

P BK 92 PG 201

AFTER RECORDING RETURN TO:  
Christopher L. Carson, Esq.  
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303 Peachtree Street  
Atlanta, Georgia 30308-3242

Northeast Quarter of Section 24  
Township 1 South, Range 8 West  
City of Southhaven, Desoto County  
Mississippi

LEASE AGREEMENT

Dated as of December 3, 2001

STATE MS.-DESO TO CO.  
FILED

DEC 10 2 39 PM '01

BK. 92 PG 201  
W. CLK.

Between  
Wachovia Capital Investments, Inc.,  
as the Lessor,

and

Cooper Lighting, Inc.  
as the Lessee

STATE MS.-DESO TO CO.  
FILED

DEC 10 2 38 PM '01

BK. 1424 PG 734  
W. CLK.

This Lease Agreement is also a deed of trust and security agreement between the Lessee, Cooper Lighting, Inc., as grantor and debtor, a person to be identified as trustee for the benefit of the Lessor (together with its successors in trust, the "Trustee"), and the Lessor, Wachovia Capital Investments, Inc., as beneficiary and secured party, securing indebtedness in the amount of thirteen million, five hundred thousand and no/100 dollars (\$13,500,000). The collateral subject to the security interest includes personal property that is, or may become, fixtures attached to the real property described in this Lease Agreement. This Lease Agreement should be filed and recorded in the real estate records as a lease and as a deed of trust and fixture filing. The Trustee should be indexed as the grantor of the lease and the grantee of the deed of trust and security interest. Cooper Lighting, Inc. should be indexed as the grantee of the Lease and the grantor of the deed of trust and security interest.

To the Chancery Clerk of Desoto County, Mississippi:  
The real property described herein is situated in the Northeast Quarter of Section 24 , Township 1 South, Range 8 West of Desoto County, Mississippi.

Addresses of Parties:

The addresses of the Lessee and Lessor are set forth on the signature pages hereof.

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This Lease Agreement dated as of December 3, 2001, (as the same may be amended, modified or supplemented from time to time, this "Lease") is between Wachovia Capital Investments, Inc., a Georgia corporation (together with its successors and permitted assigns, "WCII") (the "Lessor") and Cooper Lighting, Inc., a Delaware corporation (together with its successors and permitted assigns, the "Lessee").

### RECITALS

WHEREAS, the Lessor has (i) acquired certain real property in Southaven, Desoto County, Mississippi, described in greater detail on Exhibit A (the "Site"), together with the existing building and other Improvements thereon, and all appurtenances thereto, (ii) pursuant to the Pre-Lease Agency Agreement has acquired rights in the Specific Equipment by funding part of the cost thereof and (iii) pursuant to the Agency Agreement has agreed to acquire the Additional Equipment for use on the Site and fund the balance of the purchase price for the Specific Equipment and acquire it for use on the Site; and

WHEREAS, subject to the terms and conditions of this Lease, the Lessee desires to lease from the Lessor the Site, such enhancements and Improvements beginning on the Lease Commencement Date and the Additional Equipment and the Specific Equipment upon acquisition thereof for the purpose of occupying and using the Site, such enhancements and Improvements and Equipment as a warehouse facility in accordance with the terms and conditions set forth in this Lease.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Lessor and the Lessee agree as follows:

#### Section 1. Defined Terms and Accounting Matters.

(a) Terms Defined Above. In this lease, the terms "Lease," "Lessee," and "Lessor," shall have the meanings indicated above.

(b) Certain Defined Terms. As used in this Lease, all other capitalized terms shall have the meanings assigned such terms in Schedule 1(a) attached hereto and by reference made a part hereof.

(c) Accounting Terms and Determinations. Unless otherwise specified herein, all terms of an accounting character used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with GAAP, applied on a basis consistent (except for changes concurred in by the Guarantor's independent public accountants or otherwise required by a change in GAAP) with the most recent audited consolidated financial statements of the Guarantor and its Consolidated Subsidiaries delivered to the Lessor unless with respect to any such change concurred in by the Guarantor's independent public accountants or required by GAAP, in determining compliance with any of the provisions of this Lease or any of the other Operative Documents: (a) the Guarantor shall have objected to determining such compliance on

such basis at the time of delivery of such financial statements, or (b) the Lessor shall so object in writing within 30 days after the delivery of such financial statements, in either of which events such calculations shall be made on a basis consistent with those used in the preparation of the latest financial statements as to which such objection shall not have been made (which, if objection is made in respect of the first financial statements delivered under Section 30(a) of the Lease, shall mean the financial statements referred to in Section 29(d).

Section 2. Lease of Facility.

(a) During the term of and subject to the terms and conditions of this Lease, the Lessor hereby leases to the Lessee, and the Lessee hereby leases from the Lessor, the Facility for the Lease Term to be occupied and used for and only for the Permitted Use with respect to the Basic Term. The entire Facility shall become subject to this Lease as of the effective date hereof, except that the Additional Equipment shall become subject to this Lease on the Acquisition Date therefor; provided that the Lessor will deliver possession of the Facility to Lessee for occupancy and operation in accordance with the Permitted Use in conjunction with and to the extent permitted by certificates of occupancy issue the applicable Governmental Authority.

(b) Unless earlier terminated in accordance with the other provisions hereof, including without limitation, Sections 15 and 17, this Lease shall terminate on the Scheduled Lease Termination Date. On any day that is not less than 12 months and not more than 18 months prior to the then current Scheduled Lease Termination Date, the Lessee may request in writing to the Lessor that the then current Scheduled Lease Termination Date be extended for a period of not less than 1 year and not more than 8 years. Any such extension shall require the written consent of the Lessor acting in its sole and absolute discretion. In the event such an extension is requested and the requirements set forth in the immediately preceding sentence are met, such extension shall be effective upon the execution of documentation evidencing the same and containing such additional terms as the Lessee and the Lessor may agree upon, including updated pricing reflecting current market conditions at that time. If the Lessor shall fail to respond to the Lessee's written request for extension within 60 days of receipt, such failure to respond shall be deemed a denial of such request for extension.

