

Recording Requested By and
When Recorded Mail To:
Best & Flanagan LLP
225 South Sixth Street
Suite 4000
Minneapolis, Minnesota 55402
Attn: Duane L. Paulson
FCL Loan No. 6200

MODIFICATION AGREEMENT

THIS MODIFICATION AGREEMENT (this "Agreement") is dated as of the 6TH day of July, 2005, and is made by FIRST COLONY LIFE INSURANCE COMPANY, a Virginia corporation ("Lender"); THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF PELHAM, a public not for profit corporation of the State of Alabama ("Fee Owner"), PELHAM INDUSTRIAL ENTERPRISES, LLC, an Alabama limited liability company, and PELHAM INDUSTRIAL ENTERPRISES VII, LLC, an Alabama limited liability company (collectively, "Borrower") and MARC A. EASON, HB INVESTMENTS, LLC, (as successor to the ESTATE OF DAVID BUNKIN), CHARLES STEPHENS and MARVIN R. ENGEL (collectively, the "Guarantor").

RECITALS

A. Loan Documents. On or about December 16, 1997, Lender made loans (collectively, the "Loan") to Borrower, in the principal amount of Fourteen Million and No/100 Dollars (\$14,000,000.00) and Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00) evidenced by Promissory Notes dated December 16, 1997 (collectively, the "Note, and individually "Note 1" and "Note 2, respectively") being, in the aggregate, secured by that certain real property (the "Property") described in Exhibit A attached hereto, such Loan and security being evidenced by the following (together with this Agreement and any other documents executed in connection with the Loan or with this Agreement, the "Loan Documents"):

1. Mortgage, Assignment of Rents and Leases and Leases, Security Agreement and Fixture Financing Statement ("Mortgage") dated December 16, 1997, recorded with the Shelby County Judge of Probate Court on December 19, 1997, as Instrument 1997-41256.
2. Assignment of Rents and Leases (the "Assignment") dated December 16, 1997, recorded with the Shelby County Judge of Probate Court on December 19, 1997, as Instrument 1997-41257.
3. Indemnity regarding environmental matters dated December 16, 1997, executed by the Borrower and Guarantor, except that HB Investments, LLC has been substituted for the Estate of David Bunkin as referred to below.

4. UCC Financing Statements filed in the offices of the Alabama Secretary of State and recorded in Shelby County.
5. Unconditional Guaranty by Guarantors dated December 16, 1997.
6. Amendment to Promissory Note, Mortgage, Assignment of Rents and Leases and Security Agreement and to Assignment of Rents and Leases ("Amendment") dated June 30, 1999, recorded with the Shelby County Judge of Probate Court on June 30, 1999, as Instrument 1999-27501.
7. Modification Agreement dated October 5, 2001, recorded with the Shelby County Judge of Probate Court on October 18, 2001, as Instrument No. 2001-45048, which removed the Amendment from the Loan Documents governing the Loan.

B. Modification and Refinance. Borrower and Lender have agreed to a modification and additional disbursement of the Loan as set forth in this Agreement. A portion of the original principal amount of the debt evidenced by the Note has been paid, such that the principal balance of the debt due on Note 1 and Note 2 as of the date hereof, after application of the payments due on July 1, 2005, are Ten Million Nine Hundred Fifty-Seven Thousand Nine Hundred Ninety-One and 30/100 Dollars (\$10,957,991.30) and One Million Nine Hundred Fifty-Six Thousand Seven Hundred Eighty-Four and 16/100 Dollars (\$1,956,784.16), respectively, for an aggregate amount of Twelve Million Nine Hundred Fourteen Thousand Seven Hundred Seventy-Five and 46/100 Dollars (\$12,914,775.46) (the "Current Principal Balance").

C. Additional Disbursement, Interest Rate, Payment Adjustment, Prepayment Provision and Limited Recourse Debt. Borrower and the Lender have agreed that Lender will make an additional disbursement to the Borrower in the aggregate amount of Five Million Two Hundred Five Thousand Six Hundred and 54/100 Dollars (\$5,205,600.54) (the "Additional Disbursement" or "New Debt") to be secured by the Mortgage, which increases the aggregate Current Principal Balance of the Note to the amount of Eighteen Million One Hundred Twenty Thousand Three Hundred Seventy-Six and No/100 Dollars (\$18,120,376.00) on the date the Additional Disbursement is made by the Lender (the "Additional Disbursement Date"); to amend the Note to provide for a principal balance of the debt due on the Note of Eighteen Million One Hundred Twenty Thousand Three Hundred Seventy-Six and No/100 Dollars (\$18,120,376.00) as a result of the Additional Disbursement to evidence the aggregate of the Current Principal Balance and New Debt; to adjust the interest rate of the Note, the payments due thereon and prepayment terms; to amend the Transfer and Limited Recourse provisions of the Loan Documents; and to otherwise amend the Loan Documents.

D. New Debt. The amount of the "New Debt" which is to be secured by the Mortgage as amended by this Agreement is Five Million Two Hundred Five Thousand Six Hundred and 54/100 Dollars (\$5,205,600.54).

AGREEMENT

THEREFORE, the parties agree as follows:

a. Loan Modification. The Loan is modified as provided herein and the Loan Number is changed to 6200 (previously Loan No. 2901). Additionally, any other documents executed in connection with this modification are included in the definition of Loan Documents. The definition of any capitalized words not otherwise herein defined are as defined in the Loan Documents. The Borrower is sometimes referred to herein as the Mortgagor, and the Lender is sometimes referred to as the Mortgagee herein.

b. Lender's Expenses. Borrower agrees to pay all of Lender's legal and administrative expenses in connection with this Agreement.

c. Amendments to Note 1. From and after the Additional Disbursement Date, Note 1 is amended as follows: to refer to the Mortgage as amended as referred to below; to provide for a principal balance of the debt due on Note 1 of Fifteen Million Three Hundred Seventy-Four Thousand Eight Hundred Sixty-Four and 48/100 Dollars (\$15,374,864.48) as a result of the part of Additional Disbursement allocated to it and remaining principal due on Note 1 immediately prior to the Additional Disbursement; and to revise the following sections of the Note and to add new sections of the Note as follows:

1. Interest. Interest shall accrue on the unpaid principal balance at a rate from and after the Additional Disbursement to the Maturity Date at Six and Seventy-Two Hundredths Percent (6.72%).
2. Payments and Term. Principal and interest shall be due and payable as follows:
 - (a) A payment of all interest to accrue hereon from the Additional Disbursement Date to and including the last day of the month during which the Additional Disbursement Date occurs shall be due and payable on the Additional Disbursement Date.
 - (b) Monthly payments of principal and interest in the sum of One Hundred Sixteen Thousand Six Hundred Thirty-One and No/100 Dollars (\$116,631.00) each shall be due and payable on the first day of each calendar month following the Additional Disbursement Date and continuing on the first day of each calendar month thereafter to and including July 1, 2025. These monthly payments are based upon the twenty (20) year amortization period beginning on August 1, 2005.
 - (c) The entire indebtedness evidenced by this Note, if not sooner paid, shall be due and payable on July 31, 2025 ("Maturity Date").

