

STATE OF ALABAMA)

SHELBY COUNTY)

MORTGAGE AND SECURITY AGREEMENT

This instrument (hereinafter, with all amendments thereto, being referred to as "this Mortgage") is entered into as of May 1, 1982 by THE INDUSTRIAL DEVELOPMENT BOARD OF THE TOWN OF VINCENT, a public corporation under the laws of the State of Alabama (the "Board"), HEADQUARTERS PARTNERSHIP, an Alabama general partnership (the "Lessee"; the Board and the Lessee being hereinafter sometimes together referred to as the "Mortgagors"), and THE FIRST NATIONAL BANK OF BIRMINGHAM, a national banking association (the "Mortgagee").

Recitals

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A. The Board intends to issue its First Mortgage Industrial Revenue Bonds (Headquarters Partnership Project) dated May 25, 1982, in the aggregate principal amount of \$8,000,000 (the "Bonds") under and pursuant to a Mortgage and Trust Indenture dated as of May 1, 1982 (the "Indenture") by and between the Board and The First National Bank of Birmingham, in its capacity as trustee under the Indenture (the "Trustee").

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B. The proceeds derived from the issuance of the Bonds are to be applied to the acquisition and construction of certain facilities more particularly described in the Indenture, which will be leased by the Board to the Lessee pursuant to the terms of a Lease Agreement dated as of May 1, 1982 (the "Lease Agreement"). Said facilities are subject to a Sublease and Option Agreement dated as of June 1, 1982 (the "EBSCO Sublease") between the Lessee, as lessor, and EBSCO Industries, Inc., a Delaware corporation ("EBSCO"), as lessee.

C. The proposed purchaser of the Bonds has stated that it is not willing to purchase the Bonds unless the Mortgagee issues to the Trustee as security for the Bonds the Mortgagee's letter of credit in an aggregate amount not exceeding \$8,990,000.00 (being herein, together with all substitute letters of credit issued under the terms hereof, referred to as the "Letter of Credit"). In connection with the issuance of the Letter of Credit, the Lessee and the Mortgagee have entered into a Letter of Credit Application and Credit Agreement dated as of May 1, 1982 (the "Credit Agreement"). All of the terms and

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conditions of the Credit Agreement are hereby incorporated herein by reference as fully as if set out at length herein; capitalized terms not otherwise defined herein shall, have the meaning assigned to them in the Credit Agreement.

D. The Credit Agreement requires as a condition precedent to the issuance of the Letter of Credit that, among other things, the Mortgagors execute and deliver this Mortgage to the Mortgagee.

NOW, THEREFORE, in consideration of the foregoing recitals and to induce the Mortgagee to enter into the Credit Agreement and to issue the Letter of Credit, and to secure the prompt payment of the following (hereinafter sometimes collectively referred to as the "Obligations"):

(1) The obligation of the Lessee under the terms of the Credit Agreement to reimburse the Mortgagee, with interest thereon, for all payments made by the Mortgagee pursuant to the Letter of Credit and all other obligations of the Lessee to the Mortgagee with respect to the Letter of Credit and the Credit Agreement, whether now existing or hereafter incurred or arising and whether matured or unmatured, and all interest accrued and unpaid on such sums; and

(2) Any and all sums becoming due and payable by the Lessee to the Mortgagee under the terms of this Mortgage or the Credit Agreement, including but not limited to advancements made by the Mortgagee pursuant to the terms and conditions of this Mortgage or the Credit Agreement; and

(3) All renewals and extensions of any or all of the obligations of the Lessee described in (1) and (2) above, whether or not any renewal or extension agreement is executed in connection therewith;

and also to secure the full and complete performance of each and every obligation, covenant, duty and agreement of the Mortgagors contained in this Mortgage and of the Lessee contained in the Credit Agreement:

I. GRANTING CLAUSES

The Mortgagors have bargained and sold and do hereby grant, bargain, sell and convey to the Mortgagee, its successors and assigns, the property and interests in property described in the following Granting Clauses I, II, III, IV, V and VI and have granted and do hereby grant

to the Mortgagee a security interest in said property and interests in property:

I.

The real estate and premises located in Shelby County, Alabama described in Exhibit A attached hereto and made a part hereof, together with all buildings, structures and fixtures now or hereafter located thereon or therein, with the tenements, hereditaments, appurtenances, easements, rights, privileges and immunities thereunto belonging or appertaining (the "Mortgaged Realty").

II.

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All machinery, equipment and personal property owned by the Board and acquired and installed in or about the buildings, structures and fixtures now or hereafter installed or located on the Mortgaged Realty, including without limitation any machinery, equipment and personal property acquired with the proceeds from the sale of the Bonds and the machinery, equipment and personal property described in Exhibit B attached hereto and made a part hereof, and any machinery, equipment and personal property acquired in substitution therefor or as a renewal or replacement thereof pursuant to the terms of the Lease Agreement, the Indenture and this Mortgage.

III.

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The rights of the Board under and pursuant to the Lease Agreement, and all lease rentals, revenues and receipts derived by the Board from the leasing or sale of the property described in Granting Clauses I and II above, including without limitation all rentals, revenues and receipts to be received by the Board under and pursuant to the Lease Agreement.

IV.

All of the Lessee's leasehold estate and all other rights, title and interests of the Lessee under and pursuant to the Lease Agreement, together with all the rights, privileges and options set forth therein (including but not limited to the options set forth in Article XI of the Lease Agreement).

V.

