

This instrument prepared by,  
and after recordation should  
be returned to:

John E. Hagefstration, Jr.  
Bradley, Arant, Rose & White  
1400 Park Place Tower  
Birmingham, Alabama 35203

**SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT**

*HEB*  
THIS AGREEMENT is made and entered into as of this 10th day of Sept., 1991, by and among Bissell Realty, Incorporated, an Alabama corporation ("Landlord"), Air Engineers, Inc. ("Tenant") and First Commercial Bank, an Alabama banking corporation ("Lender").

**WITNESSETH:**

*HEB*  
WHEREAS, Landlord and Tenant have entered into that certain Lease Agreement dated 1/1/91, as amended by Lease Agreement(s) dated 10/16/91 (hereinafter referred to as the "Lease"), with respect to the occupancy by Tenant of approximately        square feet of space in the Warehouse Building (hereinafter referred to as the "Premises"), said Premises more particularly described in the Lease; and

WHEREAS, Landlord has requested Lender to make to Landlord a mortgage loan to be secured by a first mortgage covering the property upon which the Premises are located and an assignment of all leases relating thereto, including the Lease. Said mortgage and assignment of leases as the same may hereafter be amended (the consent of Tenant to which shall not be required) are referred to herein as the "Security Instruments." Lender is willing to make such loan, provided that Tenant executes this Agreement; and

WHEREAS, the parties further desire to execute this instrument to express their agreement that the Lease will be subordinate to the Security Instruments and that Tenant's possession of the Premises will not, subject to the terms and conditions of this Agreement, be disturbed by reason of a foreclosure of the lien of the Security Instruments on the Premises.

**AGREEMENT**

NOW, THEREFORE, in consideration of the mutual premises and covenants of the parties hereto, and as an inducement to Lender to make such mortgage loan, the parties hereto do mutually covenant and agree as follows:

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Mike A

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1. The Lease shall at all times be subject and subordinate in all respects to the Security Instruments and to all renewals, modifications and extensions thereof, subject to the terms and conditions of this Agreement.

2. Tenant shall give prompt written notice to Lender of all defaults by Landlord of those obligations under the Lease which are of such a nature as to give Tenant a right to terminate the Lease, to reduce rent, or to credit or offset any amounts against future rents, and Lender shall have a reasonable opportunity (but shall not be required) to cure the same.

3. So long as Tenant is not in default in the payment of rent, additional rent or other charges or conditions of the Lease, Tenant shall not be disturbed by Lender in Tenant's possession, enjoyment, use and occupancy of the Premises during the original or any renewal term of the Lease or any extension or modification thereof.

4. No person or entity who exercises a right, arising under the Security Instruments or any assignment of the Lease, to receive the rents payable by Tenant under the Lease shall thereby become obligated to Tenant for the performance of any of the terms, covenants, conditions and agreements of Landlord under the Lease. Landlord and Tenant agree that Tenant shall make the payments to be made by Tenant under the Lease to such person or entity upon receipt of written notice of the exercise of such rights, and Tenant agrees not to prepay any sums payable by Tenant under the Lease. Such receipt of rent by any other party shall not relieve Landlord of its obligations under the Lease, and Tenant shall continue to look to Landlord only for performance thereof.

5. If the interest of Landlord shall be acquired by Lender by reason of foreclosure of its mortgage or other proceedings brought to enforce the rights of the holder thereof, by deed in lieu of foreclosure or by any other method, and Lender succeeds to the interest of Landlord under the Lease, the Lease shall continue in full force and effect and shall not be terminated or disturbed except in accordance with the terms of the Lease. Tenant shall thereupon be bound to Lender under all the terms, covenants and conditions of the Lease for the balance of the term thereof remaining, and any extensions or renewals thereof which may be effected in accordance with any option therefor contained in the Lease, with the same force and effect as if Lender were the landlord under the Lease. Tenant does hereby attorn to Lender as its landlord, said attornment to be effective and self-operative without the execution of any other instruments on the part of either party hereto immediately upon Lender's succeeding to the interest of Landlord under the Lease, and Tenant hereby agrees that Lender shall not be responsible or liable in any way for any default under the Lease occurring prior to the time Lender obtains title to the estate owned by Landlord and is entitled to actual, unrestricted possession of the premises.

