

THIS INSTRUMENT WAS PREPARED BY:

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234

**THE INDUSTRIAL DEVELOPMENT BOARD
OF THE TOWN OF PELHAM**

AND

**AMSOUTH BANK, N.A.
(F/K/A FIRST NATIONAL BANK OF BIRMINGHAM)**

**FIRST SUPPLEMENTAL MORTGAGE,
SECURITY AGREEMENT AND INDENTURE OF TRUST**

Dated as of March 1, 1991

This First Supplemental Mortgage, Security Agreement and Indenture of Trust amends and supplements that certain Mortgage, Security Agreement and Indenture of Trust dated as of September 1, 1975 between The Industrial Development Board of the Town of Pelham and AmSouth Bank (f/k/a First National Bank of Birmingham), as Trustee, recorded in the Office of the Judge of Probate of Shelby County, Alabama, at Mortgage Book 459, beginning at Page 267.

BOOK 336 PAGE 435

Calaba 3.11.10

FIRST SUPPLEMENTAL MORTGAGE, SECURITY AGREEMENT AND INDENTURE OF TRUST dated as of March 1, 1991 (this "First Supplemental Indenture") to the MORTGAGE, SECURITY AGREEMENT AND INDENTURE OF TRUST dated as of September 1, 1975 between THE INDUSTRIAL DEVELOPMENT BOARD OF THE TOWN OF PELHAM, a public corporation duly organized and existing under the laws of the State of Alabama (the "Board"), and AMSOUTH BANK, N.A. (f/k/a FIRST NATIONAL BANK OF BIRMINGHAM), a banking association under the laws of the United States and having trust powers (the "Trustee");

W I T N E S S E T H :

WHEREAS, in order to promote the purposes for which the Board was organized through the acquisition and construction of "projects" within the meaning of Chapter 54, Article 4, Title 11 of the Code of Alabama 1975, as heretofore amended and supplemented (the "Act"), the Board has heretofore issued and sold its Industrial Development First Mortgage Revenue Bonds, Series 1975-HCC (the "Bonds") in the aggregate principal amount of \$3,200,000, the proceeds were used to acquire and construct an office building located in Shelby County, Alabama, which facilities were leased to Harbert Construction Corporation;

WHEREAS, the Bonds were issued and sold pursuant to a certain Mortgage, Indenture of Trust and Security Agreement dated as of September 1, 1975 between the Board and The First National Bank of Birmingham (n/k/a AmSouth Bank, N.A.), as Trustee (the "Trustee") recorded in the Office of the Judge of Probate of Shelby County, Alabama at Mortgage Book 459, beginning at Page 263 (the "Original Indenture"), and the said facilities, including associated real estate, were leased by the Board to Harbert Construction Corporation, subject to various options to purchase, pursuant to a certain Lease Agreement dated as of September 1, 1975 between the Board and Harbert Construction Corporation recorded in the Office of the Judge of Probate of Shelby County, Alabama at Deed Book 294, beginning at Page 794 (the "Original Lease");

WHEREAS, the Original Lease heretofore was amended and supplemented pursuant to a certain First Supplemental Lease Agreement dated as of September 1, 1981 (the "First Supplement") recorded in the Office of the Judge of Probate of Shelby County, Alabama at Misc. Book 42, beginning at Page 543, which such First Supplement provided, *inter alia*, that Harbert Construction Corporation could assign all of its rights and obligations under the Original Lease to Harbert International, Inc., and that such assignment would constitute a complete novation of Harbert International, Inc. (the "Lessee") for Harbert Construction Corporation as Lessee thereunder (it being the intention of the parties to allow a complete substitution of the Lessee for Harbert Construction Corporation but to continue the Original Lease in full force and effect);

WHEREAS, by instrument dated September 1, 1981 Harbert Construction Corporation assigned all of its rights and obligations under the Original Lease, as amended and supplemented by the First Supplement to the Lessee and the Lessee accepted such assignment;

WHEREAS, pursuant to a certain Acknowledgment and Confirmation Regarding Lease dated as of March 1, 1991, entered into among the Board, the Lessee and the Trustee, recorded in the Office of the Judge of Probate of Shelby County, Alabama at Deed Book 336, beginning at Page 423, the Board, the Lessee and the Trustee have acknowledged and confirmed the Lease (the Original Lease, as so acknowledged and confirmed and as amended and supplemented from time to time, being referred to herein as the "Lease");

WHEREAS, the Lessee has requested that the Board and the Trustee enter into this First Supplemental Indenture to correct an error in the legal description of the real property subject to the Original Indenture and the Lease, and the Board has determined that the entry by the Board and the Trustee into such amendments will be in the best interests of the Project (as defined in the Lease) and in furtherance of the purposes and intents of the Act;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained and the sum of \$10 paid to the Trustee by the Board, the receipt and sufficiency of which hereby are acknowledged, the parties hereto covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS

Except as modified hereinbelow, all words and phrases defined in Article I of the Original Indenture, shall have the same meaning in this First Supplemental Indenture. All terms used herein which are defined in the recitals hereto shall have the meanings there given to them unless the context otherwise requires.