(a) All leases and subleases, written or oral, and all agreements for use or occupancy of any portion of the Mortgaged Property with respect to which the Lessee is

the lessor or sublessor, including but not limited to the EBSCO Sublease, any and all extensions and renewals of said leases, subleases and agreements and any and all further leases, subleases or agreements, now existing or hereafter made, including subleases thereunder, upon or covering the use or occupancy of all or any part of the Mortgaged Property, all such leases, subleases, agreements and tenancies heretofore mentioned being hereinafter collectively referred to as the "Subleases";

(b) Any and all guaranties of the sublessee's performance under any of the Subleases; and

(c) The immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due or to which the Lessee may now or shall hereafter (including during the period of redemption, if any) become entitled or may demand or claim, arising or issuing from or out of the Subleases or from or out of the Mortgaged Property, or any part thereof, including but not limited to minimum rents, additional rents, percentage rents, common area maintenance charges, parking charges, tax and insurance premium contributions, and liquidated damages following default, the premium payable by any lessee upon the exercise of any cancellation privilege provided for in any of the Subleases, and all proceeds payable under any policy of insurance covering loss of rents resulting from tenantability caused by destruction or damage to the Mortgaged Property, together with any and all rights and claims of any kind which the Lessee may have against any such lessee under the Subleases or against any subtenants or occupants of the Mortgaged Property, all such moneys, rights and claims in this paragraph described being hereinafter referred to as the "Rents".

VI.

Any and all other real or personal property of every kind and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred to the Mortgagee as and for additional security hereunder by the Mortgagors, or either of them, or by anyone in the behalf of, or with the written consent of, the Mortgagors, or either of them.

SUBJECT, HOWEVER, to Permitted Encumbrances, as defined in the Indenture.

All of the property described in the foregoing Granting Clauses I, II, III, IV, V and VI is herein sometimes together referred to as the "Mortgaged Property".

TO HAVE AND TO HOLD the Mortgaged Property, together with all the rights, privileges and appurtenances thereunto belonging, unto the Mortgagee, its successors and assigns, forever.

II. ASSIGNMENT OF CONDEMNATION AWARDS

As further security for the Obligations and the full and complete performance of each and every obligation, covenant, agreement and duty of the Mortgagors contained herein or in the Credit Agreement, or both, and to the extent of the full amount of the Obligations secured hereby and of the costs and expenses (including attorneys' fees) reasonably incurred by the Mortgagee in the collection of any award or payment, the Mortgagors hereby assign to the Mortgagee, subject to the rights of the Trustee under the Indenture, any and all awards or payments, including all interest thereon, together with the right to receive the same, that may be made to the Mortgagors or to either of them with respect to the Mortgaged Property as a result of (A) the exercise of the right of eminent domain, (B) the alteration of the grade or of any street or (C) any other injury to or decrease in value of the Mortgaged Property. All such damages, condemnation proceeds and consideration shall, subject to the rights of the Trustee under the Indenture, be paid directly to the Mortgagee, and after first applying said sums to the payment of all costs and expenses (including attorneys' fees) reasonably incurred by the Mortgagee in obtaining said sums, the Mortgagee may, at its option, apply the balance on the Obligations in any order and whether or not then due, or hold such balance as a reserve against the Obligations, or apply such balance to the restoration of the Mortgaged Property, or release the balance to the Lessee. Said application, holding in reserve or release shall not cure or waive any default of the Mortgagors.

III. PROVISIONS WITH RESPECT TO SUBLEASES

A. Representations and Warranties. The Lessee hereby represents and warrants that:

(i) The Lessee has good title to the Subleases and Rents hereby assigned and good right to assign the same, and no other person, corporation or entity has any right, title or interest therein.

(ii) The Lessee has duly and punctually performed all and singular the terms, covenants, conditions and warranties of the existing Subleases on the Lessee's part to be kept, observed and performed.

(iii) The Lessee has not previously sold, assigned, transferred, mortgaged or pledged the Subleases or the Rents, whether now due or hereafter to become due.

(iv) No Rents due for any period subsequent to July 31, 1982 have been collected, and no payment of any of the Rents has otherwise been anticipated, waived, released, discounted, set off or otherwise discharged or compromised.

(v) The Lessee has not received any funds or deposits from any sublessee in excess of one month's rent for which credit has not already been made on account of accrued rents.

(vi) No sublessee under any existing Sublease is in default under any of the terms thereof.

B. Covenants of Lessee. To protect the security of this Mortgage, the Lessee covenants and agrees:

(i) To observe, perform and discharge all obligations, covenants and warranties provided for under the terms of the Subleases to be kept, observed and performed by the Lessee, and to give prompt notice to the Mortgagee in the event the Lessee fails to observe, perform and discharge the same.

(ii) To enforce or secure in the name of the Mortgagee the performance of each and every obligation, term, covenant, condition and agreement to be performed by any sublessee under the terms of the Subleases.

(iii) To appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Subleases or the obligations, duties or liabilities of the Lessee and any sublessee thereunder, and, upon request by the Mortgagee to do so in the name and on behalf of the Mortgagee but at the expense of the Lessee, and to pay all costs and expenses of the Mortgagee, including reasonable attorneys' fees, in any action or proceeding in which the Mortgagee may appear.

(iv) Not to receive or collect any Rents from any present or future sublessee of the Mortgaged Property or any part thereof for a period of more than one month in advance, or pledge, transfer, mortgage or otherwise encumber or assign future payments of the Rents.

(v) Not to waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge any

sublessee of the Mortgaged Property of and from any obligations, covenants, conditions and agreements by said sublessee to be kept, observed and performed, including the obligation to pay rent in the manner and at the place and time specified in any Sublease.

(vi) Not to cancel, terminate or consent to any surrender of any Sublease, or modify or in any way alter the terms thereof without, in each such instance, the prior written consent of the Mortgagee.

