

STATE OF ALABAMA                     )  
                                                     :  
COUNTY OF SHELBY                    )

Inst # 2002-13469

03/21/2002-13469  
04:15 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
26.00  
005 MSB

**WITHDRAWAL OF PROPERTY FROM RESTRICTIVE COVENANTS**

THIS WITHDRAWAL OF PROPERTY FROM RESTRICTIVE COVENANTS (this "Agreement") is made and entered into as of the 21<sup>st</sup> day of March, 2002 by THE HARBERT-EQUITABLE JOINT VENTURE, under Joint Venture Agreement dated January 30, 1974, an Alabama general partnership composed of Harbert Properties Corporation, a corporation, and The Equitable Life Assurance Society of the United States, a corporation ("Developer").

**RECITALS:**

Developer has heretofore caused the Declaration of Protective Covenants, Agreements, Easements, Charges and Liens for Riverchase (Residential) to be recorded in Misc. Book 14, Page 536 in the Office of the Judge of Probate of Shelby County, Alabama (the "Probate Office"), as amended by Amendment No. 1 recorded in Misc. Book 17, Page 550 in said Probate Office (collectively, the "Riverchase Residential Covenants").

EBSCO Industries, Inc., a Delaware corporation ("Owner"), is the present owner of those certain two (2) parcels of real property situated in Shelby County, Alabama, which are more particularly described in Exhibit A attached hereto and incorporated herein by reference (collectively, the "Property").

Pursuant to the terms and provisions of Section 4.2 of the Riverchase Residential Covenants, Owner has requested and Developer, to the extent of its interest, has agreed to withdraw and release the Property from the terms and provisions of the Riverchase Residential Covenants.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer, to the extent of its interest, does hereby declare that, pursuant to Section 4.2 of the Riverchase Residential Covenants, the Property is hereby withdrawn from all of the terms and provisions of the Riverchase Residential Covenants. Owner has joined in the execution of this Agreement in order to consent to all of the terms and provisions hereof. From and after the date hereof, no portion of the Property shall be deemed to be subjected to or encumbered by any of the terms and provisions of the Riverchase Residential Covenants.

Developer does hereby represent and warrant that it has made no affirmative written or oral assignment to any third party of any of its rights under Section 4.2 of the Riverchase Residential Covenants, that it has not at any time in the past withdrawn a cumulative total of one hundred (100) acres or more of Member's Property, as defined in the Riverchase Residential Covenants, from the terms and

provisions of the Riverchase Residential Covenants, and that no part of the Property withdrawn hereby will cause the cumulative total of property withdrawn by Developer from the Riverchase Residential Covenants pursuant to Section 4.2 thereof to exceed 100 acres.

IN WITNESS WHEREOF, Developer has caused this Agreement to be executed as of the day and year first above written.

**THE HARBERT EQUITABLE JOINT VENTURE**

By: THE EQUITABLE LIFE ASSURANCE  
SOCIETY OF THE UNITED STATES

By: [Signature]  
Its: Investment Officer

By: HARBERT PROPERTIES CORPORATION

By: [Signature]  
Its: President

STATE OF GEORGIA )  
COUNTY OF FULTON )

I, JANE H. JOHNSON, a Notary Public in and for said County, in said State, hereby certify that TERRELL E. DAFFER, whose name as Investment Officer of The Equitable Life Assurance Society of the United States, a corporation, as General Partner of The Harbert-Equitable Joint Venture, under Joint Venture Agreement dated January 30, 1974, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation as General Partner of The Harbert-Equitable Joint Venture.

Given under my hand and official seal, this the 30<sup>th</sup> day of MARCH, 2002.

[Signature]  
Notary Public

My commission expires: Notary Public, Fulton County, Georgia  
~~My Commission Expires May 11, 2004~~

STATE OF ALABAMA )  
COUNTY OF SHELBY )

I, Mary T. Cain, a Notary Public in and for said County, in said State, hereby certify that William W. Brooke, whose name as PRESIDENT of Harbert Properties Corporation, a corporation, as General Partner of The Harbert-Equitable Joint Venture, under Joint Venture Agreement dated January 30, 1974, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation as General Partner of The Harbert-Equitable Joint Venture.