All payments on account of the indebtedness evidenced by this Note shall be first applied to interest, costs and prepayment fees (if any) and then to principal. Interest shall

be computed on the basis of a 360-day year consisting of twelve 30-day months, except that interest for a portion of a month (such as may be required under paragraph 3 (a) above) shall be computed on the basis of a 365-day year (or a 366-day year during a leap year).

d. Amendments to Note 2. From and after the Additional Disbursement Date, Note 1 is amended as follows: to refer to the Mortgage as amended as referred to below; to provide for a principal balance of the debt due on Note 2 of Two Million Seven Hundred Forty-Five Thousand Five Hundred Eleven and 52/100 Dollars (\$2,745,511.52) as a result of the Additional Disbursement allocated to it and remaining principal due on Note 2 immediately prior to the Additional Disbursement; and to revise the following sections of the Note and to add new sections of the Note as follows:

1. Interest. Interest shall accrue on the unpaid principal balance at a rate from and after the Additional Disbursement to the Maturity Date at Six and Seventy-Two Hundredths Percent (6.72%).
2. Payments and Term. Principal and interest shall be due and payable as follows:
 - (a) A payment of all interest to accrue hereon from the Additional Disbursement Date to and including the last day of the month during which the Additional Disbursement Date occurs shall be due and payable on the Additional Disbursement Date.
 - (b) Monthly payments of principal and interest in the sum of Twenty Thousand Eight Hundred Twenty-Seven and No/100 Dollars (\$20,827.00) each shall be due and payable on the first day of each calendar month following the Additional Disbursement Date and continuing on the first day of each calendar month thereafter to and including July 1, 2025. These monthly payments are based upon the twenty (20) year amortization period beginning on August 1, 2005.
 - (c) The entire indebtedness evidenced by this Note, if not sooner paid, shall be due and payable on July 31, 2025 ("Maturity Date").

All payments on account of the indebtedness evidenced by this Note shall be first applied to interest, costs and prepayment fees (if any) and then to principal. Interest shall be computed on the basis of a 360-day year consisting of twelve 30-day months, except that interest for a portion of a month (such as may be required under paragraph 3 (a) above) shall be computed on the basis of a 365-day year (or a 366-day year during a leap year).

e. Amendments to Note 1 and Note 2. From and after the Additional Disbursement Date, neither Note 1 or Note 2 may be prepaid pursuant to provision 4 of such Note without prepayment of the other Note pursuant to such provision, and Notes 1 and 2 are also amended as follows with respect to the corresponding provisions of each of Note 1 and Note 2:

4. Prepayment.

Prepayment fees prior to the date of the Additional Disbursement shall be governed by the terms as originally provided in the Note and shall thereafter be governed by the following provision:

This Note may be prepaid in full but not in part on a scheduled payment date, upon giving the holder of this Note ("Holder") thirty (30) days prior written notice, by paying, in addition to the outstanding principal balance at the date of prepayment (plus all accrued interest and other sums due under the terms of the Loan Documents, as defined in the Mortgage referred to below), a Prepayment Fee.

The Prepayment Fee is equal to the greater of:

- (i) 1% of the principal prepaid (principal outstanding after application of payment due on date of prepayment) at the date of prepayment, or
- (ii) the present value computed on a monthly basis as of the date of prepayment of all future principal and interest payments due under this Note (starting with the first monthly payment due after the prepayment date and including any balloon payments) using the Discount Rate (as defined below) less the principal prepaid.

No Prepayment Fee shall be due if this Note is prepaid (a) during the 60 days prior to the Maturity Date or (b) in connection with the application of insurance proceeds or any condemnation award.

Discount Rate (defined)

The Discount Rate (DR) is the rate which when compounded monthly, is equivalent to the Reinvestment Rate (RR) when compounded semi-annually. The DR shall be rounded to the nearest one hundredth of one percent. For example, if the RR equaled 2.35%, then the DR would equal 2.34%. This is further defined as:

$$DR = (((1+RR/2)^2)^{(1/12)})-1)*12$$

Reinvestment Rate (defined)

The Reinvestment Rate (RR) is the yield in percent per annum of the Treasury Constant Maturity Nominal 10 (TCM) that equals the remaining Weighted Average Life (WAL) of the Note as published 5 business days prior to the date of prepayment in the Federal Reserve Statistical Release H.15 Selected Interest Rates. If the remaining WAL of this Note does not equal any of the published TCM's then the Reinvestment Rate will be determined by interpolating linearly between two TCM's, one having a maturity as close as possible to, but greater than the remaining WAL of the Note and one having a maturity as close as possible to, but less than the remaining WAL of the Note. The RR shall be rounded to the nearest one hundredth of one percent.

For example, if the remaining WAL of the Note on June 24, 2004 was 1.38 years then the RR would equal 2.35%. In this example interpolating the 1-year and 2-year TCM's arrives at the RR. On June 24, 2004 the 1-year TCM equaled 2.11% and the 2-year TCM equaled 2.74%.

In the event the Federal Reserve Statistical Release H.15 Selected Interest Rates is discontinued or no longer published, the Holder of the Note shall, in its sole discretion, designate some other daily financial or governmental publication of national circulation to determine the Reinvestment Rate which most nearly corresponds to the yield of the TCM.

Weighted Average Life (defined)

The Weighted Average Life (WAL) of the Note is the average number of years that each dollar of unpaid principal due on the Note remains outstanding. WAL is computed as the weighted-average time to the receipt of all future cash flows, using as the weights the dollar amounts of the principal paydowns. The WAL shall be rounded to the second decimal place (for example: 1.38).

For example, for a loan with 17 months remaining and principal payments as detailed in Column B in the chart below, the WAL would equal 1.38 years.

A	B	C
Month	Principal Payment	Weighted Principal Payment
1	X \$4,495 =	\$4,495
2	X \$4,521 =	\$9,042
3	X \$4,547 =	\$13,641
4	X \$4,574 =	\$18,295
5	X \$4,600 =	\$23,002
6	X \$4,627 =	\$27,763
7	X \$4,654 =	\$32,579
8	X \$4,681 =	\$37,451
9	X \$4,709 =	\$42,378
10	X \$4,736 =	\$47,361
11	X \$4,764 =	\$52,401
12	X \$4,792 =	\$57,498
13	X \$4,819 =	\$62,653
14	X \$4,848 =	\$67,866
15	X \$4,876 =	\$73,138
16	X \$4,904 =	\$78,469
17	X \$1,577,601 =	\$26,819,214
Totals:	\$1,652,747	\$27,467,245

Column C = Column A X Column B

WAL = (Total Column C / Total Column B) / 12

Borrower waives any right of prepayment except as expressly provided herein.

Lender shall notify Borrower of the amount and the basis of determination for the Prepayment Fee, which absent manifest error, shall be conclusive and binding upon Lender and Borrower.

Borrower expressly understands, acknowledges and agrees that (i) the Prepayment Fee is fair and reasonable and represents a reasonable estimate of the fair compensation for the loss that Lender shall sustain due to the early pre-payment of the outstanding principal under the Note, (ii) its agreement to pay the Prepayment Fee is a material inducement to Lender to make the loan, without which inducement Lender would not make the loan and (iii) the Prepayment Fee shall be paid without prejudice to the right of Lender to collect and retain any and all other amounts or charges provided to be paid hereunder or under the other Loan Documents.

Any and all prepayments of the principal amount of this Note, whether voluntary or involuntary, shall be subject to the terms of this provision 4, and include receipt by the Lender of all or a part of the principal balance and the outstanding interest due pursuant to this Note prior to the date when same is due, irrespective of the source of such payment and irrespective of whether same was paid by the Borrower "voluntarily" or "involuntarily". Without limiting the generality of the foregoing, prepayment shall include such payments from the Borrower, irrespective of whether before or after default, acceleration of the entire principal balance by virtue of default, and any payment of the principal balance and outstanding interest after the institution of foreclosure proceedings and upon sale in foreclosure.

In the event that such prepayment of the principal amount of this Note is tendered, whether as a result of foreclosure proceedings or otherwise, then Borrower shall pay Lender in full at any time during the term of this Note, the applicable Prepayment Fee referred to above.