ARTICLE II

AMENDMENTS

The description of the real estate and premises comprising a part of the "Mortgaged Property" appearing in Granting Clause I of the Original Indenture hereby is amended to read in its entirety as set forth on Exhibit "A" hereto incorporated herein by this reference. For all purposes of the Original Indenture and this First Supplemental Indenture, each reference to the "Leased Realty," the "Project," the "trust estate," the "property herein conveyed," and terms and phrases of similar import, to the extent intended to encompass the real estate and premises subject to the Indenture, shall be deemed to refer to the real estate and premises described on said Exhibit "A" hereto.

ARTICLE II

MISCELLANEOUS

Section 201. Confirmation. As supplemented by this First Supplemental Indenture, the Original Indenture is ratified and confirmed in all respects, and the Original Indenture and this First Supplemental Indenture shall be read, taken and construed as one and the same instrument so that all of the rights, remedies, terms, conditions, covenants and agreements of the Original Indenture shall apply and remain in full force and effect with respect to this First Supplemental Indenture and vice versa.

Section 202. Governing Law. This First Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of Alabama.

Section 203. Execution in Counterparts; Date. This First Supplemental Indenture may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterpart shall together constitute but one and the same agreement. The date of this First Supplemental Indenture has been selected for convenience of reference and is not indicative that this First Supplemental Indenture was executed or became effective on such date.

ARTICLE III
CONFIRMATION OF LIEN, ETC.

The Board hereby ratifies, confirms and restates the grants, sales, conveyances, transfers, liens, assignments, pledges and security interests arising under or pursuant to the Original Indenture, as amended and supplemented by this First Supplemental Indenture, and covenants and agrees that such grants, sales, conveyances, transfers, liens, assignments, pledges and security interests are and shall remain in full force and effect after the execution and delivery of this First Supplemental Indenture, all in accordance with the terms and conditions of the Original Indenture, as amended and supplemented by this First Supplemental Indenture.

IN WITNESS WHEREOF, the Board and the Trustee have caused this First Supplemental Indenture to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written, but actually on the dates shown below.

BOOK 336 PAGE 438

[SEAL]

ATTEST:

By: *Laura Weiss*
Secretary

**THE INDUSTRIAL DEVELOPMENT BOARD OF
THE TOWN OF PELHAM**

By: *Dennis P. [Signature]*
Chairman of the Board of Directors

Date of Execution: March 13, 1991

[SEAL]

ATTEST:

By: *David [Signature]*
Its VICE PRESIDENT AND
CORPORATE TRUST OFFICER

**AMSOUTH BANK, N.A. (f/k/a FIRST NATIONAL
BANK OF BIRMINGHAM), as Trustee**

By: *[Signature]*
Its VICE PRESIDENT AND
CORPORATE TRUST OFFICER

Date of Execution: March 14, 1991

STATE OF ALABAMA)

COUNTY OF Shelby)

I, Wendy K. McDowell, 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 Town of Pelham, a public corporation, is signed to the foregoing instrument, 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 instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

Given under my hand and seal of office, this 13th day of March, 1991.

Wendy K. McDowell
Notary Public

My Commission Expires: 3-27-93

[NOTARIAL SEAL]

STATE OF ALABAMA)

COUNTY OF Jefferson)

I, Renee C. Looney, the undersigned, a Notary Public in and for said County in said State, do hereby certify that E. L. WESSINGER whose name as VICE PRESIDENT AND CORPORATE TRUST OFFICER, of AmSouth Bank, N.A., a national banking association, is signed to the foregoing instrument, 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 instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said national banking association.

Given under my hand and seal of office, this 14th day of March, 1991.

Renee C. Looney
Notary Public

My Commission Expires: JUN 17 1992

[NOTARIAL SEAL]

BOOK 336 PAGE 439

CONSENT OF LESSEE

The undersigned hereby consents to the within and foregoing First Supplemental Mortgage, Security Agreement and Indenture of Trust and all of the terms and provisions thereof, hereby waives all rights to receive any further or different notice of said First Supplemental Mortgage, Security Agreement and Indenture of Trust or the execution, delivery or performance thereof, and hereby acknowledges and agrees that the execution, delivery and the performance of the said First Supplemental Mortgage, Security Agreement and Indenture of Trust shall not interrupt, terminate, delay, diminish or otherwise affect any of the obligations, duties and responsibilities of the undersigned under any document, instrument or agreement.

HARBERT INTERNATIONAL, INC.

By: 1 / s / B. B. B. B.
Its CIO

Date Executed: March 20, 1991

ACKNOWLEDGMENT OF HARBERT INTERNATIONAL, INC.

