

EXECUTION COPY

STATE OF ALABAMA)
)
COUNTY OF SHELBY)

**LEASE SUBORDINATION, ATTORNMENT AGREEMENT
AND ESTOPPEL CERTIFICATE**

THIS LEASE SUBORDINATION, ATTORNMENT AGREEMENT AND ESTOPPEL CERTIFICATE (this "Agreement") is made and entered into as of March 8, 2001 by **EBSCO INDUSTRIES, INC.**, a Delaware corporation ("EBSCO"), in favor of **NATIONAL AUSTRALIA BANK LIMITED**, A.B.N. 12004044937, acting by and through its New York Branch (the "Bank").

RECITALS:

WHEREAS, at the request of Headquarters Partnership, an Alabama general partnership (the "General Partnership"; together with its current form as an Alabama limited partnership, Headquarters Partnership, Ltd., hereinafter referred to as the "Mortgagor"), The Industrial Development Board of The Town of Vincent (the "Board") has issued its Variable Rate Demand Industrial Revenue Refunding Bonds (Headquarters Partnership Project) Series 1990 (the "Series 1990 Bonds") in the aggregate principal amount of \$7,130,000 pursuant to a Trust Indenture dated as of July 1, 1990 (the "Original Indenture") between the Board and The Bank of New York, as successor to AmSouth Bank, National Association, as trustee (the "Trustee");

WHEREAS, the proceeds of the Series 1990 Bonds were applied to refund the Board's First Mortgage Industrial Revenue Bonds (Headquarters Partnership Project), dated May 25, 1982, the proceeds of which were used to acquire and construct certain facilities described in the Original Indenture which were leased by the Board to Mortgagor pursuant to a Lease Agreement dated as of July 1, 1990 (the "Original Lease Agreement"), recorded in the Office of the Judge of Probate of Shelby County, Alabama (the "Recording Office") in Real Record 299, page 47;

WHEREAS, at the request of Mortgagor, the Bank issued an irrevocable letter of credit (the "Series 1990 Letter of Credit") to secure certain payments to be made with respect to the Series 1990 Bonds pursuant to a Letter of Credit Reimbursement Agreement dated as of July 1, 1990 (the "Series 1990 Reimbursement Agreement") between Mortgagor and the Bank;

WHEREAS, to secure Mortgagor's obligations to the Bank under the Series 1990 Reimbursement Agreement and to induce the Bank to issue the Series 1990 Letter of Credit, the Board and Mortgagor entered into a Mortgage and Security Agreement dated as of July 1, 1990, recorded in the Recording Office in Real Record 299, Page 1, as amended by a First Amendment to Mortgage and Security Agreement dated as of March 1, 1991, recorded in the Recording

Office in Real Record 336, Page 4, and as further amended by a Second Amendment to Mortgage and Security Agreement dated as of March 1, 2001, to be recorded in the Recording Office (as so amended, the "Series 1990 Mortgage") granting the Bank a lien and security interest on the facilities financed with proceeds of the Series 1990 Bonds and the Series 1991 Bonds (as hereinafter defined);

WHEREAS, at the request of Mortgagor, the Board issued its Taxable Industrial Revenue Bonds (Headquarters Partnership Project) Series 1991 (the "Series 1991 Bonds") in the aggregate principal amount of \$7,250,000 pursuant to the Original Indenture, as supplemented by a First Supplemental Indenture dated as of March 1, 1991 between the Board and the Trustee (the Original Indenture, as so supplemented, being hereinafter referred to as the "Indenture");

WHEREAS, at the request of Mortgagor, the Bank issued an irrevocable letter of credit (the "Series 1991 Letter of Credit") to secure certain payments to be made with respect to the Series 1991 Bonds pursuant to a Letter of Credit Reimbursement Agreement dated as of March 1, 1991 (the "Series 1991 Reimbursement Agreement") between Mortgagor and Bank;

WHEREAS, to finance additions and improvements, Mortgagor issued to Bank its Promissory Note, in the aggregate principal amount of \$3,000,000, dated August 8, 1997 (the "Note"). The Note was issued pursuant to a Credit Agreement dated August 8, 1997 (the "1997 Credit Agreement") between Mortgagor and Bank;

WHEREAS, Mortgagor wishes to refinance the Series 1991 Bonds and the Note;

WHEREAS, to refinance the Series 1991 Bonds and the Note, Mortgagor will issue its Taxable Industrial Development Bonds, Series 2001 in the aggregate principal amount of \$9,575,000 (the "Series 2001 Bonds") pursuant to a Trust Indenture dated as of March 1, 2001, between Mortgagor and The Bank of New York, as Trustee (the "Trustee");

WHEREAS, Mortgagor has requested the Bank to issue an irrevocable letter of credit (the "Series 2001 Letter of Credit") to secure certain payments to be made with respect to the Series 2001 Bonds pursuant to a Letter of Credit Reimbursement Agreement dated as of March 1, 2001 (the "Series 2001 Reimbursement Agreement") between Mortgagor and the Bank; and