5. Restrictions on Transfer and Encumbrance and Loan Assumption Provision. Borrower and Lender acknowledge and agree that from and after the Additional Disbursement Date, the Mortgage contains only the following paragraphs 4.1 and 4.2 in Article 4 of the Mortgage:

4.1 Restrictions on Transfer or Encumbrance of the Property.

- (a) A "Transfer" is: any sale (by contract or otherwise), encumbrance, conveyance or other transfer of all or any part of or interest in the Property; or any change in the ownership of any stock interest in a corporate Mortgagor, in the ownership of any membership interest or in the manager of a limited liability company Mortgagor, in the ownership of any general partnership interest in any general or limited partnership Mortgagor, or in the ownership of any beneficial interest in any other Mortgagor which is not a natural person or persons (including without limitation a trust); or any change in the ownership of any stock, membership, general partnership or other beneficial interest in any corporation, limited liability company, partnership, trust or other entity, organization or association directly or indirectly owning an interest in Mortgagor, or a change in the manager of a limited liability company. A change in the ownership of a

limited partnership interest in a limited partnership shall not be deemed a "Transfer."

- (b) In the event of a Transfer without Mortgagee's prior written consent, Mortgagee may at its sole option declare the Transfer to be an event of default under this Mortgage and invoke any remedy or remedies provided for in paragraph 8.1 hereof, or may at its sole option consent to such Transfer. Mortgagee may condition its consent to a Transfer upon the payment of a fee to Mortgagee, or an increase in the rate of interest due under the Note, or the items in paragraph 4.1(d) below, or any combination of the foregoing. Neither of the foregoing options shall apply, however, in the case of a Transfer under any will, trust or applicable law of descent arising because of the death of an individual so long as Mortgagee is given prompt notice of the Transfer and the transferee. Mortgagee's consent to a Transfer or its waiver of an event of default by reason of a Transfer shall not constitute a consent or waiver of any right, remedy or power accruing to Mortgagee by reason of any subsequent Transfer.
- (c) Mortgagee will give its written consent to Transfers of interests in Mortgagor or of interests in an entity with an ownership interest in Mortgagor to one (1) or more of the other existing members of the Mortgagor, the transferor's spouse or lineal descendant or to an estate planning trust whose trustees and beneficiaries are the transferor or the transferor's spouse or lineal descendant if Mortgagor gives Mortgagee prior written notice accompanied by copies of the proposed Transfer documents and a \$1,500.00 transfer review fee.
- (d) For any Transfer permitted under this Mortgage or requested by Mortgagor, Mortgagee may condition its consent upon: the Property having been and assurances that it shall continue to be well maintained and managed in a manner satisfactory to Mortgagee; Mortgagee's approval of the Transfer terms, documents and background materials; there being no uncured event of default under this Mortgage; Mortgagor furnishing an endorsement to Mortgagee's title insurance policy insuring the continued validity and priority of the lien of this Mortgage following the Transfer and such subordination agreements and other documents as may be required by Mortgagee or its title company to issue the endorsement; and any transferee and parties in interest in the transferee meeting the requirements of this Mortgage, including paragraph 2.12 of the Mortgage as modified. Unless Mortgagee in its sole discretion otherwise agrees in writing at that time, no Transfer shall release the transferor from any liability under the Loan Documents or the Environmental Indemnity. By accepting a Transfer, the transferee assumes any and all liability of the transferor under the Loan Documents and the Environmental Indemnity to the extent the transferor has any personal liability. At Mortgagee's request, the parties shall execute agreements, guaranties and indemnities in

form and substance acceptable to Mortgagee. Regardless whether Mortgagee consents to a Transfer request, Mortgagor agrees to pay all of Mortgagee's out-of-pocket expenses incurred in connection with any Transfer request, including without limitation title fees and attorneys' fees and costs, and Mortgagee may condition its willingness to consider a Transfer request upon a deposit to pay for Mortgagee's expenses.

4.2 Loan Assumption Provision. Notwithstanding any provision of this Mortgage to the contrary, Mortgagee will consent to two sales of the Property and assumption by the purchaser of the indebtedness secured hereby, provided that:

- (a) Mortgagor is not then in default under this Mortgage;
- (b) The purchaser of the Property, the financial statements, financial strength, tax returns and credit history of the purchaser, the sale agreement and related documents, and all aspects of the sale are satisfactory to Mortgagee;
- (c) The purchaser evidences a history of property management satisfactory to Mortgagee or contracts for management of the Property with a property management firm satisfactory to Mortgagee;
- (d) If the unpaid principal balance of the Note then exceeds seventy-five percent (75%) of the sale price of the Property, the principal balance due on the Note, at the Mortgagee's election, must be reduced, by a prepayment of such principal balance, to an amount resulting in such principal balance not exceeding seventy-five percent (75%) of the sale price at the time of the assumption;
- (e) Mortgagee receives in cash an assumption fee of the greater of Five Thousand and No/100 Dollars (\$5,000.00) or One Percent (1.00%) of the outstanding loan balance at the time of the assumption, plus, in either case, its legal and administrative expenses, incurred in connection with such sale and assumption;
- (f) Mortgagor furnishes to Mortgagee, at Mortgagor's expense, an endorsement to Mortgagee's title insurance policy insuring the continued validity, enforceability and priority of the Mortgage following the assumption. The form and content of the endorsement must be satisfactory to Mortgagee. If required by the Mortgagee or the title insurer issuing such endorsement, the Mortgagor shall furnish subordination agreements from tenants of the Property and other necessary parties in form and substance acceptable to the Mortgagee and the title insurer;

- (g) In the event of a transfer of the Property approved by the Mortgagee pursuant to this Section 4.2, the liability of the transferor pursuant to the Loan Documents shall be limited to acts or occurrences arising out of matters occurring prior to the closing of the assumption, and, as to matters where the time when such act or occurrence took place is in dispute, the transferor shall have the burden of proof that such act or occurrence took place subsequent to the closing of the assumption. In addition to the assumption of the Loan by the transferee, the Mortgagee may require a Guaranty from such parties as it determines necessary within its discretion as a condition of the assumption and the releasing of any guarantor of the Loan, and the /Mortgagee shall be under no obligation to release the Trustor pursuant to this paragraph if the net worth of the purchaser of the Property is less than Thirty-Six Million and No/100 Dollars (\$36,000,000.00);
- (h) If the Loan was made with a requirement imposed upon the Mortgagor to complete any specified repairs of the Property, the Mortgagor shall not be entitled to a consent by Mortgagee pursuant to the terms of this provision until such repairs have been completed to Mortgagee's satisfaction; and
- (i) The Mortgagee may, at its option, require tax reserves as referred to in paragraph 3.1 of this Mortgage, whether or not previously waived conditionally or otherwise, as a condition to its consent.

7. Late Charges. Late charges shall be assessed as provided in the Note except that from and after the Additional Disbursement Date, such late charges shall be governed by the following paragraph:

Borrower acknowledges that, if any monthly installment payment under this Note is not made when due, Lender will as a result thereof incur costs not contemplated by this Note, the exact amount of which would be extremely difficult or impracticable to ascertain. Such costs include without limitation processing and accounting charges. Accordingly, Borrower hereby agrees to pay to Lender with respect to each monthly installment payment which is not received by Lender within five (5) days of (and including) the date when due (four (4) days after the due date) a late charge equal to Five Percent (5%) of the amount of the monthly installment payment except that such amount shall be reduced and the time after which such amount is imposed shall be extended if required by applicable law. Borrower and Lender agree that such late charge represents a fair and reasonable estimate of the costs Lender will incur by reason of such late payment. Acceptance of such late charge by Lender shall in no event constitute a waiver of the default with respect to the overdue amount, and shall not prevent Lender from exercising any of the other rights and remedies available to Lender.

