

STATE OF ALABAMA )

SHELBY COUNTY )

05/17/1995-12895  
08:39 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

ASSIGNMENT OF RENTS AND LEASES

To secure its rental obligations under the Lease Agreement hereinafter referred to, and to induce First Commercial Bank (the "Bank") to lend to Pelham Industrial Enterprises, L.L.C. (the "Assignor"), through The Industrial Development Board of the City of Pelham (the "Lessor"), the principal sum of One Million, Six Hundred Seventy-five Thousand Dollars (\$1,675,000) (the "Debt"), which Debt is evidenced by a bond of the Lessor in said principal amount (the "Bond") and which Debt is to be made available to the Assignor in accordance with the terms of a lease agreement dated as of May 1, 1995, the "Lease Agreement"), the Assignor hereby conveys, transfers and assigns unto the Lessor, and the Lessor assigns to the Bank, all the rights, interests and privileges which the Assignor, as lessor or sublessor, has or may have hereafter in the leases (the "Leases") now existing or hereafter made and affecting the real property described in Exhibit A (the "Real Estate") attached hereto and made a part hereof, as the Leases may be from time to time hereafter modified, extended and renewed, with all rents, income and profits due and to become due from the Leases (hereinafter collectively called the "Rents"). The Assignor will, at the request of the Bank, execute individual assignments of any future Leases.

The Debt is also secured by a mortgage and indenture dated as of May 1, 1995, executed by the Lessor in favor of the Bank as mortgagee on the Real Estate and certain personal property (the "Mortgage") and the acceptance of this assignment by the Bank and the collection of the Rents under the Leases shall not constitute a waiver of any rights of the Bank or the Lessor under the terms of the Bond, the Mortgage or the Lease Agreement. Before an event of default occurs under the terms of the Bond or the Mortgage or the Lease Agreement, the Assignor shall have the right to collect the Rents and to use them; provided, however, that even before an event of default occurs, no rent more than one month in advance shall be collected or accepted by the Assignor without the prior written consent of the Bank. The Assignor hereby assigns to the Lessor, and the Lessor assigns to the Bank, any award, dividend or other payment made hereafter to the Assignor in any court procedure involving any of the lessees under the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court and any and all payments made by lessees in lieu of rent. The Assignor and the Lessor each hereby appoint the Bank as their irrevocable attorney in fact to appear in any action and to collect any such award, dividend or other payment, or any such action.

The Assignor and the Lessor, if an event of default shall occur in the performance of any of the terms and conditions of

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the Bond, the Lease Agreement or the Mortgage, hereby authorize the Bank, at the Bank's option, to enter and take possession of the Real Estate and to manage and operate the same, to collect all or any of the Rents, to let or re-let the Real Estate, or any part thereof, to cancel and modify Leases, evict tenants, bring or defend any suits in connection with the possession of the Real Estate in its own name or in the Assignor's name, make repairs as the Bank deems appropriate, and perform such other acts in connection with the management and operation of the Real Estate as the Bank, in its discretion, may deem proper.

The receipt by the Bank of any Rents pursuant to this instrument after the institution of foreclosure proceedings under the Mortgage shall not cure such default nor affect such proceedings or any sale pursuant thereto. The net proceeds collected by the Bank under the terms of this instrument shall be applied in reduction of the Debt as determined by the Bank.

The Assignor hereby covenants and warrants that it will perform all its duties and obligations under the Leases in a timely manner and in accordance with the terms of the Leases. The Bank shall not be obligated to perform or to discharge any obligation or duty to be performed or to be discharged by the Assignor under any of the Leases, and the Assignor hereby agrees to indemnify the Bank for, and to save it harmless from, any and all liability arising from any of the Leases or from this assignment, and this assignment shall not place responsibility for the control, care, management or repair of the Real Estate, or any improvements thereon, upon the Bank, or make the Bank responsible or liable for any negligence in the management, operation, maintenance, repair or control of the Real Estate resulting in loss, injury or death to any tenant or other person.