(vii) Promptly upon the execution by the Lessee of any future Sublease, to (i) furnish the Mortgagee with the name and address of the sublessee thereunder, the term of such Sublease and a description of the premises covered thereby and, upon request of the Mortgagee, a copy of such Sublease, and (ii) execute all such further assignments of such Sublease and the Rents therefrom as the Mortgagee may require.

(viii) To pay over to the Mortgagee immediately upon receipt any and all sums received by the Lessee as creditor with respect to an assignment for the benefit of creditors or in bankruptcy, reorganization, arrangement, insolvency, dissolution or receivership proceedings, or as payment, premium or other consideration in connection with the cancellation or modification of any Sublease, whereupon the Mortgagee shall apply any funds so received to the payment of the Obligations in such order and amounts as the Mortgagee may choose (or hold the same in reserve as security for the Obligations).

D. Rights of Lessee Prior to Default. So long as there shall exist no default by the Lessee in the observance and performance of any obligation, covenant or warranty set forth in this Article III, and no Event of Default has occurred and is subsisting under this Mortgage or the Credit Agreement, the Lessee shall have the right under a license granted hereby (but limited as provided in the following Section E) to collect, receive and retain, but not prior to accrual, all of the Rents arising from or out of the Subleases.

E. Rights of Mortgagee Upon Default. Upon or at any time after default in the observance or performance of any obligation, covenant or warranty set forth in this Article III, or the occurrence of any other Event of Default under the terms of this Mortgage or the Credit Agreement, the Mortgagee, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies:

(i) to terminate the license hereby granted to the Lessee to collect the Rents as aforesaid, and, without taking possession, in the Mortgagee's own name to demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor, and after deducting all necessary and reasonable costs and expenses of collection, including reasonable attorney's fees, to apply the net proceeds thereof to the Obligations in such order and amounts as the Mortgagee may choose (or hold the same in reserve as security for the Obligations);

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(ii) without regard to the adequacy of the security, with or without any action or proceeding, through any person or by agent, or by a receiver to be appointed by court, and irrespective of the Lessee's possession to enter upon, take possession of, manage and operate the Mortgaged Property or any part thereof for the account of the Lessee, make, modify, enforce, cancel or accept surrender of any Sublease, remove and evict any sublessee, increase or reduce rents, decorate, clean and make repairs, and otherwise do any act or incur any cost or expenses the Mortgagee shall deem proper to protect the security hereof, as fully and to the same extent as the Lessee could do if in possession, and in such event to apply any funds so collected to the operation and management of the Mortgaged Property (including payment of reasonable management, brokerage and attorney's fees) and payment of any Obligations in such order and amounts as the Mortgagee may choose (or hold the same in reserve as security for the Obligations);

(iii) to take whatever legal proceedings may appear necessary or desirable to enforce any obligation or covenant or agreement of the Lessee under this Mortgage or the Credit Agreement or by law.

The collection of the Rents and application thereof (or holding thereof in reserve) as aforesaid or the entry upon and taking possession of the Mortgaged Property or both shall not cure or waive any default or waive, modify or affect any notice of default under this Mortgage or the Credit Agreement, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by the Mortgagee, once exercised, shall continue for so long as the Mortgagee shall elect, notwithstanding that the collection and application aforesaid of the Rents may have cured the original default. If the Mortgagee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default.

IV. MORTGAGORS' REPRESENTATIONS AND WARRANTIES

To induce the Mortgagee to enter into the Credit Agreement and to issue the Letter of Credit, the Mortgagors, jointly and severally, represent and warrant that:

A. Valid Title, etc. The Board is lawfully seized of an indefeasible estate in fee simple in and to, and good title to, the Mortgaged Realty; the Lessee is lawfully seized of a valid leasehold estate, under the terms of the Lease Agreement, in the Mortgaged Property; the Mortgagors have a good right to sell and mortgage, and grant a security interest in, the Mortgaged Property; the Mortgaged Property is subject to no liens, encumbrances or security interests other than the lien and security interest created by the Indenture and Permitted Encumbrances, as defined in the Indenture; and the Mortgagors will forever warrant and defend the title to the Mortgaged Property unto the Mortgagee against the claims of all persons whomsoever, except those claiming under the Indenture and under Permitted Encumbrances (as defined in the Indenture). It is expressly understood and agreed that this Mortgage is junior and subordinate to the lien and security interest created by the Indenture.

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B. Compliance by Board with Terms of Indenture. The Board shall comply, fully and faithfully, with all of its obligations under the Indenture. If the Board shall fail or refuse to do so, the Mortgagee may, but shall not be required to, perform any or all of such obligations of the Board under the Indenture, including but not limited to the payment of any or all sums due from the Board thereunder. Any sums so paid by the Mortgagee shall constitute part of the Obligations and shall be secured hereby.

C. Maintenance of Lien Priority. The Mortgagors shall take all steps necessary to preserve and protect the validity and priority of the liens on and security interests in the Mortgaged Property created hereby. The Mortgagors shall execute, acknowledge and deliver such additional instruments as the Mortgagee may deem necessary in order to preserve, protect, continue, extend or maintain the liens and security interests created hereby as liens on and security interests in the Mortgaged Property subject only to the Indenture and Permitted Encumbrances, except as otherwise permitted under the terms of this Mortgage. All costs and expenses incurred in connection with the protection, preservation, continuation, extension or maintaining of the liens and security interests hereby created shall be paid by the Lessee.

