

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (as the same may be amended, modified or supplemented from time to time, the "Assignment"), from The Shoemaker Group, a Partnership (the "Assignor"), in favor of Southern Development Council, Inc. (the "Assignee"), for further assignment by Assignee to the UNITED STATES SMALL BUSINESS ADMINISTRATION, an agency of the United States (the "SBA"), recites and provides:

Assignee has agreed to make a loan to Assignor in the principal amount of \$700,000.00 (the "Loan"). The Loan is secured by a mortgage (the "Mortgage") from Assignor to Assignee on the land described in Exhibit A hereto and the improvements situated thereon (collectively, the "Premises"). The Loan is evidenced by a promissory note of even date herewith (as the same may be amended, modified or supplemented from time to time, the "Note") made by Assignor and payable to the order of Assignee in the principal amount of \$700,000.00. Terms defined in the Note and the Mortgage shall have the same defined meanings when used in this Assignment. As a condition to making the Loan, the Assignee has required an assignment to the Assignee and any subsequent holder of the Note of all leases (individually, a "Lease," and collectively, the "Leases") of or relating to Assignor's interest in the Premises or any part thereof, now or hereafter existing, and all rents, issues and profits (the "Rents") now or hereafter arising from Assignor's interest in the Premises or any part thereof, all in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the agreement of Assignee to make the Loan and as **ADDITIONAL SECURITY** for the payment of the Note, Assignor agrees as follows:

1. **ASSIGNMENT OF LEASES.** Assignor hereby assigns, transfers and sets over to Assignee, and any subsequent holder of the Note, all Assignor's right, title and interest in and to all Leases and all renewals or extensions thereof, together with all the Rents, now existing or hereafter arising. Prior to the election of Assignee to collect the Rents upon the occurrence of an event of default under the Mortgage, Assignor shall have the right to collect and dispose of the Rents without restriction.

2. **DELIVERY OF THE LEASES.** All Leases currently in effect with respect to the Premises have been delivered to Assignee, are in full force and effect as of the date of this Assignment and neither Assignor nor any tenant is in default thereunder. Assignor shall not make any subsequent agreement for the leases of the Premises or any part thereof except in the ordinary course of business in accordance with the provisions of the Mortgage. All such subsequent Leases shall be subject to the prior written approval of Assignee, in accordance with the provisions of the Mortgage.

3. **NO MODIFICATION OF THE LEASES.** Without the prior written consent of Assignee, which consent shall not be unreasonably withheld, Assignor shall not

A. Cancel, terminate or accept any surrender of the Leases;

B. Accept any prepayments for more than thirty (30) days of installments of rent under any of the Leases;

C. Modify or abridge any of the terms, covenants and conditions of any of the Leases so as to reduce the terms thereof or the rental payments thereunder; or

D. Change any renewal privileges contained in any of the Leases.

4. **REPRESENTATIONS AND WARRANTIES.** Assignor represents and warrants that

A. Except for the assignment made by Assignor to Wachovia Commercial Mortgage, Inc., the first mortgage lender, Assignor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents, whether now due or hereafter to become due;

B. The Rents now due or to become due for any periods subsequent to the date hereof have not been collected and payment thereof has not been anticipated for a period of more than one (1) month in advance, waived or released, discounted, set off or otherwise discharged or compromised except as set forth in the Leases;

C. It has not received any funds or deposits from any tenant for which credit has not already been made on account of accrued income other than the security deposits provided for in the Leases;

D. It has not received any bona fide and acceptable offer to purchase the Premises or any part thereof which would in any way affect any right or option of first refusal to purchase all or any portion of the Premises now contained in any Lease;

E. It has not done anything which might prevent Assignee from or limit Assignee in operating under or enforcing any of the provisions hereof;

F. Title to the Premises subject to the Leases is in Assignor;

G. That Assignor is the lawful owner of the entire lessor's interest in the Leases;

H. That the Leases are genuine;

I. That the tenants on the Leases have full capacity to contract;

J. That Assignor has the right to make this Assignment, and that full title and right to receive the Rents are vested in Assignee by this Assignment;

K. That as of the date of this agreement the Leases are not in default.

Assignor shall act in good faith to enforce or secure the performance of each and every obligation, covenant, condition and agreement to be performed by any tenants under all the Leases.