STATE OF ALABAMA)

COUNTY OF Shelby)

I, Brenda J. Harris, the undersigned Notary Public in and for said County in said State, hereby certify that Swift C. Barnes III, whose name as a CFO of Harbert International, Inc., a Delaware corporation, is signed to the foregoing Consent of Lessee 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 Consent of Lessee, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office this 20 day of March, 1991.

[NOTARIAL SEAL]

Brenda J. Harris
Notary Public

My Commission Expires: 11/1/93

EXHIBIT "A"

A parcel of land situated in the W 1/2 of the SE 1/4 of Section 30, Township 19 South, Range 2 West, Shelby County, Alabama and being more particularly described as follows:

Commence at the SE corner of the SW 1/4 of the SE 1/4 of Section 30, Township 19 South, Range 2 West; thence along the East line of said 1/4-1/4 section North 00 deg. 26 min., 21 sec. West, 1,067.00 feet along 1/4-1/4 line to the point of beginning; thence South 57 deg. 21 min. 00 sec. West 909.19 feet; thence North 32 deg. 39 min. 00 sec. West, 320.00 feet to the beginning of a curve to the right, said curve having a central angle of 67 deg. 37 min. 00 sec., a radius of 118.00 feet and length of 139.26 feet; thence North 34 deg. 58 min. 00 sec. East, 188.58 feet to the beginning of a curve to the left, said curve having a central angle of 23 deg. 06 min. 00 sec., a radius of 285.00 feet and a length of 114.90 feet; thence North 11 deg. 52 min. 00 sec. East, 61.05 feet to the beginning of a curve to the right, said curve having a central angle of 25 deg. 23 min. 00 sec., a radius of 380.00 feet and length of 168.35 feet; thence North 37 deg. 15 min. 00 sec. East, 61.94 feet to the beginning of a curve to the left, said curve having a central angle of 10 deg. 53 min. 00 sec., a radius of 965.00 feet and length of 183.30 feet; thence North 26 deg. 22 min. 00 sec. East, 161.06 feet to the beginning of a curve to the right, said curve having a central angle of 07 deg. 53 min. 00 sec., a radius of 732.00 feet, and a length of 100.72 feet; thence North 34 deg. 15 min. 00 sec. East, 78.34 feet to the beginning of a curve to the left, said curve having a central angle of 09 deg. 15 min. 00 sec., a radius of 717.00 feet and a length of 115.75 feet; thence North 25 deg. 00 min. 00 sec. East, 61.94 feet to the beginning of a curve to the left, said curve having a central angle of 58 deg. 36 min. 00 sec., a radius of 50.00 feet and a length of 51.14 feet; thence North 33 deg. 36 min. 00 sec. West, 13.02 feet to the Southeasterly right-of-way line of Valleydale Road as of August 6, 1975; thence North 57 deg. 18 min. 52 sec. East along said right-of-way, 127.02 feet; thence South 33 deg. 36 min. 00 sec. East, 6.90 feet to the beginning of a curve to the right, said curve having a central angle of 79 deg. 42 min. 00 sec., a radius of 170.00 feet and a length of 236.47 feet; thence South 46 deg. 06 min. 00 sec. West, 84.64 feet to the beginning of a curve to the left, said curve having a central angle of 19 deg. 44 min. 00 sec., a radius of 667.00 feet and a length of 229.72 feet; thence South 26 deg. 22 min. 00 sec. West, 161.06 feet to the beginning of a curve to the right, said curve having a central angle of 10 deg. 53 min. 00 sec., a radius of 1,030.00 feet and a length of 195.65 feet; thence South 37 deg. 15 min. 00 sec. West, 61.94 feet to the beginning of a curve to the left, said curve having a central angle of 25 deg. 23 min. 00 sec., a radius of 315.00 feet and a length of 139.55 feet; thence South 11 deg. 52 min. 00 sec. West, 61.05 feet to the beginning of a curve to the right, said curve having a central angle of 08 deg. 27 min. 48 sec., a radius of 350.00 feet and a length of 51.70 feet; thence North 57 deg. 21 min. 00 sec. East, 865.10 feet to the 1/4-1/4 line; thence South 00 deg. 26 min. 21 sec. East, 573.23 feet along said 1/4-1/4 line to the point of beginning; less and except such portion of the foregoing tract as lies within the present right-of-way of Valleydale Road. Subject to outstanding mineral and mining rights, plus restrictive covenants, restrictions, rights of way and easements of record.

STATE OF ALA. SHERIFF
I CERTIFY THIS
INSTRUMENT WAS FILED

91 APR -3 AM 9: 15

JUDGE OF PROBATE

1. Bond Tax	0.00
2. Mfg. Tax	0.00
3. Recording Fee	20.00
4. Indexing	5.00
5. Notary Fee	7.00
6. Certified Fee	1.00
Total	33.00