V. COVENANTS OF LESSEE

The Lessee covenants and agrees that:

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A. Payment of Taxes and Other Assessments. The Lessee will pay or cause to be paid all taxes, assessments and other governmental, municipal or other public dues, charges, fines or impositions imposed or levied upon the Mortgaged Property or on the interests created by this Mortgage or with respect to the filing of this Mortgage, and any tax or excise on rents or other tax, however described, assessed or levied by any state, federal or local taxing authority as a substitute, in whole or in part, for taxes assessed or imposed on the Mortgaged Property or on the lien and other interests created by this Mortgage, and at least ten days before said taxes, assessments and other governmental charges are due, the Lessee will deliver receipts therefor to the Mortgagee or, in the case of mortgage filing privilege taxes, pay to the Mortgagee an amount equal to the taxes. The Lessee may, at its own expense, in good faith contest any such taxes, assessments and other governmental charges and, in the event of any such contest, may permit the taxes, assessments or other governmental charges so contested to remain unpaid during the period of such contest and any appeal therefrom, provided that during such period enforcement of such contested items shall be effectively stayed. If any tax or assessment is levied, assessed or imposed by any governmental authority on the Mortgagee as a legal holder of any of the Obligations or any interest in this Mortgage (other than federal and state income taxes), then unless all such taxes and assessments are paid by the Lessee promptly after they become due and payable but in any event before they become delinquent (and in the opinion of counsel for the Mortgagee, such payment by the Lessee is lawful and does not place the Mortgagee in violation of any law), the Mortgagee may, at its option, declare the existence of an Event of Default under this Mortgage and the Credit Agreement.

B. Insurance. The Lessee shall keep or cause to be kept the Mortgaged Property insured against loss or damage by fire, windstorm, extended coverage perils, vandalism, malicious mischief and such other hazards, casualties or other contingencies, in such amounts, in such manner and in such companies as required by the Lease Agreement. All such policies shall name the Mortgagee as named insured and provide that any losses payable thereunder shall (pursuant to loss payable clauses, in form and content acceptable to the Mortgagee, to be attached to each policy) be payable to the Mortgagee (subject to the

rights of the Trustee under the Indenture), and provide that the insurance provided thereby, as to the interest of the Mortgagee, shall not be invalidated by any act or neglect of the Lessee, nor by the commencing of any proceedings by or against the Lessee in bankruptcy, insolvency, receivership or any other proceedings for the relief of a debtor, nor by any foreclosure, repossession or other proceedings relating to the property insured, nor by any occupation of such property or the use of such property for purposes more hazardous than permitted in the policy. The Lessee shall furnish to the Mortgagee insurance certificates, in form and substance satisfactory to the Mortgagee, evidencing compliance by it with the terms of this Subsection B and, upon the request of the Mortgagee at any time, the Lessee shall furnish the Mortgagee with photostatic copies of the policies required by the terms of this Subsection B. The Lessee will cause each insurer under each of the policies to agree (either by endorsement upon such policy or by letter addressed to the Mortgagee) to give the Mortgagee at least 10 business days' prior written notice of the cancellation of such policies in whole or in part or the lapse of any coverage thereunder. The Lessee agrees that it will not take any action or fail to take any action which action or inaction would result in the invalidation of any insurance policy required hereunder. At least ten days prior to the date the premiums on each such policy or policies shall become due and payable, the Lessee shall furnish to the Mortgagee evidence of the payment of such premiums.

With respect to all such insurance policies, the Mortgagee is hereby authorized, but not required, on behalf of the Lessee (subject to the rights of the Trustee under the Indenture), to collect for, adjust or compromise any losses under any such insurance policies and to apply, at its option, the loss proceeds (less expenses of collection) on the Obligations, in any order and whether or not then due, or hold such proceeds as a reserve against the Obligations, or apply such proceeds to the restoration of the Mortgaged Property, or release the same to the Lessee; but any such application, holding in reserve or release shall not cure or waive any default by the Mortgagors. In case of a sale pursuant to the foreclosure provisions hereof, or any conveyance of all or any part of the Mortgaged Property in extinguishment of the Obligations, complete title to all insurance policies on the Mortgaged Property and the unearned premiums with respect thereto shall pass to and vest in the purchaser or grantee of the Mortgaged Property.

C. Waste, Demolition, Alteration or Replacement.
The Lessee will cause the Mortgaged Property and every

part thereof to be maintained, preserved and kept in safe and good repair, working order and condition, will not commit or permit waste thereon, will not remove, demolish or materially alter the design or structural character of any building now or hereafter erected on the Mortgaged Property without the express prior written consent of the Mortgagee, will comply with all laws and regulations of any governmental authority with reference to the Mortgaged Property and the manner and use of the same, and will from time to time make all necessary and proper repairs, renewals, additions and restorations thereto so that the value and efficient use thereof shall be preserved and maintained. The Lessee agrees not to remove any of the fixtures or personal property included in the Mortgaged Property, without the express prior written consent of the Mortgagee and unless the same is immediately replaced with like property of at least equal value and utility. The Lessee may obtain the release of items of the Leased Equipment (as defined in the Lease Agreement) from the lien of this Mortgage upon compliance with the terms of Section 6.2 of the Lease Agreement.

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D. Compliance by Lessee with Terms of Lease Agreement. The Lessee shall comply, fully and faithfully, with all of its obligations under the Lease Agreement, so as to keep the Lease Agreement in full force and effect. If the Lessee fails or refuses to do so, the Mortgagee may, but shall not be required to, perform any and all of such obligations of the Lessee under the Lease Agreement, including but not limited to the payment of any or all rent and other sums due from the Lessee thereunder. Any rent or other sums so paid by the Mortgagee shall constitute part of the Obligations and shall be secured hereby.

VI. DEFEASANCE

If (A) the Lessee shall pay in full and discharge all of the Obligations; and (B) the Mortgagors shall then have kept and performed each and every obligation, covenant, duty, condition and agreement herein or in the Credit Agreement (or both) imposed on or agreed to by them; and (C) the Letter of Credit shall then be no longer outstanding; then this mortgage and the grants and conveyances contained herein shall become null and void, and the Mortgaged Property shall revert to the Mortgagors, and the entire estate, right, title and interest of the Mortgagee shall thereupon cease; and the Mortgagee shall, upon the request of the Mortgagors and at the Lessee's cost and expense, deliver to the Mortgagors proper instruments

acknowledging satisfaction of this instrument and terminating all financing statements filed in connection herewith; otherwise, this Mortgage shall remain in full force and effect.