Given under my hand and official seal, this the 19<sup>th</sup> day of March, 2002.

Mary T. Cain  
Notary Public

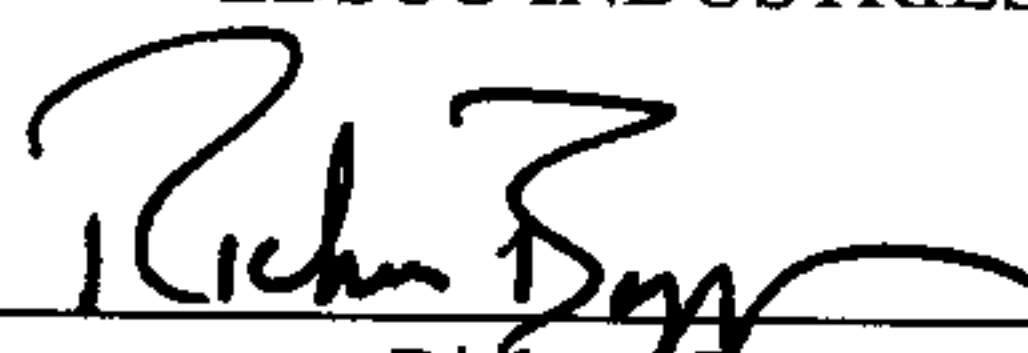
My commission expires: MY COMMISSION EXPIRES DEC. 16, 2003

**CONSENT OF OWNER**

The undersigned, EBSCO Industries, Inc., a Delaware corporation, as the Owner described in the foregoing Agreement, joins in the execution of this Agreement and does hereby consent to and approve of all of the terms and provisions of the Agreement.

Dated as of the 21<sup>st</sup> day of March 2002.

EBSCO INDUSTRIES, INC.

By:   
Richard L. Bozzelli  
Vice President and CFO

STATE OF ALABAMA

)


:

SHELBY COUNTY

)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Richard L. Bozzelli, whose name as Vice President and CFO of EBSCO Industries, Inc., a Delaware corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal the 21<sup>st</sup> day of March, 2002.

  
Notary Public

[NOTARIAL SEAL]

My commission expires: 5/16/2002

This instrument prepared by and  
upon recording should be returned to:

Stephen R. Monk, Esq.  
Bradley Arant Rose & White LLP  
2001 Park Place, Suite 1400  
Birmingham, Alabama 35203  
(205) 521-8429

**EXHIBIT A**

**PARCEL 1:**

Part of the East  $\frac{1}{2}$  of SE  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of Section 26, Township 19 South, Range 3 West, Shelby County, Alabama, being more particularly described as follows:

From the NW corner of said East  $\frac{1}{2}$  of SE  $\frac{1}{4}$  of NE  $\frac{1}{4}$ , run in an Easterly direction along the North line of said East  $\frac{1}{2}$  of SE  $\frac{1}{4}$  of NE  $\frac{1}{4}$  for a distance of 77.11 feet to an existing iron pin being the point of beginning. Thence continue along last mentioned course for a distance of 127.80 feet, thence turn angle to the right  $1138^{\circ}18'38''$  and run in a Southwesterly direction for a distance of 270.97 feet, more or less, to a point on the West line of said East  $\frac{1}{2}$  of SE  $\frac{1}{4}$  of NE  $\frac{1}{4}$ , thence turn an angle to the right  $130^{\circ}52'24''$  and run in a Northerly direction along said West line of said East  $\frac{1}{2}$  of SE  $\frac{1}{4}$  of NE  $\frac{1}{4}$  for a distance of 112.41 feet, more or less, to an existing iron pin, thence turn an angle to the right  $49^{\circ}07'36''$  and run in a Northeasterly direction for a distance of 101.97 feet, more or less, to the point of beginning. Containing 0.364 acres more or less.

**PARCEL 2:**

Lot 53, according to the Survey of Chase Plantation 4th Sector, as recorded in Map Book 9, Page 156 A and B in the Office of the Judge of Probate of Shelby County, Alabama.

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