6. In addition to and not in lieu of all the provisions of this Agreement, Lender shall not in any way or to any extent be:

(a) liable for any act or omission of any landlord (including Landlord); or

(b) subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord) except those which arose out of such

landlord's default under the Lease and accrued after Tenant has notified Lender and given Lender an opportunity to cure as provided herein; or

(c) bound by any rent or additional rent which Tenant might have paid for more than thirty (30) days in advance to any prior landlord (including Landlord); or

(d) bound by any agreement or modification of the Lease made without Lender's consent; or

(e) in any way responsible for any deposit or security which was delivered to Landlord but which was not subsequently delivered to Lender.

7. All notices, demands, or requests, and responses thereto, required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to have been properly given or served and shall be effective upon being deposited in the United States mail, postage prepaid and registered or certified with return receipt requested; provided, however, the time period in which a response to any notice, demand, or request must be given shall commence on the date of the return receipt of the notice, demand, or request by the addressee thereof. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been given shall constitute receipt of the notice, demand, or request sent. Any such notice if given to Landlord shall be addressed as follows:

If given to Lender shall be addressed as follows:

First Commercial Bank  
P. O. Box 11746  
Birmingham, Alabama 35202-1746  
Attention: President

With a copy to:

John E. Hagestratton, Jr.  
Bradley, Arant, Rose & White  
1400 Park Place Tower  
Birmingham, Alabama 35203

If given to Tenant shall be addressed as follows:

Air Engineers, Inc.  
P.O. Box 380157  
Birmingham, Al. 35238-0157  
Attention: Harold Bissell

or at such other address in the United States as Landlord, Lender or Tenant may by notice in writing designate for notice.

8. This Agreement shall be binding upon and inure to the parties, their respective heirs, successors and assigns.

9. This Agreement shall be governed by the laws of the State of Alabama.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**LANDLORD:**

BISSELL REALTY, INCORPORATED *10/16/41*

By:  
Its:

*[Signature]*  
*Vice President*

**TENANT:**

AIR ENGINEERS, INC.

By:  
Its:

*Brenda Schell*  
*Comptroller*

**LENDER:**

FIRST COMMERCIAL BANK

By:  
Its:

*William H. Tate*  
*ASSISTANT VICE PRESIDENT*

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STATE OF ALABAMA )

COUNTY OF JEFFERSON )

I, the undersigned, a notary public in and for said county and state, hereby certify that Harold Bissell, whose name as O.P. of Bissell Realty, Incorporated, an Alabama corporation, 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 said instrument, 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 official seal this 30 day of <sup>Sept</sup>~~May~~, 1991.

Frank M. [Signature]  
Notary Public

[NOTARIAL SEAL]

My commission expires: 3/13/94

STATE OF ALABAMA )

COUNTY OF \_\_\_\_\_ )

I, the undersigned, a notary public in and for said county and state, hereby certify that Blenda Isbell, whose name as Comptroller of Air Engineers, Inc. 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 said instrument, he, as such {officer/general partner} and with full authority, executed the same voluntarily for and as the act of said {corporation/partnership}.

Given under my hand and official seal this 30 day of <sup>Sept</sup>~~May~~, 1991.

Frank M. [Signature]  
Notary Public

[NOTARIAL SEAL]

My commission expires: 3/13/94

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STATE OF ALABAMA

COUNTY OF JEFFERSON

I, the undersigned, a notary public in and for said county and state, hereby certify that William H. Pitts, whose name as Asst Vice President of First Commercial Bank, an Alabama banking corporation, 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 said instrument, 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 official seal this 21 day of Sept, 1991.

[Signature]  
Notary Public

[NOTARIAL SEAL]

My commission expires: 11-13-94

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STATE OF ALA. SHELBY  
I CERTIFY THIS  
INSTRUMENT WAS FILED

91 OCT 31 PM 4:19

[Signature]  
JUDGE OF PROBATE

1. Noted Tax	\$	
2. Mfg. Tax	\$	1.00
3. Recording Fee	\$	2.00
4. Indexing Fee	\$	
5. No Tax Fee	\$	1.00
6. Certified Fee	\$	14.00
Total	\$	