VII. EVENTS OF DEFAULT

The happening of any of the following events or conditions, or the happening of any other event of default as defined elsewhere in this Mortgage (hereinafter collectively referred to as "Events of Default") shall constitute a default under this Mortgage:

- (i) any representation or warranty made herein or in the Credit Agreement shall prove to have been false or misleading in any material respect when made; or
- (ii) any report, certificate, financial statement or other instrument furnished in connection with this Mortgage or the Credit Agreement shall prove to be false or misleading in any material respect; or
- (iii) default shall be made in the payment to the Mortgagee of the principal of and interest on any reimbursement due the Mortgagee on account of payments made by the Mortgagee under the Letter of Credit, as and when the same becomes due and payable; or
- (iv) default shall be made with respect to any other indebtedness of the Lessee for borrowed money in excess of \$5,000 when due or the performance of any other obligation incurred in connection with any such indebtedness, if the effect of such default is to accelerate the maturity of such indebtedness or to permit the holder thereof to cause such indebtedness to become due prior to its stated maturity, or any such indebtedness shall not be paid when due; or
- (v) default (other than a default described in a separate paragraph of this Article VII) shall be made in the due observance or performance of any other covenant, condition or agreement on the part of the Lessee to be observed or performed pursuant to the terms of the Credit Agreement, or in the due observance or performance of any covenant,

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condition or agreement on the part of the Mortgagors, or either of them, to be observed or performed pursuant to the terms of this Mortgage, and such default shall continue unremedied for 30 days after written notice specifying, in reasonable detail, the nature of such default shall have been given to the Mortgagors by the Mortgagee; or

- (vi) the Lessee shall (a) apply for or consent to the appointment of a receiver, trustee or liquidator of itself or any of its properties or assets, (b) fail or admit in writing its inability to pay its debts generally as they become due, (c) make a general assignment for the benefit of creditors, (d) be adjudicated a bankrupt or insolvent or suffer or permit an order for relief to be entered against it in any proceeding under the United States Bankruptcy Code, or (e) commence a proceeding in bankruptcy, or file any document seeking an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, re-adjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or if action shall be taken by the Lessee for the purpose of effecting any of the foregoing; or
- (vii) an order, judgment or decree shall be entered, without the application, approval or consent of the debtor, by any court of competent jurisdiction, approving a petition seeking reorganization of the Lessee or of all or a substantial part of its properties or assets or appointing a receiver, trustee or liquidator of the Lessee and such order, judgment or decree shall continue unstayed and in effect for any period of 60 days; or
- (viii) final judgment for the payment of money in excess of an aggregate of \$5,000 shall be rendered against the Lessee and the same shall remain undischarged for a period of 30 days, during which period execution shall not be effectively stayed; or

- (ix) the existing partners of the Lessee and their spouses, the lineal descendants of such partners and any trust or custodian account for the benefit of such spouses or such lineal descendants shall cease to own (beneficially and of record, directly or indirectly) in the aggregate more than 50% of the outstanding Voting Stock (as defined in the Credit Agreement) of EBSCO or any successor corporation, as contemplated by Section 12 of the EBSCO Sublease; or
- (x) the ratio of Consolidated Liabilities (as defined in the Credit Agreement) to Consolidated Tangible Net Worth (as defined in the Credit Agreement) of EBSCO and its Subsidiaries at the end of any fiscal year shall be less than 2.5 to 1; or
- (xi) the Consolidated Tangible Net Worth (as defined in the Credit Agreement) of EBSCO and its Subsidiaries at the end of any fiscal year shall be less than 95% of the Consolidated Tangible Net Worth of EBSCO and its Subsidiaries at the end of the next preceding fiscal year; or
- (xii) an event of default under the Sublease shall occur.

VIII. RIGHTS OF MORTGAGEE UPON DEFAULT

If an Event of Default shall occur and be continuing:

A. Acceleration of Indebtedness, etc. The Mortgagee may notify the Trustee that an Event of Default under this Mortgage and under the Credit Agreement has occurred and is continuing and may, by notice to the Mortgagors, effective upon dispatch, declare all of the Obligations, including but not limited to the obligation of the Lessee to reimburse the Mortgagee under the Credit Agreement, to be forthwith due and payable, whereupon all such obligations shall become and be forthwith due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Mortgagors, and the Mortgagee may immediately enforce payment of all such amounts and exercise any or all of its rights and remedies under this Mortgage and the Credit Agreement.

B. Operation of Mortgaged Property by Mortgagee. In addition to all other rights herein and in the Credit Agreement conferred on the Mortgagee, the Mortgagee (or any person, firm or corporation designated by the Mortgagee) may, but shall not be obligated to, enter upon and take possession of any or all of the Mortgaged Property, exclude the Mortgagors therefrom, and hold, use, administer, manage and operate the same to the extent that the Mortgagors could do so, without any liability to the Mortgagors resulting therefrom; and the Mortgagee may collect, receive and receipt for all proceeds accruing from such operation and management, make repairs and purchase needed additional property, and exercise every power, right and privilege of the Mortgagors with respect to the Mortgaged Property.