11. Limited Recourse Debt. The paragraph of the Note entitled Limited Recourse Debt is modified from and after the Additional Disbursement Date as follows:

- (a) The Borrower is hereby released from all personal liability under the Loan Documents to the extent such release does not operate to invalidate the lien of the Mortgage. In the event of foreclosure of the Mortgage or other enforcement of the collection of the indebtedness evidenced by this Note, Lender agrees, and any holder hereof shall be deemed by acceptance hereof to have agreed, not to take a deficiency judgment against Borrower with respect to said indebtedness except as may be provided as follows in this paragraph 11.
- (b) Notwithstanding the terms of subparagraph (a), the Borrower shall be fully and personally liable to the holder of this Note for all claims, demands, damages, losses, liabilities, fines, penalties, fees, liens, costs and expenses suffered or incurred by Lender on account of or in connection with the following:
 - (i) Waste to the Property or fraud or willful misrepresentation committed by Borrower;
 - (ii) Any retention of rental income or other income of the Property after an event of default has occurred which remains uncured after any applicable notice and opportunity to cure period, to the extent that any such amount retained is not applied to the capital and operating expenses of the Property, and the retention of security deposits or other deposits made by tenants of the Property which are not paid to tenants when due or transferred to Lender or any other party acquiring the Property at a foreclosure sale or any transfer in lieu of foreclosure;
 - (iii) Any taxes or assessments related to the Property accrued prior to the Lender's acquisition of title to the Property;
 - (iv) The removal or disposition by Borrower of any personal property or fixtures encumbered by the Mortgage which are not replaced as required by the Mortgage;
 - (v) The misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage or destruction to any portion of the Property or any building or buildings located thereon;
 - (vi) Borrower's failure to maintain hazard, liability and other insurance as required under the terms of the Mortgage;
 - (vii) Due to the presence of any hazardous, toxic and dangerous wastes, substances and materials, including asbestos, on the Property and

due to any breach of covenant, breach of warranty or misrepresentation by Borrower under the Mortgage, the Environmental Indemnity, or any of the other loan documents delivered in connection with the loan evidenced by this Note with respect to hazardous, toxic and dangerous wastes, substances and materials, and Borrower's failure to perform any obligations under the Environmental Indemnity. There will be no liability of the Borrower for such waste, substances and materials which are introduced to the Property subsequent to a permitted transfer of the Property by the Borrower or to the Lender's acquisition of title as a result of foreclosure or a deed in lieu of foreclosure; provided, however, the Borrower shall bear the burden of proof that the introduction and initial release of such hazardous waste, substances or materials (i) occurred subsequent to the transfer date, (ii) did not occur as a result of any action of the Borrower, and (iii) did not occur as a result of continuing migration or release of any hazardous waste, substances or materials introduced prior to the transfer date, in, on, under or near the Property;

- (viii) Any fees and costs including attorney fees incurred in connection with and in enforcing and collecting any amounts due under this provision 11;
 - (ix) The amount of any fees or costs, including transfer taxes and similar items, incurred in connection with the acquisition of title to the Property, whether voluntarily or involuntarily, from The Industrial Development Board of the City of Pelham; and
 - (x) The amount of any prepaid rents paid prior to the time permitted pursuant to the terms of the Mortgage or Assignment, whether or not the Lender has given its consent to such prepayments, to the extent the time for which such prepayment has been made has not passed at the time an event of default has occurred.
- (c) The Borrower shall not be entitled to the limitations of subparagraph (a) and subparagraph (a) shall be of no force or effect upon the occurrence of either of the following:
- (i) There is a transfer of title to the Property or any part thereof or interest therein without the Lender's written consent unless expressly permitted by the terms of the Mortgage without such consent; or
 - (ii) Subordinate financing is placed against the Property, any part of the Property or interest in the Property, without the Lender's written consent, except that this subparagraph (ii) shall not apply in the event the Borrower causes such secondary financing to be satisfied within thirty (30)

days of Lender's notification that such secondary financing is impermissible. However, in the event such secondary financing has been placed and removed as provided in the preceding sentence, this right to "cure" the unpermitted placement of secondary financing shall thereafter no longer apply.

The foregoing limitation on personal liability is not intended and shall not be deemed to constitute a forgiveness of the indebtedness evidenced by this Note or a release of the obligation to repay said indebtedness according to the terms and provisions hereof, but shall operate solely to limit the remedies otherwise available to the holder hereof for the enforcement and collection of such indebtedness. As used in this paragraph, the term "Borrower" includes:

- (a) Borrower (and each of them, if more than one),
- (b) all general partners of any Borrower which is a partnership, and
- (c) all joint venturers of any Borrower which is a joint venture.

The personal liability hereunder of all persons included within the term "Borrower" shall be joint and several. The provisions of this paragraph shall control over any conflicting provisions of this Note, the Mortgage or the Assignment.

f. Amendments to Mortgage. From and after the date of this Agreement, the Mortgage is amended to refer to the Note as amended as referred to above, to reflect the changes in the principal amount of the Loan secured by the Mortgage and in the payment and prepayment terms referred to above. The Maturity Date of the Mortgage is changed to July 31, 2025 and the Mortgage is further amended as provided below:

- 1. References to Loan Terms. The terms of the loan in paragraph C. of the Mortgage are amended in applicable part to provide for the changes referred to in this Modification Agreement.
- 2. Restrictions on Transfer or Encumbrance and Loan Assumption Provision. Section 4 of the Mortgage is deleted in its entirety, and the following paragraphs 4.1 and 4.2 of the Mortgage are added as follows:

4.1 Restrictions on Transfer or Encumbrance of the Property.

- (a) A "Transfer" is: any sale (by contract or otherwise), encumbrance, conveyance or other transfer of all or any part of or interest in the Property; or any change in the ownership of any stock interest in a corporate Mortgagor, in the ownership of any membership interest or in the manager of a limited liability company Mortgagor, in the ownership of any general partnership interest in any general or limited partnership Mortgagor, or in the ownership of any beneficial interest in any other Mortgagor which is not a natural person or persons (including without limitation a trust); or any change in the ownership of any stock, membership, general

partnership or other beneficial interest in any corporation, limited liability company, partnership, trust or other entity, organization or association directly or indirectly owning an interest in Mortgagor, or a change in the manager of a limited liability company. A change in the ownership of a limited partnership interest in a limited partnership shall not be deemed a "Transfer."

- (b) In the event of a Transfer without Mortgagee's prior written consent, Mortgagee may at its sole option declare the Transfer to be an event of default under this Mortgage and invoke any remedy or remedies provided for in paragraph 8.1 hereof, or may at its sole option consent to such Transfer. Mortgagee may condition its consent to a Transfer upon the payment of a fee to Mortgagee, or an increase in the rate of interest due under the Note, or the items in paragraph 4.1(d) below, or any combination of the foregoing. Neither of the foregoing options shall apply, however, in the case of a Transfer under any will, trust or applicable law of descent arising because of the death of an individual so long as Mortgagee is given prompt notice of the Transfer and the transferee. Mortgagee's consent to a Transfer or its waiver of an event of default by reason of a Transfer shall not constitute a consent or waiver of any right, remedy or power accruing to Mortgagee by reason of any subsequent Transfer.
- (c) Mortgagee will give its written consent to Transfers of interests in Mortgagor or of interests in an entity with an ownership interest in Mortgagor to one (1) or more of the other existing members of the Mortgagor, the transferor's spouse or lineal descendant or to an estate planning trust whose trustees and beneficiaries are the transferor or the transferor's spouse or lineal descendant if Mortgagor gives Mortgagee prior written notice accompanied by copies of the proposed Transfer documents and a \$1,500.00 transfer review fee.
- (d) For any Transfer permitted under this Mortgage or requested by Mortgagor, Mortgagee may condition its consent upon: the Property having been and assurances that it shall continue to be well maintained and managed in a manner satisfactory to Mortgagee; Mortgagee's approval of the Transfer terms, documents and background materials; there being no uncured event of default under this Mortgage; Mortgagor furnishing an endorsement to Mortgagee's title insurance policy insuring the continued validity and priority of the lien of this Mortgage following the Transfer and such subordination agreements and other documents as may be required by Mortgagee or its title company to issue the endorsement; and any transferee and parties in interest in the transferee meeting the requirements of this Mortgage, including paragraph 2.12 of the Mortgage as modified. Unless Mortgagee in its sole discretion otherwise agrees in writing at that time, no Transfer shall release the transferor from any liability under the Loan Documents or the Environmental Indemnity. By

accepting a Transfer, the transferee assumes any and all liability of the transferor under the Loan Documents and the Environmental Indemnity to the extent the transferor has any personal liability. At Mortgagee's request, the parties shall execute agreements, guaranties and indemnities in form and substance acceptable to Mortgagee. Regardless whether Mortgagee consents to a Transfer request, Mortgagor agrees to pay all of Mortgagee's out-of-pocket expenses incurred in connection with any Transfer request, including without limitation title fees and attorneys' fees and costs, and Mortgagee may condition its willingness to consider a Transfer request upon a deposit to pay for Mortgagee's expenses.