The Assignor represents and warrants that: (a) the Assignor has full right and title to assign the Leases and the Rents; and (b) no other assignment of any interest in any of the Leases has been made or will be made until the Debt has been paid in full. The Assignor warrants that until the Debt is paid in full it will not (other than in the ordinary course of business), without the prior written consent of the Bank: (1) cancel, surrender or terminate any of the Leases; (2) exercise any option which might lead to the termination of any of the Leases; (3) change, alter or modify any of the Leases; (4) consent to the release of any party liable under any of the Leases; or (5) consent to the assignment or mortgage of the lessee's interest in any of the Leases.

The Assignor and the Lessor hereby authorize the Bank to give notice in writing of this assignment at any time to any or all of the tenants under any of the Leases.

The violation by the Assignor of any of the covenants, representations, warranties or other provisions contained



herein shall be a default in the Bond, the Mortgage and the Lease Agreement.

The default by the Assignor under any of the terms of any of the Leases shall be deemed a default in this instrument, the Bond, the Mortgage and the Lease Agreement, unless the Assignor cures such default within seven days of the day the Bank mails to the Assignor, by United States certified mail or registered mail, a notice of such default. Any expenditures made by the Bank in curing any such default on the Assignor's behalf, with interest thereon at a rate equal to the Base Rate, as defined in the Indenture, plus 3% per annum, shall become immediately due and payable to the Bank; provided, however, the Bank shall have no obligation to cure any such default.

The full payment of the Debt and the performance of all of the Assignor's other obligations under the Bond, the Mortgage and the Lease Agreement and the duly recorded satisfaction of the Mortgage shall render this assignment void.

This assignment applies to, and binds, the parties hereto and their respective heirs, administrators, executors, successors and assigns, including all subsequent owners of the Real Estate and any assignee of the Mortgage.

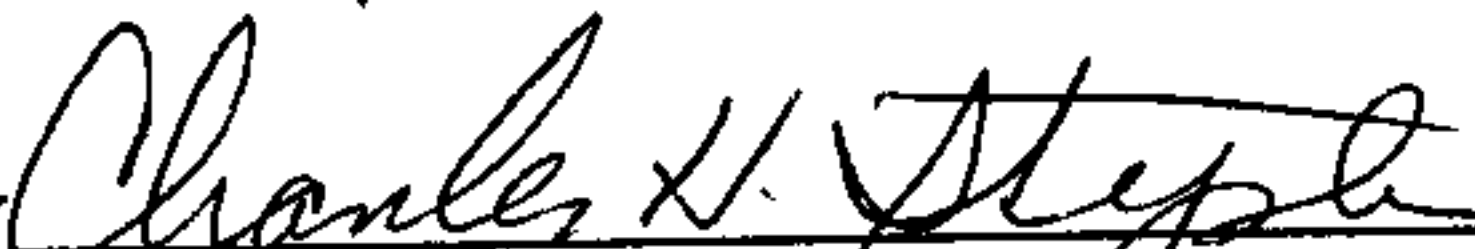
In witness whereof, the four members of the Assignor have executed this instrument and the Lessor has caused this instrument to be signed and sealed by its duly authorized officers, as of May 1, 1995.

PELHAM INDUSTRIAL ENTERPRISES,  
L.L.C.


By

  
A Member


By

  
A Member

By

  
A Member

By

  
A Member


[Signatures continued on next page]

THE INDUSTRIAL DEVELOPMENT BOARD  
OF THE CITY OF PELHAM

By   
Its Chairman

(Seal)

Attest:

  
Its Secretary

STATE OF ALABAMA

Shelby COUNTY

I, ROBERT H. WALSTON, a Notary Public in and for said County in said State, hereby certify that Daniel M. Spitler, Jr., whose name as Chairman of the Board of Directors of The Industrial Development Board of the City of Pelham, a public 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 this the 4<sup>th</sup> day of May, 1995.