C. Judicial Proceedings; Right to Receiver. The Mortgagee, in lieu of or in addition to exercising the power of sale hereinafter given, may proceed by suit for a foreclosure of its lien on and security interest in the Mortgaged Property, to sue the Lessee for damages on account of or arising out of said default or breach, or to sue the Mortgagors or either of them for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy, whether under this Mortgage, the Credit Agreement or otherwise. The Mortgagee shall be entitled, as a matter of right, upon bill filed or other proper legal proceedings being commenced for the foreclosure of this Mortgage, to the appointment by any competent court or tribunal, without notice to the Mortgagors or any other party, of a receiver of the rents, issues and profits of the Mortgaged Property, with power to lease and control the Mortgaged Property and with such other powers as may be deemed necessary.

D. Foreclosure Sale. This Mortgage shall be subject to foreclosure and may be foreclosed as now provided by law in case of past due mortgages, and the Mortgagee shall be authorized, at its option, whether or not possession of the Mortgaged Property is taken, after giving 21 days' notice by publication once a week for three consecutive weeks of the time, place and terms of each such sale by publication in some newspaper published in Shelby County, Alabama, to sell the Mortgaged Property (or such part or parts thereof as the Mortgagee may from time to time elect to sell) in front of the courthouse door of such county, at public outcry, to the highest bidder for cash. The Mortgagee, its successors and assigns, may bid at any sale or sales had under the terms of this Mortgage and may purchase the Mortgaged Property, or any part thereof, if the highest bidder therefor. The

17 purchaser at any such sale or sales shall be under no obligation to see to the proper application of the purchase money. At any foreclosure sale any part or all of the Mortgaged Property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, the proceeds of any such sale en masse to be accounted for in one account without distinction between the items included therein or without assigning to them any proportion of such proceeds, the Mortgagors hereby waiving the application of any doctrine of marshalling or like proceeding. If the Mortgagee, in the exercise of the power of sale herein given, elects to sell the Mortgaged Property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Mortgaged Property not previously sold shall have been sold or all the Obligations shall have been paid in full. Without in any way limiting the generality of the foregoing provisions of this Subsection D, it is expressly agreed that the Mortgagee may, at its option, sell the part of the Mortgaged Property described in Granting Clause IV above separately from the remainder of the Mortgaged Property.

BOOK 422 PAGE 17
E. Personal Property and Fixtures. The Mortgagee shall have and may exercise with respect to any or all personal property and fixtures included in the Mortgaged Property ("Collateral"), all rights, remedies and powers of a secured party under the Alabama Uniform Commercial Code (and other applicable similar statutes in other jurisdictions) with reference to the Collateral or any other items in which a security interest has been granted herein, including without limitation the right and power to sell at public or private sale or sales or otherwise dispose of, lease or utilize the Collateral and any part or parts thereof in any manner, to the fullest extent authorized or permitted under the Alabama Uniform Commercial Code after default hereunder, without regard to preservation of the Collateral or its value and without the necessity of a court order. Mortgagee shall have, among other rights, the right to take possession of the Collateral and to enter upon any premises where the same may be situated for the purpose of repossessing the same without being guilty of trespass and without liability for damages occasioned thereby and to take any action deemed appropriate or desirable by the Mortgagee, at its option and its sole discretion, to repair, restore or otherwise prepare the Collateral for sale or lease or other use or disposition. To the extent permitted by law, the Mortgagors expressly waive any notice of sale or any other disposition of the Collateral and any rights or remedies of the Mortgagee with respect to, and the formalities prescribed by law relative to, the sale or disposition of the Collat-

eral or to the exercise of any other right or remedy of the Mortgagee existing after default.. To the extent that such notice is required and cannot be waived, the Mortgagors agree that if such notice is given to the Mortgagors in accordance with the provisions of Subsection H of Article IX below, at least five (5) days before the time of the sale or other disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving said notice.

18 The Mortgagee may sell or dispose of both the real and personal property comprising the Mortgaged Property in accordance with the rights and remedies granted under this Mortgage with respect to the real property covered hereby. The Mortgagors hereby grant the Mortgagee the right, at its option after the occurrence of an Event of Default and during the continuance thereof, to transfer at any time to itself or its nominee the Collateral or any part thereof and to receive the monies, income, proceeds and benefits attributable to the same and to hold the same as Collateral or to apply it on, or as a reserve against, the Obligations in such order and manner as the Mortgagee may elect.

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F. Conveyance After Sale. The Mortgagors hereby authorize and empower the Mortgagee or the auctioneer at any foreclosure sale had hereunder, for and in the name of the Mortgagors, to execute and deliver to the purchaser or purchasers of any of the Mortgaged Property sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto.

G. Application of Proceeds. All payments then held or thereafter received by the Mortgagee as proceeds of the Mortgaged Property, as well as any and all amounts realized by the Mortgagee in connection with the enforcement of any right or remedy under or with respect to this Mortgage or the Credit Agreement, shall be applied by the Mortgagee as follows:

(i) to reimburse the Mortgagee for any payments made by the Mortgagee under the Letter of Credit, to accrued but unpaid interest and fees under the Credit Agreement, and to the payment of all costs and expenses of any kind then or thereafter at any time reasonably incurred by the Mortgagee in exercising its rights under this Mortgage and under the Credit Agreement or otherwise reasonably incurred by the Mortgagee in collecting or enforcing payment of the Obligations, as well as to the payment of any other amount then or thereafter at any time owing by the Lessee to the Mortgagee under the Credit

Agreement or under this Mortgage, all in such priority as among such principal, interest, costs, expenses and other amounts as the Mortgagee shall elect;

(ii) any balance remaining after payment in full of all amounts referred to in subsection (i) above shall be applied by the Mortgagee to any other Obligations then owing by the Lessee to the Mortgagee;

(iii) any balance remaining after payment in full of all amounts referred to in subsections (i) and (ii) above shall be held by the Mortgagee as a cash collateral reserve against the making of any payment under the Letter of Credit (if then outstanding), and the Mortgagee shall not be required to pay, or to account to anyone for, any interest or other earnings on any such reserve or any other reserve held by the Mortgagee under the terms of this Mortgage; and

(iv) any balance remaining after payment in full of all amounts referred to in subsections (i), (ii) and (iii) above shall be paid by the Mortgagee to the Lessee or to whoever else may then be legally entitled thereto.