5. **REMEDIES UPON DEFAULT.** Immediately upon the occurrence of an event of default under the Mortgage, Assignee is hereby expressly and irrevocably authorized to enter and take possession of the Premises by actual physical possession, or by written notice served personally upon, or sent by registered or certified mail, postage prepaid, to Assignor, as Assignee may elect, and no further authorization shall be required. Following any such entry and taking of possession, Assignee may:

- A. Manage and operate the Premises or any part thereof;
- B. Lease any part or parts of the Premises for such periods of time, and upon such terms and conditions as Assignee may, in its discretion, deem proper;
- C. Enforce any of the Leases;
- D. Demand, collect, sue for, attach, levy, recover, receive, compromise and adjust, and make, execute and deliver receipts and releases for all Rents that may then or may thereafter become due, owing or payable with respect to the Premises, or any part thereof, from any present or future lessees, tenants, subtenants or occupants thereof;
- E. Institute, prosecute to completion or compromise and settle, all summary proceedings and actions for rent or for removing any and all lessees, tenants, subtenants or occupants of the Premises or any part or parts thereof;
- F. Enforce or enjoin or restrain the violation of any of the terms, provisions and conditions of any of the Leases;
- G. Make such repairs and alterations to the Premises as Assignee may, in its discretion, deem proper;
- H. Pay from and out of the Rents collected or from or out of any other funds, the insurance premiums and any other taxes, assessments, water rates, sewer rates or other governmental charges levied, assessed or imposed against the Premises or any portion thereof, and also any and all other charges, costs and expenses which it may deem necessary or advisable for Assignee to pay in the management or operation of the Premises, including (without limiting the generality of any rights, powers, privileges and authorities conferred in this Assignment) the costs of such repairs and alterations, commissions for renting the Premises, or any portions thereof, and legal expenses in enforcing claims, preparing papers or for any other services that may be required; and
- I. Generally, do, execute and perform any other act, deed, matter or thing whatsoever that ought to be done, executed and performed in and about or with respect to the

Premises as fully as Assignor might do.

Assignee shall apply the net amounts of any Rents received by it from the Premises, after payment of proper costs and charges (including any loss or damage hereinafter referred to in Section 8 hereof) to the reduction and payment of the indebtedness evidenced by the Note and secured by the Mortgage (the "Secured Indebtedness"). Assignor agrees not to seize or detain any property hereby assigned, transferred or set over to Assignee.

6. **DISPOSITION OF RENTS UPON DEFAULT.** Assignor hereby irrevocably directs the tenants under the Leases upon demand and notice from Assignee of any event of default, to pay to Assignee all Rents accruing or due under the Leases from and after the receipt of such demand and notice. Such tenants in making such payments to Assignee shall be under no obligation to inquire into or determine the actual existence of any such event of default claimed by Assignee.

7. **ATTORNMEN****T.** To the extent not provided by applicable law, each Lease of the Premises or of any part thereof shall provide that in the event of the enforcement by Assignee of the remedies provided for by law or by this Assignment, the tenant thereunder will, upon request of any person succeeding to the interest of Assignor as a result of such enforcement, automatically become the tenant of such successor-in-interest, without change in the terms or other provisions of such Lease; provided, however, that the successor-in-interest shall not be bound by:

A. Any payment of rent or additional rent for more than one (1) month in advance, except prepayments in the nature of security for the performance by the tenant of its obligations under the Lease; or

B. Any amendment or modification of the Lease made without the consent of Assignee or such successor-in-interest.

Each Lease also shall provide that, upon request by the successor-in-interest, the tenant shall execute and deliver an instrument or instruments confirming such attornment.

8. **POWER OF ATTORNEY.** Assignor appoints Assignee its true, lawful, and irrevocable attorney to demand, receive, and enforce payment, to give receipts, releases, and satisfactions, and to sue, either in the name of Assignor or in the name of Assignee, for all Rents and sums payable under the Leases.

9. **CONSENT.** Assignor consents that, without further notice and without releasing the liability of Assignor, Assignee may, at Assignee's discretion, give grace or indulgence in the collection of all Rents and sums due or to become due under the Leases and grant extensions of time for the payment of the same before, at, or after maturity.

10. **OBLIGATIONS OF ASSIGNOR.** Assignee does not assume any of the Lessor's obligations under the Leases, and Assignor agrees: (a) to keep and perform all obligations of the Lessor under the Leases and to save Assignee harmless from the consequences

of any failure to do so; and (b) to preserve the Premises subject to the Leases free and clear of liens and encumbrances, except to or with the consent of Assignee.