4.2 Loan Assumption Provision. Notwithstanding any provision of this Mortgage to the contrary, Mortgagee will consent to two sales of the Property and assumption by the purchaser of the indebtedness secured hereby, provided that:

- (a) Mortgagor is not then in default under this Mortgage;
- (b) The purchaser of the Property, the financial statements, financial strength, tax returns and credit history of the purchaser, the sale agreement and related documents, and all aspects of the sale are satisfactory to Mortgagee;
- (c) The purchaser evidences a history of property management satisfactory to Mortgagee or contracts for management of the Property with a property management firm satisfactory to Mortgagee;
- (d) If the unpaid principal balance of the Note then exceeds seventy-five percent (75%) of the sale price of the Property, the principal balance due on the Note, at the Mortgagee's election, must be reduced, by a prepayment of such principal balance, to an amount resulting in such principal balance not exceeding seventy-five percent (75%) of the sale price at the time of the assumption;
- (e) Mortgagee receives in cash an assumption fee of the greater of Five Thousand and No/100 Dollars (\$5,000.00) or One Percent (1.00%) of the outstanding loan balance at the time of the assumption, plus, in either case, its legal and administrative expenses, incurred in connection with such sale and assumption;
- (f) Mortgagor furnishes to Mortgagee, at Mortgagor's expense, an endorsement to Mortgagee's title insurance policy insuring the continued validity, enforceability and priority of the Mortgage following the assumption. The form and content of the endorsement must be satisfactory to Mortgagee. If required by the Mortgagee or the title insurer issuing such endorsement, the Mortgagor shall furnish subordination agreements from tenants of the Property and other

necessary parties in form and substance acceptable to the Mortgagee and the title insurer;

- (g) In the event of a transfer of the Property approved by the Mortgagee pursuant to this Section 4.2, the liability of the transferor pursuant to the Loan Documents shall be limited to acts or occurrences arising out of matters occurring prior to the closing of the assumption, and, as to matters where the time when such act or occurrence took place is in dispute, the transferor shall have the burden of proof that such act or occurrence took place subsequent to the closing of the assumption. In addition to the assumption of the Loan by the transferee, the Mortgagee may require a Guaranty from such parties as it determines necessary within its discretion as a condition of the assumption and the releasing of any guarantor of the Loan, and the Mortgagee shall be under no obligation to release the Trustor pursuant to this paragraph if the net worth of the purchaser of the Property is less than Thirty-Six Million and No/100 Dollars (\$36,000,000.00);
- (h) If the Loan was made with a requirement imposed upon the Mortgagor to complete any specified repairs of the Property, the Mortgagor shall not be entitled to a consent by Mortgagee pursuant to the terms of this provision until such repairs have been completed to Mortgagee's satisfaction; and
- (i) The Mortgagee may, at its option, require tax reserves as referred to in paragraph 3.1 of this Mortgage, whether or not previously waived conditionally or otherwise, as a condition to its consent.

3. UCC Provisions. The following additional Uniform Commercial Code provisions, with the Mortgagor referred to as Borrower, and Mortgagee, as Lender, are added to the Mortgage:

- (a) For purposes of the Uniform Commercial Code, this Mortgage constitutes a security agreement and financing statement with Borrower being the Debtor and Lender being the Secured Party and also constitutes a financing statement filed as a fixture filing pursuant to the Uniform Commercial Code.
- (b) Borrower represents and warrants to Lender that the parties constituting Borrower are limited liability companies organized under the laws of Alabama, whose places of business or chief executive offices (if they have more than one place of business) is located in the United States in the State of Alabama, and their exact legal names are as set forth in the first paragraph on page 1 of this Agreement and they hereby represent and warrant that the information regarding the record owner of the real estate and Borrower as Debtor set forth in the Loan Documents are true and correct as of the date of this instrument.

- (c) Borrower hereby authorizes Lender to file one or more Uniform Commercial Code Financing Statements with respect to the Property (as that term is defined herein and including any other assets or interests assigned to Lender hereunder). Borrower covenants and agrees that it will promptly furnish to Lender, upon Lender's request, such information as may be required in order for Lender to do so.
- (d) At the request of Lender, Borrower shall execute a certificate in form satisfactory to Lender listing the trade-names or fictitious business names under which Borrower intends to operate the Property or any business located thereon and representing and warranting that Borrower does business under no other trade names or fictitious business names with respect to the Property. Borrower will not change any of the following without notifying the Lender of such change in writing at least thirty (30) days prior to the effective date of such change and without first obtaining the reasonable prior written consent of the Lender:
- (i) Borrower's name or identity (including its trade name or names);
 - (ii) if Borrower is an individual, Borrower's principal residence;
 - (iii) if Borrower is an organization, Borrower's corporate, partnership or other structure;
 - (iv) if Borrower is an organization, Borrower's jurisdiction of organization (i.e., the jurisdiction [State] under whose law the Borrower is organized); or if Borrower is an organization, Borrower's place of business (if Borrower has only one place of business) or Borrower's chief executive office (if Borrower has more than one place of business);
- (e) The Organizational ID Numbers for the Record Owner of the Real Estate and Debtor are as follows: *NONE ISSUED IN STATE OF ALABAMA*

Pelham Industrial Enterprises, LLC, an Alabama limited liability company

- *NONE*

Pelham Industrial Enterprises VII, LLC, an Alabama limited liability company - *NONE*

4. Property Use. Paragraph 2.7 of the Mortgage with Mortgagor referred to as Borrower and Mortgagee referred to as Lender shall be amended in its entirety by replacing it with the following:

Use of Property. Borrower will comply with all laws, ordinances, regulations and requirements of any governmental body, and all other covenants, conditions and restrictions, applicable to the Property, and pay all fees and charges in connection

therewith. Borrower shall not cause or permit the installation, operation or presence on the Realty of any underground storage tank or system used or to be used for the storage, handling or dispensing of petroleum or any other substance regulated under the Resource Conservation and Recovery Act (42 USC § 6901 et seq.), as now or hereafter amended, or any state or local statute, ordinance, rule, regulation or other law now or hereafter in effect regulating underground storage tanks or systems. Borrower shall not cause or permit all or any of the Realty to be used for a gasoline station, service station or other fueling facility which in whole or in part handles, sells or distributes gasoline, diesel fuel, gasohol or any other substance used in self-propelled motor vehicles. Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower will not allow changes in the use for which all or any part of the Property was intended at the time this Mortgage was executed. Borrower will not initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

5. Additional Representation and Warranty. The following provision is added to the Mortgage as provision 2.12:

Prohibited Person Compliance. Mortgagor warrants, represents and covenants that neither Mortgagor, any guarantor nor any of their respective affiliated entities are or will be an entity or person (i) that is listed in the Annex to, or is otherwise subject to the provisions of, Executive Order 13224 issued on September 24, 2001 ("EO13224"); (ii) whose name appears on the United States Treasury Department's Office of Foreign Assets Control ("OFAC") most current list of "Specifically Designed National and Blocked Persons," (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treas.gov/offices/eotffc/ofac/sdn/tllsdn.pdf>); (iii) who commits, threatens to commit or supports "terrorism", as that term is defined in EO 13224; or (iv) who is otherwise affiliated with any entity or person listed above (any and all parties or persons described in subparts [i] – [iv] above are herein referred to as a "Prohibited Person"). Mortgagor covenants and agrees that neither Mortgagor, any guarantor nor any of their respective affiliates entities will (i) conduct any business, nor engage in any transaction or dealing, with any Prohibited Person, including, but not limited to, the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person, or (ii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in EO 13224. Mortgagor further covenants and agrees to deliver (from time to time) to Lender any such certification or other evidence as may be requested by Lender in its sole and absolute discretion, confirming that (i) neither Mortgagor nor any guarantor are a Prohibited Person and (ii) neither Mortgagor nor any guarantor have engaged in any business, transaction or dealings with a Prohibited Person, including, but not limited to, the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person.