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H. Multiple Sales. The Mortgagee shall have the option to proceed with foreclosure, either through the courts or by proceeding with foreclosure as provided for in this Mortgage, but without declaring all of the Obligations due. Any such sale may be made subject to the unmatured part of the Obligations, and such sale, if so made, shall not in any manner affect the unmatured part of the Obligations, but as to such unmatured part of the Obligations this Mortgage shall remain in full force and effect as though no sale had been made under the provisions of this paragraph. Several sales may be made under the provisions of this paragraph without exhausting the right of sale for any remaining part of the Obligations whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Mortgaged Property for any matured part of the Obligations without exhausting any power of foreclosure and the power to sell the Mortgaged Property for any other part of the Obligations, whether matured at the time or subsequently maturing.

I. Waiver of Appraisement Laws. The Mortgagors waive, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for (i) any appraisement before sale of any portion of the Mortgaged Property (commonly known as appraisement laws),

or (ii) any extension of time for the enforcement of the collection of the Obligations or any creation or extension of a period of redemption from any sale made in collecting the Obligations (commonly known as stay laws and redemption laws).

J. Prerequisites of Sales. In case of any sale of the Mortgaged Property as authorized by this Article VIII, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder all statements of facts, or other recitals therein made, as to the nonpayment of any of the Obligations or as to the advertisement of sale, or the time, place and manner of sale, or as to any other fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

IX. MISCELLANEOUS PROVISIONS

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A. Waiver, Election, etc. The exercise by the Mortgagee of any option given under the terms of this Mortgage shall not be considered as a waiver of the right to exercise any other option given herein, and the filing of a suit to foreclose the lien and security interest granted by this Mortgage, either on any matured portion of the Obligations or for the whole of the Obligations, shall not be considered an election so as to preclude foreclosure under power of sale after a dismissal of the suit; nor shall the publication of notices for foreclosure preclude the prosecution of a later suit thereon. No failure or delay on the part of the Mortgagee in exercising any right, power or remedy under this Mortgage shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder or thereunder. The remedies provided in this Mortgage and in the Credit Agreement are cumulative and not exclusive of any remedies provided by law. No amendment, modification, termination or waiver of any provisions of this Mortgage or the Credit Agreement, nor consent to any departure by the Mortgagors therefrom, shall be effective unless the same shall be in writing and signed by an executive officer of the Mortgagee, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on the Mortgagors or either of them in any case shall entitle the Mortgagors or either of them to any other or further notice or demand in similar or other circumstances.

B. Landlord-Tenant Relationship. Any sale of the Mortgaged Property under this Mortgage shall, without further notice, create the relationship of landlord and tenant at sufferance between the purchaser and the Mortgagors.

C. Enforceability. If any provision of this Mortgage is now or at any time hereafter becomes invalid or unenforceable, the other provisions hereof shall remain in full force and effect, and the remaining provisions hereof shall be construed in favor of the Mortgagee to effectuate the provisions hereof.

D. Application of Payments. If the lien or the security interest created by this Mortgage is invalid or unenforceable as to any part of the Obligations or is invalid or unenforceable as to any part of the Mortgaged Property, the unsecured or partially secured portion of the Obligations shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Obligations, and all payments made on the Obligations, whether voluntary or under foreclosure or other enforcement action or procedures, shall be considered to have been first paid on and applied to the full payment of that portion of the Obligations that is not secured or not fully secured by the lien or security interest created hereby.

E. Advances by Mortgagee. If the Mortgagors shall fail to comply with the provisions hereof with respect to the securing of insurance, the payment of taxes, assessments and other charges, the keeping of the Mortgaged Property in repair, or any other term or covenant herein contained, the Mortgagee may (but shall not be required to) make advances to perform the same, and where necessary enter the Mortgaged Property for the purpose of performing any such term or covenant. The Lessee agrees to repay all sums advanced upon demand, with interest from the date such advances are made, at the rate provided in Section 1.04 of the Credit Agreement (to the fullest extent permitted by applicable law), and all sums so advanced, with interest, shall be secured hereby.

F. Release or Extension by Mortgagee. The Mortgagee, without notice, may release any part of the Mortgaged Property or any person liable for the Obligations without in any way affecting the rights of the Mortgagee hereunder as to any part of the Mortgaged Property not expressly released and may agree with any party with an interest in the Mortgaged Property to extend the time

BOOK 422 PAGE 21

for payment of all or any part of the Obligations or to waive the prompt and full performance of any term, condition or covenant of this Mortgage or the Credit Agreement.

G. Partial Payments. Acceptance by the Mortgagee of any payment of less than the amount due on the Obligations shall be deemed acceptance on account only, and the failure of the Lessee to pay the entire amount then due shall be and continue to constitute an Event of Default, and at any time thereafter and until the entire amount due on the Obligations has been paid, the Mortgagee shall be entitled to exercise all rights conferred on it by the terms of this Mortgage in case of the occurrence of an Event of Default.

H. Addresses for Notices. All notices, requests, demands and other communications provided for hereunder shall be in writing or by telex, telegram or cable and mailed or sent or delivered to the applicable party at the addresses indicated below or at such other address as shall be designated by such party in a written notice to the other parties thereto:

If to the Board:

Town Hall
Vincent, Alabama 35178
Attention: Chairman of the Board of
Directors

If to the Lessee:

P. O. Box 1943
Birmingham, Alabama 35201
Attention: Mr. J. T. Stephens

If to the Mortgagee:

P. O. Box 11007
Birmingham, Alabama 35288
Attention: President

I. Titles not to be Considered. All article, section, paragraph, subparagraph or other titles contained in this Mortgage are for reference purposes only, and this Mortgage shall be construed without reference to said titles.