11. **INDEMNIFICATION.** Assignor hereby agrees to indemnify and hold Assignee harmless from and against any and all liabilities, losses, damages and expenses, including reasonable attorneys' fees, which it may incur under any of the Leases, or by reason of this Assignment or by reason of any action taken by Assignee or Assignor hereunder, and from and against any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms, covenants and conditions contained in any of the Leases. Should Assignee incur any such liabilities, losses, damages or expenses, the amount thereof, together with interest thereon at the rate set forth in the Note, shall be payable by Assignor to Assignee immediately upon demand therefor, or at the option of Assignee, Assignee may reimburse itself therefor out of any Rents collected by Assignee. Nothing contained herein shall operate or be construed to obligate Assignee to perform any of the terms, covenants and conditions contained in any of the Leases or otherwise to impose any obligation upon Assignee with respect to any of the Leases. This Assignment shall not operate to place upon Assignee any responsibility for the operation, control, care, management or repair of the Premises, and the execution of this Assignment by Assignor shall constitute conclusive evidence that all responsibility for the operation, control, care, management and repair of the Premises is and shall be that of Assignor.

12. **FURTHER ASSURANCES.** Assignor agrees to execute and deliver to Assignee, at any time or times during which this Assignment shall be in effect, such further instruments as Assignee may deem necessary to make effective or more effective this Assignment and the covenant of Assignor herein contained.

13. **NO WAIVER.** Failure of Assignee to avail itself of any of the terms, covenants and conditions of this Assignment for any period of time, or any time or times, shall not be construed or deemed to be a waiver or any of its rights hereunder. The rights and remedies of Assignee under this Assignment are cumulative and are not in lieu of, but are in addition to, any other rights and remedies which Assignee shall have under or by virtue of any of the documents evidencing or pertaining to the Loan. The rights and remedies of Assignee hereunder may be exercised from time to time and as often as such exercise is deemed expedient.

14. **ASSIGNMENT OF ASSIGNEE'S RIGHTS.** Any holder of the Loan shall have the right to assign to any subsequent holder of the Loan, the right, title and interest of Assignor hereby assigned, subject, however, to the provisions of this Assignment. In the event all the right, title and interest of Assignor in the Premises are barred or foreclosed, no assignee of the interest of Assignor shall be liable to account to Assignor for any Rents thereafter accruing.

15. **RELEASE.** Upon payment in full of the Secured Indebtedness, as evidenced by a recorded satisfaction or release of the Mortgage, as well as any sums which may be payable hereunder, this Assignment shall become and be void and of no effect.

16. **AMENDMENTS AND DISCHARGE.** No change, amendment, modification, cancellation or discharge of this Assignment, or any part hereof, shall be valid unless Assignee

shall have consented thereto in writing.

17. **SUCCESSORS AND ASSIGNS.** The terms, covenants and conditions contained herein shall inure to the benefit of, and bind Assignor, Assignee and their successors and assigns.

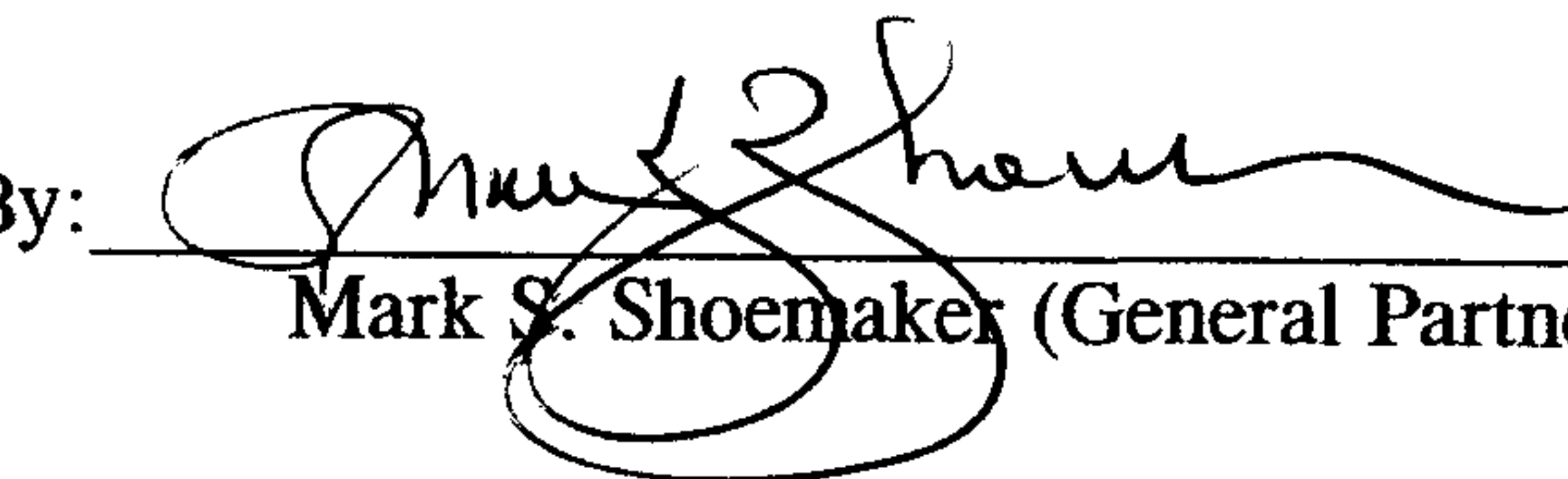
18. **GOVERNING LAW.** This Assignment shall be governed by and construed in accordance with the laws of the Alabama, without reference to conflict of laws principles.