6. Exhibit B. Exhibit B to the Mortgage is hereby removed, and the Mortgagor is delivering to the Mortgagee contemporaneous herewith its certification of the current leases of the Property.

g. Amendments to Assignment, Environmental Indemnity and Acknowledgment of Guarantor. From and after the Additional Disbursement Date, the Assignment is amended to refer to the Note as amended as referred to above, to refer to the Mortgage as amended as referred to above and to reflect the changes in the principal amount of the Loan and the payment and prepayment terms referred to above. The Borrower represents that the matters referred to in a Certificate Regarding Leases and Tenancies of even date given by the Borrower to the Lender, are true and correct. Guarantors have executed this Agreement to acknowledge their liability under the Environmental Indemnity and Unconditional Guaranty except that HB Investments, LLC, acknowledges and agrees that it is the successor to the Estate of David Bunkin and has assumed the liability of that Estate and is fully and jointly and severally liable with the other Guarantors and Borrower, as applicable, under the Unconditional Guaranty and Environmental Indemnity as if it had executed the same on the date hereof. However, all such parties constituting the Guarantor acknowledge that the Unconditional Guaranty is also amended to reflect changes consistent with the modification to the Note under paragraph 11 of the Note above.

h. Exculpation of Fee Owner. It is understood and agreed that the Fee Owner, its officers, directors, successors or assigns, shall not be personally liable for the payment of the Secured Obligations or performance of the terms and conditions of the Mortgage as modified as referred to herein, or any representations, warranties or covenants contained in the Mortgage, and no personal money judgments shall be asserted against the Fee Owner, its officers, directors, successors and assigns, provided this limitation of liability shall not prejudice the right of the Mortgagee to enforce the Mortgage as modified as referred to herein or any other security given for the payment of the Secured Obligations or to enforce its remedies hereunder including joining the Fee Owner in any legal proceedings to enforce the Mortgage as modified herein or sell the Property or to enforce its remedies at law, provided such joinder is for the purpose of enforcing the Mortgage as modified as referred to herein or enforcing the remedies thereunder and not for the purpose of seeking a personal money judgment against the Fee Owner, its officers, directors, successors and assigns except that the Fee Owner shall be liable to the Mortgagee and shall pay to the Mortgagee any rents or other income it receives and retains after an event of default has occurred under the Mortgage as modified as referred to herein.

i. Effect of Modification. Except as amended by this Agreement, the Loan Documents shall continue in full force and effect in accordance with their terms as originally executed and the Mortgage and/or any other Loan Documents that refer to the Loan, the Note or the Mortgage shall, from and after the Additional Disbursement Date, refer to the Loan, the Note and the Mortgage as amended by this Agreement.

j. Conditions. This Agreement is effective only when all of the following conditions have been satisfied, time being of the essence:

1. This Agreement has been duly executed and recorded in the land records for the Property described on Exhibit A.
2. The Additional Disbursement has been made by Lender and all requirements for the same have been satisfied.
3. An endorsement to the Lender's title policy insuring that the modifications in this Agreement do not affect the validity or priority of the lien of the Mortgage has been issued to Lender's title policy increasing the amount of the policy to the amount of the Loan after the Additional Disbursement. There shall be no exceptions to title other than those approved when the Loan closed, and all real estate taxes for the Property must be insured by the endorsement to be current. Alternatively, a new title policy may be issued consistent with these requirements.
4. Borrower has paid all of Lender's expenses and fees arising out of this transfer and Agreement, including title endorsement, recording, reasonable attorney's fees, and other out-of-pocket costs of Lender.
5. There is then no default or event of default under the Loan Documents, nor any event or condition which would be a default or event of default if not cured within the time allowed.

k. Attorneys' Fees. If Lender seeks the advice of counsel or any suit or action is brought to enforce or interpret the terms of this Agreement or the Loan Documents, Borrower shall pay all of Lender's resulting costs and expenses, including reasonable attorneys' fees. Such fees shall include, without limitation, reasonable attorneys' fees incurred at or in preparation for any trial, appeal or review or incurred to assert any defenses, rights or remedies available under federal bankruptcy or insolvency law.

l. Miscellaneous.

1. Borrower represents and warrants to Lender that it has no defenses or claims of offset to payment of the Loan or enforcement of the Loan Documents or any other defenses or offsets with respect to Lender's lending of funds to Borrower. As further consideration for this Agreement, Borrower releases Lender from any and all liability, known or unknown, arising out of any act or circumstance to date with respect to the Loan or any collateral for repayment of the Loan.
2. Each person included within Borrower warrants to Lender that it has full right, power and authority to enter into this Agreement and to perform all its obligations, and that all information and materials submitted to Lender in connection with the request for this modification contain no material misstatement or misrepresentation nor omit to state any material fact or circumstance.
3. This document constitutes the entire agreement with respect to the modification of the Loan and shall not be amended, modified or terminated except by a writing signed by the party to be charged therewith.

4. Except as provided in this Agreement, the terms of the Loan Documents remain in full effect and are ratified. This Agreement is not intended to and shall not be construed to impair the validity, priority or enforceability of the Mortgage or the other Loan Documents.
5. This Agreement is binding upon and shall inure to the benefit of the parties and their respective heirs, personal representatives, successors and assigns.
6. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one instrument.
7. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.
8. The Borrower has requested that the Lender consent to, and the Lender has consented to, the prepayment of rents by the Tenant under the lease of a part of the Property to D. Knight, Inc. as described on a Certificate Regarding Leases and Tenancies given by the Borrower to the Lender of even date, but the Borrower acknowledges that such prepayment of rents is specifically subject to the terms of paragraph 11.(b)(x) of the Note as amended as referred to above and that such Lender's consent does not imply the Lender's agreement to consent to any other requests for such prepayments of rent in the future.

LENDER AND BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE AND ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION THEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. BORROWER ACKNOWLEDGES THAT THIS WAIVER OF JURY TRIAL IS A MATERIAL INDUCEMENT TO THE LENDER IN EXTENDING CREDIT TO THE BORROWER, THAT THE LENDER WOULD NOT HAVE EXTENDED CREDIT WITHOUT THIS JURY TRIAL WAIVER, AND THAT BORROWER HAS BEEN REPRESENTED BY AN ATTORNEY OR HAS HAD AN OPPORTUNITY TO CONSULT WITH AN ATTORNEY IN CONNECTION WITH THIS JURY TRIAL WAIVER TO UNDERSTAND THE LEGAL EFFECT OF THIS WAIVER.