WHEREAS to secure Mortgagor's obligations to the Bank under the Series 2001 Reimbursement Agreement and to induce the Bank to issue the Series 2001 Letter of Credit, Mortgagor has entered into a Mortgage and Security Agreement dated as of March 8, 2001 (the "Series 2001 Mortgage") granting the Bank a lien and security interest on Mortgagor's interest in the facilities financed with proceeds of the Series 1990 Bonds, the Series 1991 Bonds and the Note;

WHEREAS, the real and personal property financed with proceeds of the Series 1990 Bonds were leased by the Board to Mortgagor pursuant to the Original Lease Agreement, and the additional real and personal property financed with proceeds of the Series 1991 Bonds were leased by the Board to Mortgagor pursuant to the Original Lease Agreement, as supplemented by a First Supplemental Lease Agreement between the Board and Trustee dated as of March 1, 1991, recorded in the Recording Office in Real Volume 336, page 78 (the "First Supplemental

Lease Agreement”), and the real and personal property financed by the Series 2001 Bonds were leased by the Board to Borrower pursuant to the Original Lease Agreement and First Supplemental Lease Agreement, as supplemented by a Second Supplemental Lease Agreement between the Board and Mortgagor, dated as of March 1, 2001, to be recorded in Recording Office (the “Second Supplemental Lease Agreement”) (the Original Lease Agreement, the First Supplemental Lease Agreement and the Second Supplemental Lease Agreement are hereinafter collectively referred to as the “Lease Agreement”);

WHEREAS, the premises leased pursuant to the Lease Agreement are subject to a Sublease and Option Agreement between Mortgagor, as lessor, and EBSCO, as lessee, dated as of June 1, 1982, as amended by an Amendment to Sublease and Option Agreement between Mortgagor and EBSCO, dated as of March 1, 1991, as further amended by a Second Amendment to Sublease and Option Agreement between Mortgagor and EBSCO, dated as of June 1, 1998, and as further amended by a Third Amendment to Sublease and Option Agreement between Mortgagor and EBSCO, dated as of February 1, 2001 (as so amended, the “EBSCO Sublease”);

WHEREAS, EBSCO has subordinated the EBSCO Sublease to the lien and security interest of the Series 1990 Mortgage pursuant to a Lease Subordination, Attornment Agreement and Estoppel Certificate dated as of July 1, 1990, recorded in the Recording Office in Real Volume 299, Page 41, as well as to the Series 1991 Mortgage pursuant to a Lease Subordination, Attornment Agreement and Estoppel Certificate dated as of March 1, 1991, recorded in the Probate Court of Shelby County, Alabama at Real Volume 336, Page 148, and

WHEREAS, EBSCO has agreed to subordinate the EBSCO Sublease to the lien and security interest of the Series 2001 Mortgage pursuant to this Agreement.

NOW, THEREFORE, in consideration of the EBSCO Sublease and the foregoing recitals, and in order to enable Mortgagor to induce the Bank to issue the Series 2001 Letter of Credit, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, EBSCO agrees as follows:

1. **Subordination.** The EBSCO Sublease and all rights of EBSCO thereunder are and shall continue to be, and are hereby declared to be, subject and subordinate in all respects to the Series 2001 Mortgage and the lien and security interest conveyed thereby, and to any and all modifications, replacements, extensions, consolidations and renewals of, and all amendments and supplements to, the Series 2001 Mortgage and any other lien or security interest on the Premises (as defined in the Series 2001 Mortgage), or any part thereof, which may hereafter be held by the Bank, with the same force and effect as if the Series 2001 Mortgage had been executed, acknowledged, delivered and recorded prior to the execution of the EBSCO Sublease. EBSCO hereby subordinates all right, title and interest in and to the Premises by virtue of the EBSCO Sublease to the Series 2001 Mortgage, it being the intention of EBSCO that Series 2001 Mortgage shall be superior and senior to the rights of EBSCO in and to the Premises by virtue of the EBSCO Sublease or otherwise.

2. **Option of Bank Upon Foreclosure.** EBSCO agrees that in the event of a sale of the Premises conducted under the power of sale contained in the Series 2001 Mortgage or in the event of a judicial foreclosure sale of the Premises, or in the event of an acquisition of the

Premises by deed in lieu of foreclosure (any of such events being hereinafter referred to as a "Foreclosure"), the Bank shall have the option, exercisable by the Bank in its sole discretion, to consummate such Foreclosure either (a) subject to the EBSCO Sublease, or (b) with priority over the EBSCO Sublease.