19. **SEVERABILITY.** If any provision of this Assignment, or the application hereof to any person, entity or circumstance, shall to any extent be invalid or unenforceable, the remainder of the provisions of this Assignment, or the application of such provision to other persons, entities or circumstances, shall not be affected thereby, and each provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the undersigned has executed this Assignment this 28th day of September, 2004.

ASSIGNOR:

The Shoemaker Group, a Partnership
By: 
Michael A. Shoemaker (General Partner)

By: 
Mark S. Shoemaker (General Partner)

STATE OF ALABAMA
JEFFERSON COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Michael A. Shoemaker and Mark S. Shoemaker, whose names as General Partners of The Shoemaker Group, a Partnership, 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 this instrument, they, as such General Partners, and with full authority, executed the same voluntarily, as an act of said partnership, acting in its capacity as aforesaid.

Given under my hand and official seal, this the 28th day of September, 2004.


NOTARY PUBLIC

My Commission Expires: Nov - 9, 2005

THIS INSTRUMENT PREPARED BY:
E. H. Bixler, IV.
ENGEL, HAIRSTON & JOHANSON, P.C.
P.O. Box 11405
Birmingham, Alabama 35202-1405
(205)328-4600

EXHIBIT "A"
TO
MORTGAGE
LESSOR'S AGREEMENT
ASSIGNMENT OF LEASE
PRIOR LIENHOLDER'S AGREEMENT
ASSIGNMENT OF LEASES AND RENTS
ESTOPPEL CERTIFICATE AND ATTORNMENT AGREEMENT
HAZARDOUS SUBSTANCE INDEMNIFICATION AND WARRANTY AGREEMENT

BORROWER: The Shoemaker Group, a Partnership and Shoemaker Pool Service, Inc.
LENDER: Southern Development Council, Inc.

Lot 6A, according to a Resurvey of Lots 4, 5 and 6, Greystone Highlands Commercial Subdivision, as recorded in Map Book 21, page 88, in the Probate Office of Shelby County, Alabama.

SUBJECT TO: i) taxes for the year 2004 a lien but not yet payable; ii) restrictions appearing of record in Instrument 1995-18410, in the Probate Office of Shelby County, Alabama; iii) mineral and mining rights and rights incident thereto and release of damages recorded in Deed Book 349, page 230; Deed Book 4, page 486 and Deed Book 4, page 488, in the Probate Office of Shelby County, Alabama; iv) covenant and agreement for water service as set out in Real Property Volume 235, page 611, in the Probate Office of Shelby County, Alabama; v) transmission line permit to Alabama Power Company, as recorded in Deed Book 109, page 492; Deed Book 11, page 402; Deed Book 127, page 336; Deed Book 160, page 403 and Deed Book 173, page 191, in the Probate Office of Shelby County, Alabama; vi) easement to Southern Bell Telephone and Telegraph Company recorded in Deed Book 324, page 837, in the Probate Office of Shelby County, Alabama; vii) restrictions, covenants and conditions appearing of record in Instrument 1996-4137, in the Probate Office of Shelby County, Alabama; viii) utility easement for Ebsco Industries to Cahaba Water Renovation Systems, recorded in Real 42, page 223, in the Probate Office of Shelby County, Alabama; ix) right of way granted to Alabama Power Company by instrument recorded in Instrument 20040102000000240, in the Probate Office of Shelby County, Alabama.

ASSIGNMENT

In consideration of the guaranty by SMALL BUSINESS ADMINISTRATION of a Debenture in the amount of \$700,000.00, issued by the SOUTHERN DEVELOPMENT COUNCIL, INC. (which Debenture is identified as CDC 6225454010 BIR) said SOUTHERN DEVELOPMENT COUNCIL, INC. hereby assigns and transfers all interest herein to SMALL BUSINESS ADMINISTRATION.

SOUTHERN DEVELOPMENT COUNCIL, INC.

BY: _____

Its President

Dated: September 28, 2004