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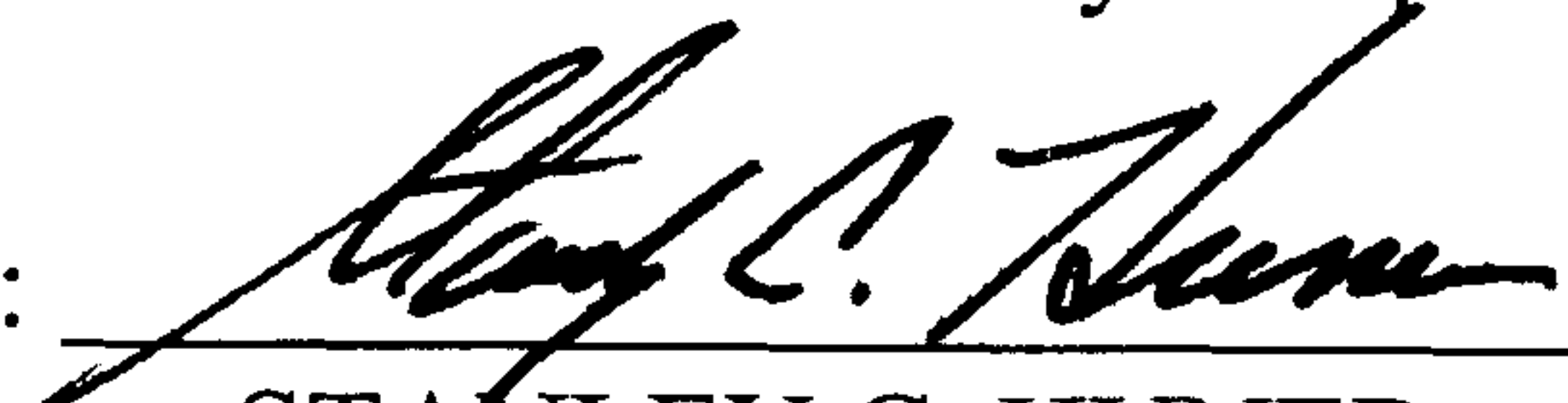
IN WITNESS WHEREOF, the undersigned, have executed this Modification Agreement
as of the day and year first above written.

PELHAM INDUSTRIAL ENTERPRISES,
LLC, an Alabama limited liability company

By: 
MARC A. EASON


Its: Member

By: HB INVESTMENTS, LLC, an
Alabama limited liability company

By: 
STANLEY C. HUNER

Its: Manager

Its: Member

By: 
CHARLES H. STEPHENS

Its: Member

By: 
MARVIN R. ENGEL

Its: Member

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Shelby Cnty Judge of Probate, AL
07/07/2005 12:47:37PM FILED/CERT

STATE OF ALABAMA)
 (SS
COUNTY OF JEFFERSON)

I, the undersigned, a Public Notary in and for County in said State, hereby certify that Marc A. Eason, whose name as Member of Pelham Industrial Enterprises, LLC, an Alabama limited liability company, is signed to the Modification Agreement and who is known to me to be such Member acknowledged that he, being informed of the contents of the instrument, executed the same voluntarily as such Member of Pelham Industrial Enterprises, LLC, on the day the same bears date.

Given under my hand and official seal this 5 day of July, 2005.

Valerie A. Sanders
Notary Public
My Commission Expires: _____

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Sep 9, 2006
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA)
 (SS
COUNTY OF JEFFERSON)

I, the undersigned, a Public Notary in and for County in said State, hereby certify that Stanley C. Huner, whose name as Manager of HB Investments, LLC, an Alabama limited liability company, is signed to the Modification Agreement and who is known to me to be such Manager acknowledged that he, being informed of the contents of the instrument, executed the same voluntarily as such Manager of HB Investments, LLC, on the day the same bears date.

Given under my hand and official seal this 5th day of July, 2005.

Stanley C. Huner
Notary Public
My Commission Expires: 9-19-07

STATE OF ALABAMA)
 (SS
COUNTY OF JEFFERSON)

I, the undersigned, a Public Notary in and for County in said State, hereby certify that Charles H. Stephens, whose name as Member of Pelham Industrial Enterprises, LLC, an Alabama limited liability company, is signed to the Modification Agreement and who is known to me to be such Member acknowledged that he, being informed of the contents of the instrument, executed the same voluntarily as such Member of Pelham Industrial Enterprises, LLC, on the day the same bears date.

Given under my hand and official seal this 5th day of July, 2005.

James L. Baigman
Notary Public
My Commission Expires: 09-19-07

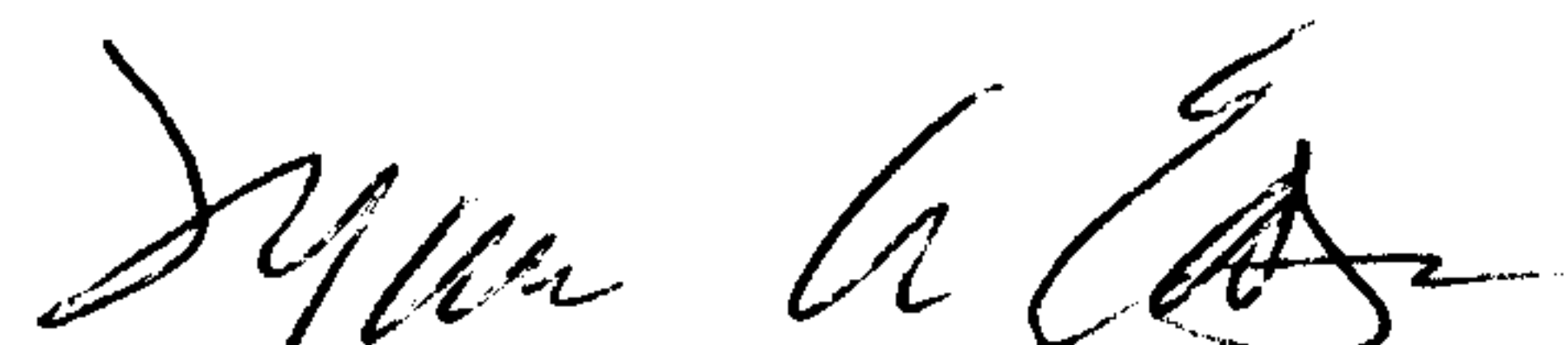
STATE OF ALABAMA)
 (SS
COUNTY OF JEFFERSON)

I, the undersigned, a Public Notary in and for County in said State, hereby certify that Marvin R. Engel, whose name as Member of Pelham Industrial Enterprises, an Alabama limited liability company, is signed to the Modification Agreement and who is known to me to be such Member acknowledged that he, being informed of the contents of the instrument, executed the same voluntarily as such Member of Pelham Industrial Enterprises, LLC, on the day the same bears date.

Given under my hand and official seal this 5th day of July, 2005.

Charlotte H. Bandette
Notary Public
My Commission Expires: 1-11-07

PELHAM INDUSTRIAL ENTERPRISES VII,
LLC, an Alabama limited liability company

By: 
Marc A. Eason

Its: Member

By: HB INVESTMENTS, LLC, an
Alabama limited liability company

By: 
STANLEY C. HUNER

Its: Manager

Its: Member

By: 
CHARLES H. STEPHENS

Its: Member

By: 
MARVIN R. ENGEL

Its: Member

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Shelby Cnty Judge of Probate, AL
07/07/2005 12:47:37PM FILED/CERT

STATE OF ALABAMA)
(SS
COUNTY OF Jefferson)

I, the undersigned, a Public Notary in and for County in said State, hereby certify that Marc A. Eason, whose name as Member of Pelham Industrial Enterprises VII, LLC, an Alabama limited liability company, is signed to the Modification Agreement and who is known to me to be such Member acknowledged that he, being informed of the contents of the instrument, executed the same voluntarily as such Member of Pelham Industrial Enterprises VII, LLC, on the day the same bears date.

Given under my hand and official seal this 5th day of July, 2005.

Valerie A. Sanders
Notary Public

My Commission Expires

~~NOTARY PUBLIC STATE OF ALABAMA AT LARGE~~
MY COMMISSION EXPIRES: Sep 9, 2006
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA)
(SS
COUNTY OF JEFFERSON)

I, the undersigned, a Public Notary in and for County in said State, hereby certify that Stanley C. Huner, whose name as Manager of HB Investments, LLC, an Alabama limited liability company, is signed to the Modification Agreement and who is known to me to be such Manager acknowledged that he, being informed of the contents of the instrument, executed the same voluntarily as such Manager of HB Investments, LLC, on the day the same bears date.