J. Construction of Mortgage. This Mortgage may be construed as a mortgage, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, hypothecation or contract, or any one or more of them, in order fully to effectuate the lien hereof and security interest created hereby and the purposes and agreements herein set forth.

K. Board not Liable. No covenant or agreement contained in this Mortgage nor any obligation herein imposed upon the Board, or the breach thereof, shall constitute or give rise to or impose upon the Board a pecuniary liability or a charge upon its general credit or property other than the Mortgaged Property. All obligations incurred by the Board are payable solely from and are limited to the rentals, revenues and receipts derived from or in connection with the Mortgaged Property and the moneys received under the Lease Agreement, and nothing in this Mortgage shall be considered as pledging any other funds or assets of the Board. The Town of Vincent, Alabama is not liable for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which is undertaken by the Board. No agreement of the Board shall be construed to constitute an indebtedness of the Town of Vincent, Alabama within the meaning of any constitutional or statutory provision whatever.

IN WITNESS WHEREOF, the Board has caused this Mortgage to be signed in its name and behalf by the Chairman of its Board of Directors and its corporate seal to be hereunto affixed and attested by its Secretary, and each partner of the Lessee has caused this Mortgage to be signed in the name and on behalf of the Lessee, and the Board and the Lessee have caused this Mortgage to be dated as of May 1, 1982, all as of July 20, 1982.

THE INDUSTRIAL DEVELOPMENT BOARD
OF THE TOWN OF VINCENT

By *Delvin Smith*
Chairman of its Board of
Directors

S E A L

Attest: *Harold J. Conner*

Secretary

HEADQUARTERS PARTNERSHIP

By James T. Stephens
James T. Stephens, A Partner

By Jane Stephens Comer
Jane Stephens Comer, A Partner

By Elton B. Stephens, Jr.
Elton B. Stephens, Jr., A Partner

By Dell Stephens Brooke
Dell Stephens Brooke, A Partner

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STATE OF ALABAMA

COUNTY OF SHELBY

I, the undersigned authority, a Notary Public in and for said County in said State, do hereby certify that Calvin L. Smith, whose name as Chairman of the Board of Directors of The Industrial Development Board of the Town of Vincent, a public corporation, is signed to the foregoing Mortgage and Security Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of said Mortgage and Security Agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

ALL Given under my hand and official seal this the day of July, 1982.

Virginia C. Patterson
Notary Public

NOTARIAL SEAL

My commission expires: My Commission Expires February 27, 1985

STATE OF ALABAMA

COUNTY OF SHELBY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that James T. Stephens, Jane Stephens Comer, Elton B. Stephens, Jr. and Dell Stephens Brooke, whose names as partners of Headquarters Partnership, an Alabama general partnership, are signed to the foregoing Mortgage and Security Agreement, and who are known to me, acknowledged before me on this day that, being informed of the contents of said Mortgage and Security Agreement, they executed the same voluntarily for and as the act of said partnership.

1st Given under my hand and official seal this the day of July, 1982.

Calvin L. Smith
Notary Public

NOTARIAL SEAL

My commission expires: Nov 20, 1982

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This instrument was prepared by:

J. Hobson Presley, Jr.
Cabaniss, Johnston, Gardner,
Dumas & O'Neal
1900 First National-Southern
Natural Building
Birmingham, Alabama 35203
(205) 252-8800

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EXHIBIT A
TO
MORTGAGE AND
SECURITY AGREEMENT

A parcel of land situated in the NW 1/4 of Section 17, Township 19 South, Range 1 West, more particularly described as follows:

Commence at the Southwest corner of the SW1/4 of the NW1/4 of Section 17, Township 19 South, Range 1 West and run east along the south line of said 1/4-1/4 section 90.46 feet to a point; thence turn 69° 58' 56" to the left and run Northeasterly 171.03 feet to the point of beginning; thence continue along last described course 2203.00 feet to a point; thence turn 105° 09' 13" to the right and run Southeasterly 868.83 feet to a point; thence turn 48° 53' 28" to the left and run Northeasterly 87.00 feet to a point on the Southwesterly R.O.W. line of U.S. Highway No. 280 and also lying on a curve to the left having a radius of 3014.94 feet; thence turn 90° 00' to the right (angle measured to tangent) and run Southeasterly along said R.O.W. and along the arc of said curve to the left 200.00 feet to a point; thence turn 90° 00' to the right (angle measured to tangent) and run Southwesterly 103.00 feet to a point; thence turn 43° 58' 14" to the right and run Northwesterly 393.30 feet to a point; thence turn 78° 44' 05" to the left and run Southwesterly 417.77 feet to a point; thence turn 19° 14' 16" to the left and run Southwesterly 781.28 feet to a point; thence turn 73° 57' 49" to the right and run in a Westerly direction 168.88 feet to a point; thence turn 66° 52' 31" to the left and run Southwesterly 630.96 feet to a point; thence turn 88° 13' 57" to the right and run Northwesterly 227.50 feet to the point of beginning.

Containing 955,969.36 square feet or 21.946 acres.

EXHIBIT B
TO
MORTGAGE AND
SECURITY AGREEMENT

Word Processing Equipment
Data Processing Equipment

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NOTARIAL PUBLIC
I CERTIFY THIS
DOCUMENT WAS FILED

1982 JUL 20 AM 10:53

Thomas A. Lawrence, Jr.
JUDGE OF PROBATE

Rec. 4200
Ind. 100
4300