Robert H. Walston

Notary Public

NOTARIAL SEAL

My commission expires: 12-30-98

STATE OF ALABAMA

JEFFERSON COUNTY

I, ROBERT H. WALSTON, a Notary Public in and for said County in said State, hereby certify that Charles H. Stephens, whose name as a member of Pelham Industrial Enterprises, L.L.C., an Alabama limited liability company, 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 member and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand this the 5<sup>th</sup> day of May, 1995.

Robert H. Walston

Notary Public

NOTARIAL SEAL

My commission expires: 12-30-98

STATE OF ALABAMA  
JEFFERSON COUNTY

I, ROBERT H. WALSTON, a Notary Public in and for said County in said State, hereby certify that Marvin R. Engel, whose name as a member of Pelham Industrial Enterprises, L.L.C., an Alabama limited liability company, 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 member and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand this the 4<sup>th</sup> day of May, 1995.

Robert H. Walston

Notary Public

NOTARIAL SEAL

My commission expires: 12-30-98

STATE OF ALABAMA  
JEFFERSON COUNTY

I, ROBERT H. WALSTON, a Notary Public in and for said County in said State, hereby certify that Marc A. Eason, whose name as a member of Pelham Industrial Enterprises, L.L.C., an Alabama limited liability company, 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 member and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand this the 5<sup>th</sup> day of May, 1995.

Robert H. Walston

Notary Public

NOTARIAL SEAL

My commission expires: 12-30-98

STATE OF ALABAMA  
JEFFERSON COUNTY

I, ROBERT H. WALSTON, a Notary Public, in and for said County in said State, hereby certify that David Bunkin, whose name as a member of Pelham Industrial Enterprises, L.L.C., an Alabama limited liability company, 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 member and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand this the 5<sup>th</sup> day of May, 1995.

Robert H. Walston  
Notary Public

NOTARIAL SEAL

My commission expires: 12-30-98

This instrument prepared by:

Robert H. Walston  
Walston, Stabler, Wells,  
Anderson & Bains  
500 Financial Center  
Birmingham, Alabama 35203  
(205) 251-9600



EXHIBIT A

Part of Block 4 of Cahaba Valley Park North as recorded in Map Book 13 page 140 in the Probate Office of Shelby County, Alabama, situated in Section 31, Township 19 South, Range 2 West, Shelby County, Alabama, and being more particularly described as follows:

Commence at Station 47+73.31 on the centerline of Cahaba Valley Parkway, said point also being on the centerline of Cahaba Valley Circle; thence run Easterly along said centerline of Cahaba Valley Parkway for 80.0 feet to a point; thence turn an angle to the right of 90 deg. 00 min. 00 sec. and run Southerly for 30.0 feet to a point on the Southerly right of way line of Cahaba Valley Parkway, said point also being the point of beginning; thence turn an angle to the left of 90 deg. 00 min. 00 sec. and run Easterly along the South right of way of Cahaba Valley Parkway for 265.00 feet to a point; thence turn an angle to the right of 90 deg. 00 min. 00 sec. and run Southerly for 537.78 feet to a point; thence turn an angle to the right of 64 deg. 31 min. 39 sec. and run Southwesterly for 249.65 feet to a point; thence turn an angle to the right of 90 deg. 00 min. 00 sec. and run Northwesterly for 283.31 feet to a point on the Easterly right of way line of Cahaba Valley Circle, said point being on a curve to the left, said curve having a radius of 228.01 feet and subtending a central angle of 30 deg. 49 min. 35 sec.; thence turn an angle to the right of 56 deg. 17 min. 56 sec. to become tangent to said curve; thence run along the arc of said curve and the Easterly right of way line of Cahaba Valley Circle for 122.67 feet to the end of said curve; thence at tangent to said curve run Northerly along the Easterly right of way line of Cahaba Valley Circle for 222.54 feet to a point on a curve to the right, said curve having a radius of 50.00 feet and subtending a central angle of 90 deg. 00 min. 00 sec.; thence run along the arc of said curve and the Easterly right of way line of Cahaba Valley Circle for 78.54 feet to the end of said curve, said point also being the point of beginning; being situated in Shelby County, Alabama.

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