3. Attornment.

(a) Notwithstanding the subordination of the EBSCO Sublease contained in paragraph 1 hereof, EBSCO hereby agrees that, in the event that the Bank or any other party shall succeed by Foreclosure or other means to the rights of Mortgagor, as lessor under the EBSCO Sublease (the Bank or such other party being hereinafter called the "Subsequent Owner"), and shall elect to take title to the Premises subject to the EBSCO Sublease, the EBSCO Sublease shall not terminate in the event of Foreclosure of the Series 2001 Mortgage. EBSCO further agrees to attorn to and to recognize the Subsequent Owner as EBSCO's lessor for the balance of the term of the EBSCO Sublease, subject to all the terms and provisions thereof. Said attornment shall be effective and self-operational without execution of any further instrument by such Subsequent Owner or EBSCO. EBSCO hereby agrees, however, that the Subsequent Owner shall not be (i) liable for any act or omission of Mortgagor, as lessor under the EBSCO Sublease, (ii) subject to any setoff or defense that EBSCO might have against Mortgagor, as lessor under the EBSCO Sublease, (iii) bound by any rent or additional rent that EBSCO may have paid to Mortgagor for more than the current month, or (iv) bound by any amendment or modification of the EBSCO Sublease made without the prior written consent of the Bank or the Subsequent Owner.

(b) Notwithstanding the attornment agreement set forth above, EBSCO specifically agrees that the beneficiary of such attornment agreement, whether it be the Bank or any other Subsequent Owner, shall have the right, within 30 days after any Foreclosure, to declare such attornment provisions to be null and void and of no force and effect.

4. Representations and Certifications. EBSCO hereby represents, certifies and agrees to and with the Bank as follows:

(a) There exists no default by EBSCO under the terms of the EBSCO Sublease, nor any state of facts which, with the giving of notice, passage of time or both, would constitute a default thereunder.

(b) To the best of EBSCO's knowledge, there exists no default by Mortgagor under the terms of the EBSCO Sublease, nor any state of facts which, with the giving of notice, passage of time or both, would constitute a default thereunder.

(c) EBSCO will in no event look to the Bank for the return of any security deposit or advance rental payment deposited under the EBSCO Sublease, unless Mortgagor transfers any such security deposit or advance rental payment held by Mortgagor to the Bank.

(d) EBSCO has no notice or knowledge of any assignment, hypothecation or pledge of the EBSCO Sublease or the rents thereunder except pursuant to the Series 1990 Mortgage and the Series 2001 Mortgage.

(e) The persons executing this Agreement on behalf of EBSCO are duly empowered to do so on behalf of EBSCO.

(f) EBSCO will not modify, alter, amend or terminate the EBSCO Sublease without prior consent of the Bank.

5. This Agreement shall inure to the benefit or detriment (as the case may be) of, and be binding upon, the successors and assigns of the respective parties hereto and any Subsequent Owner as herein defined. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. This Agreement shall be governed by and construed according to the laws of the State of Alabama. All notices, requests, demands and other communications provided for hereunder to EBSCO shall be in writing and addressed to EBSCO Industries, Inc., Highway 280 East, Post Office Box 1943, Birmingham, Alabama 35201, Attention: Treasurer; Facsimile: (205) 995-1517; and delivered by facsimile, hand delivery or overnight courier or mailed by certified mail, return receipt requested, and shall be deemed delivered on the day of delivery by hand or courier or three (3) days after the date of mailing. This Agreement may be signed in any number of counterpart copies, but all such copies shall constitute one and the same instrument.

6. Upon request of the Bank, EBSCO will, without charge, execute such additional documents or instruments as may be necessary or desirable from time to time to more fully effectuate the terms and provisions of this Agreement.

7. Unless otherwise defined herein, all initially capitalized terms used herein shall have the meanings given such terms in the Series 2001 Reimbursement Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, EBSCO has caused this Agreement to be executed in its corporate name, has caused its respective corporate seal to be hereunto affixed, and has caused this Agreement to be attested, all by its duly authorized officers, and all as of the 8th day of March, 2001.

EBSCO INDUSTRIES, INC.

By



Richard L. Bozzelli

Vice President and Chief Financial Officer

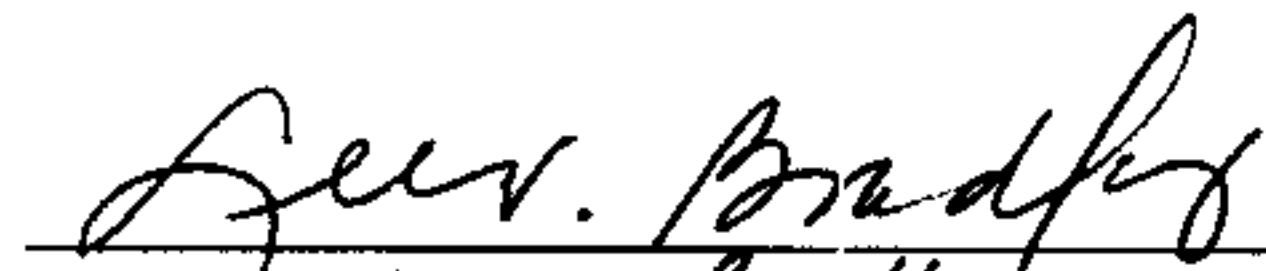
[SEAL]

STATE OF ALABAMA)
)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Richard L. Bozzelli, whose names as Vice President and Chief Financial Officer of EBSCO Industries, Inc., a Delaware corporation, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this 7th day of March, 2001.

[NOTARY SEAL]


Name Lee V. Bradley
Notary Public, State of ALABAMA

My commission expires: May 15, 2011

Inst # 2001-08305

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