such officer and with full authority, executed the same voluntarily for and as the act of said Bank as purchaser of the Original Bond therein defined.

Given under my hand and seal of office this the 1st day of November, 1982.

E. J. Jordan  
Notary Public



EXHIBIT A

A part of the Southwest Quarter of Section 36, Township 18 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows: Commence at the Southeast Corner of the Southwest Quarter of Section 36, Township 18 South, Range 2 West and run North along the East line of the Southwest Quarter 2513.59 feet to a point on the Southerly right of way line of U.S. Highway #280; thence backsighting on last course turn an interior angle right of  $119^{\circ}05'10''$  and run Northwesterly 119.32 feet to a point on the centerline of the Southerly bound lanes of Inverness Center Drive; thence backsighting on last course turn an interior angle right of  $94^{\circ}10'39''$  and run Southwesterly 281.94 feet along said centerline to the point of curve to the right; running thence Southwesterly along the arc of said curve having a chord of 155.15 feet that forms an interior angle to the left of  $169^{\circ}29'$  to chord and an arc distance of 156.02 feet (said curve having a radius of 425.02 feet and a central angle of  $21^{\circ}02'$ ); thence backsighting last chord turn an interior angle left of  $169^{\circ}29'$  and run Southwesterly 151.38 feet along said centerline to a point of curve to the left; running thence Southwesterly to Southeasterly along the arc of said curve having a chord of 280.45 feet that forms an interior angle to the right of  $150^{\circ}41'38''$  to chord and an arc distance of 293.06 feet (said curve having a radius of 286.48 feet and a central angle of  $58^{\circ}36'44''$ ); thence backsighting last chord turn an interior angle left of  $119^{\circ}18'22''$  and run Westerly 28.0 feet to the point of beginning being on the Westerly right of way of Inverness Center Drive; thence backsighting last course turn an interior angle right of  $90^{\circ}00'$  and run Southeasterly 124.65 feet along said right of way to a point of curve to the right; running thence Southwesterly along the arc of said curve having a chord of 209.81 feet that forms an interior angle to the left of  $164^{\circ}37'48''$  to chord and an arc distance of 212.35 feet (said curve having a radius of 395.77 feet and a central angle of  $30^{\circ}44'30''$ ); thence backsighting last chord turn an interior angle left of  $111^{\circ}09'40''$  to chord and run Southwesterly 303.17 feet; thence backsighting last course turn an interior angle left of  $92^{\circ}56'$  and run Northerly 25.25 feet along the shoreline of Lake Heather; thence backsighting last course turn an interior angle left of  $226^{\circ}33'$  and run Northwesterly 85.30 feet along said shoreline; thence backsighting last course turn an interior angle left of  $161^{\circ}42'$  and run Northwesterly 35.63 feet along said shoreline; thence backsighting last course turn an interior angle left of  $153^{\circ}40'38''$  and run Northwesterly 23.6 feet along said shoreline; thence backsighting last course turn an interior angle left of  $144^{\circ}23'20''$  and run Northeasterly 80.85 feet along said shoreline; thence backsighting last course turn an interior angle left of  $161^{\circ}33'30''$  and run Northeasterly 34.90 feet along said shoreline; thence backsighting last course turn an interior angle left of  $159^{\circ}31'30''$  and run Northeasterly 80.68 feet along said shoreline; thence backsighting last course turn an interior angle left of  $190^{\circ}06'$  and run Northeasterly 131.53 feet along said shoreline; thence backsighting last course turn an interior angle left of  $155^{\circ}21'30''$  and run Northeasterly 100.45 feet along said shoreline; thence backsighting last course turn an interior angle left of  $227^{\circ}55'$  and run Northeasterly 29.00 feet along said shoreline; thence backsighting last course turn an interior angle left of  $113^{\circ}15'$  and run Easterly 65.12 feet along said shoreline; thence backsighting last course turn an interior angle left of  $230^{\circ}02'30''$  and run Northeasterly 55.68 feet to a point on the Westerly right of way of Inverness Center Drive; thence backsighting last course turn an interior angle left of  $59^{\circ}44'09''$  to the chord of a curve to the right; running thence Southerly along the arc of said curve being on said right of way having a chord of 16.60 feet and an arc distance of 16.93 feet (said curve having a radius of 25.0 feet and a central angle of  $38^{\circ}48'$ ); thence backsighting on last chord turn an interior angle left of  $164^{\circ}04'15''$  to the chord of a curve to the left; running thence Southerly along the arc of said curve being on said right of way having a chord of 38.11 feet and an arc distance of 38.13 feet (said curve having a radius of 314.48 feet and a central angle of  $6^{\circ}56'30''$ ) to the point of beginning. Said parcel contains 2.86179 acres.



EXHIBIT B

All building materials, equipment, fixtures and fittings of every kind or character to be hereafter acquired for use and incorporation in the building to be constructed on the real estate described in Exhibit A hereto, and the equipment and machinery, specifically including data processing equipment and machinery, which will be purchased by The Industrial Development Board of the City of Pelham for installation and use in connection with the Project. The said data processing equipment and machinery have not been acquired as of the date of the execution of this instrument.

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THIS INSTRUMENT WAS FILED  
1 OCTOBER 1982

1982 NOV -2 AM 8:03

*Thomas A. Snowden, Jr.*  
JUDGE OF PROBATE

Sec	37.50
Jud	1.00
	<hr/>
	38.50