Given under my hand and official seal this 5th day of July, 2005.

Stanley C. Huner
Notary Public

My Commission Expires:

9-19-07

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Shelby Cnty Judge of Probate, AL
07/07/2005 12:47:37PM FILED/CERT

STATE OF ALABAMA)
 (SS
COUNTY OF JEFFERSON)

I, the undersigned, a Public Notary in and for County in said State, hereby certify that Charles H. Stephens, whose name as Member of Pelham Industrial Enterprises VII, LLC, an Alabama limited liability company, is signed to the Modification Agreement and who is known to me to be such Member acknowledged that he, being informed of the contents of the instrument, executed the same voluntarily as such Member of Pelham Industrial Enterprises VIII, LLC, on the day the same bears date.

Given under my hand and official seal this 5th day of July, 2005.

James D. Brigham
Notary Public
My Commission Expires: 9-19-07

STATE OF ALABAMA)
 (SS
COUNTY OF JEFFERSON)

I, the undersigned, a Public Notary in and for County in said State, hereby certify that Marvin R. Engel, whose name as Member of Pelham Industrial Enterprises VII, LLC, an Alabama limited liability company, is signed to the Modification Agreement and who is known to me to be such Member acknowledged that he, being informed of the contents of the instrument, executed the same voluntarily as such Member of Pelham Industrial Enterprises VII, LLC, on the day the same bears date.

Given under my hand and official seal this 5th day of July, 2005.

Charlotte H. Burdette
Notary Public
My Commission Expires: 1-11-07

Exculpation of Fee Owner. It is understood and agreed that the Fee Owner, its officers, directors, successors or assigns, shall not be personally liable for the payment of the Secured Obligations or performance of the terms and conditions of the Mortgage as modified as referred to herein, or any representations, warranties or covenants contained in the Mortgage, and no personal money judgments shall be asserted against the Fee Owner, its officers, directors, successors and assigns, provided this limitation of liability shall not prejudice the right of the Mortgagee to enforce the Mortgage as modified as referred to herein or any other security given for the payment of the Secured Obligations or to enforce its remedies hereunder including joining the Fee Owner in any legal proceedings to enforce the Mortgage as modified herein or sell the Property or to enforce its remedies at law, provided such joinder is for the purpose of enforcing the Mortgage as modified as referred to herein or enforcing the remedies thereunder and not for the purpose of seeking a personal money judgment against the Fee Owner, its officers, directors, successors and assigns except that the Fee Owner shall be liable to the Mortgagee and shall pay to the Mortgagee any rents or other income it receives and retains after an event of default has occurred under the Mortgage as modified as referred to herein.

THE INDUSTRIAL DEVELOPMENT BOARD OF
THE CITY OF PELHAM, a public not for profit
corporation of the State of Alabama

By: Tillman T. Everson

Its: Chairman

STATE OF ALABAMA)
(SS
COUNTY OF SHELBY)

I, the undersigned, a Public Notary in and for County in said State, hereby certify that Tillman T. Everson, whose name as Chairman of the Board of The Industrial Development Board of The City of Pelham, a public not for profit corporation of the State of Alabama, is signed to the foregoing instrument and who is known to me to be such officer acknowledged that ~~(s)~~he, being informed of the contents of the instrument, executed the same voluntarily as such officer of The Industrial Development Board of The City of Pelham, a public not for profit corporation of the State of Alabama on the day the same bears date.

Given under my hand and official seal this 23rd day of June, 2005.

[Signature]

Notary Public

My Commission Expires 4-19-08

FIRST COLONY LIFE INSURANCE COMPANY,
a Virginia corporation

By: Cindy J. Heide
Its: Investment Officer

STATE OF Virginia)
COUNTY OF Henrico) ss

I, a Notary Public of the County and State aforesaid, certify that Cindy J. Heide
personally came before me this day and acknowledged that (s)he is the
Investment Officer of First Colony Life Insurance Company, a Virginia corporation, is signed to
the foregoing instrument and who is known to me to be such Investment Officer acknowledged that
(s)he, being informed of the contents of the instrument, executed the same voluntarily as such
Investment Officer of First Colony Life Insurance Company on the day the same bears date.

Given under my hand and official seal this 5th day of July, 2005.

Bonnie R. Miles-Camp
Notary Public
My Commission Expires 8/31/06



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Shelby Cnty Judge of Probate, AL
07/07/2005 12:47:37PM FILED/CERT

MARC A. EASON

HB INVESTMENTS, LLC, an
Alabama limited liability company

By:

STANLEY C. HUNER

Its: Manager

CHARLES STEPHENS

MARVIN R. ENGEL

STATE OF ALABAMA)
(SS
COUNTY OF Jefferson)

I, the undersigned Notary Public in and for County in said State, hereby certify that Marc A. Eason, whose name is signed to the foregoing instrument and who is known to me to be such person acknowledged that he, being informed of the contents of the instrument, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 5 day of July, 2005.

Valerie A. Sanders
Notary Public
My Commission Expires _____

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: Sep 9, 2006
BONDED THRU NOTARY PUBLIC UNDERWRITERS

STATE OF ALABAMA)
(SS
COUNTY OF JEFFERSON)

I, the undersigned, a Public Notary in and for County in said State, hereby certify that Stanley C. Huner, whose name as Manager of HB Investments, LLC, an Alabama limited liability company, is signed to the Modification Agreement and who is known to me to be such Manager acknowledged that he, being informed of the contents of the instrument, executed the same voluntarily as such Manager of HB Investments, LLC, on the day the same bears date.

Given under my hand and official seal this 5th day of July, 2005.

Stanley C. Huner
Notary Public
My Commission Expires 09-19-07



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Shelby Cnty Judge of Probate, AL
07/07/2005 12:47:37PM FILED/CERT

STATE OF ALABAMA)
(SS
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for County in said State, hereby certify that Charles Stephens, whose name is signed to the foregoing instrument and who is known to me to be such person acknowledged that he, being informed of the contents of the instrument, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 5th day of July, 2005.

[Signature]
Notary Public
My Commission Expires 9-19-07

STATE OF ALABAMA)
(SS
COUNTY OF Jefferson)

I, the undersigned Notary Public in and for County in said State, hereby certify that Marvin R. Engel, whose name is signed to the foregoing instrument and who is known to me to be such person acknowledged that he, being informed of the contents of the instrument, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 5th day of July, 2005.

[Signature]
Notary Public
My Commission Expires 1-11-06

EXHIBIT A
TO
MODIFICATION AGREEMENT

LEGAL DESCRIPTION:

The property which is the subject of this Modification Agreement is situated in the County of Shelby, State of Alabama, and is legally described as follows:

Parcel I

Lot D, according to the survey of Cahaba Valley Business Park, Resurvey Number 2, as recorded in Map Book 23 page 42 in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.

Parcel II

Lots 3 and 4, according to the survey of Cahaba Valley Business Park, Resurvey Number 2, as recorded in Map Book 23 page 42 in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.

Parcel III


Lot 5, according to the survey of Cahaba Valley Business Park, Resurvey Number 2, as recorded in Map Book 23 page 42 in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.

Parcel IV

Lot O-14B, according to the Resurvey of Cahaba Valley Business Park, as recorded in Map Book 17 page 73 in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.

Parcel V

Lot OW-4A, according to the Resurvey of Cahaba Valley Business Park, as recorded in Map Book 17 page 73 in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.


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Shelby Cnty Judge of Probate, AL
07/07/2005 12:47:37PM FILED/CERT

Parcel VI

Lot 1, according to the survey of Valley Business Center Resurvey as recorded in Map Book 18 page 89 in the Office of the Judge of Probate of Shelby County, Alabama; being situated in Shelby County, Alabama.