(c) Not less than 12 months prior to the Scheduled Lease Termination Date, the Lessee shall notify the Lessor in writing which of the options under Section 15(a)(ii) of this Lease the Lessee intends to exercise. In the event the Lessee fails to give timely written notice to the Lessor on or before the date herein provided, the Lessee shall be deemed to have elected to purchase the Facility on the Lease Termination Date for the Termination Value. Such election will be consummated upon the Scheduled Lease Termination Date unless the Lessee thereafter elects to exercise its option under Section 15(c) of this Lease or a Cancellation Event occurs.

(d) If it is determined at any time that the term of this Lease will not be extended beyond the original Scheduled Lease Termination Date the Lessee shall give to the Lessor written notice as provided below specifying which of the options under Section 15(a)(ii) of this Lease the Lessee intends to exercise upon the applicable Lease Termination Date:

(x) if the Scheduled Lease Termination Date is not to be extended because the Lessor has refused or is deemed to have refused the Lessee's request for extension, then the Lessee shall give the Lessor notice within 30 days of the earlier to occur of (A) the date the Lessee receives written notice of said refusal or (B) the date of such deemed refusal pursuant to Section 2(b) above; and

(y) if the Scheduled Lease Termination Date is not to be extended because the Lessee chooses not to request such extension, the Lessee shall give the Lessor notice on any date that is not less than 12 months and no more than 18 months prior to the then current Scheduled Lease Termination Date.

In the event the Lessee fails to give timely written notice to the Lessor on or before the date herein provided, the Lessee shall be deemed to have elected to purchase the Facility on the Lease Termination Date for the Termination Value.

### Section 3. Commitments.

(a) Advances. The Lessor agrees, on the terms and conditions of this Lease, to make Advances to the Lessee during the Acquisition Period in an aggregate principal amount at any one time outstanding up to but not exceeding the amount of the Lessor's Commitment; provided, however, that the aggregate principal amount of all Advances by the Lessor under this Section 3(a) at any one time outstanding shall not exceed the lesser of (y) one hundred percent (100%) of the Facility Cost as incurred or invoiced or (z) the Commitment. All Advances shall be utilized only for items of Facility Cost, which utilization shall be evidenced to the Lessor's satisfaction simultaneously with and as a condition to each Advances.

#### (b) Fundings of Advances.

(i) The Lessee, as Acquisition Agent for the Lessor, from time to time as the Lessee may determine in accordance with this Lease and the Agency Agreement, shall give the Lessor notice of a requested funding of Advances by the Lessor in substantially the form of Exhibit E (an "Advance Notice"), which shall be given by telecopy or telephone (and if by telephone, confirmed promptly by telecopy), to be received by the Lessor not later than 12:00 noon, Atlanta, Georgia time, on the third (3rd) Business Day before the requested date of such Advances (which shall be subject to the 2 immediately succeeding sentences), which Advance Notice shall be irrevocable and effective only upon receipt by the Lessor and shall specify the aggregate amount and the date of the Advances to be funded and specify in reasonable detail the purpose for which such Advance is requested. Advances shall be made only on the Closing Date and on each Rent Payment Date thereafter during the Acquisition Period, with no more than 1 Advance per month. The Advance Notice for the Advance on the Closing Date must have been given so as to be received by the Lessor no later than the third (3<sup>rd</sup>) Business Day before the Closing Date. Once given, an Advance Notice may be revoked only upon payment of any amounts due to the Lessor under Section 27(e). The amounts so requested shall be made available to the Acquisition Agent by depositing the same, in immediately available funds, in an account of the Acquisition Agent designated by it and

maintained with the Lessor at its Funding Office, not later than 12:00 noon, Atlanta, Georgia time on the date of requested Advance.

(ii) All Advances under Section 3(b)(i) shall be in amounts of at least \$100,000, or the remaining balance of the Commitment, if less.

(c) Changes of Commitments. The Lessee shall have the right to terminate or to reduce the amount of, or, prior to utilization thereof, terminate, the Commitment at any time or from time to time upon not less than 3 Business Days' prior written notice to the Lessor of each such termination or reduction, which notice shall specify the effective date thereof and the amount of any such reduction (which shall not be less than \$100,000 or any multiple of \$100,000 in excess thereof) and shall be irrevocable and effective only upon receipt by the Lessor. The Commitment once terminated or reduced may not be reinstated. In no event shall the Commitment be reduced below the outstanding principal amount of Advances.

(d) Fees The Lessee shall pay, or cause to be paid, from the proceeds of Advances, or otherwise, on the Closing Date to the Lessor an upfront fee in the amount of \$30,000.

(f) Funding Offices. The Advances made by the Lessor shall be made and maintained at the Lessor's Funding Office therefor.

#### Section 4. Payments.

(a) Basic Rent. Basic Rent shall accrue on the Unrecovered Facility Cost outstanding from time to time during each Rental Period at a rate per annum equal to the sum of:

(i) during the Acquisition Period, (1) the Modified Adjusted LIBO Rate prevailing on the date of each Advance plus the Applicable Margin plus (ii) a fee (the "Commitment Fee") on the undrawn amount of the Commitment at a rate equal to the Commitment Fee Rate, times the undrawn amount of the Commitment; and

(ii) during the Basic Term, (i) the Adjusted LIBO Rate prevailing on the first day of such Rental Period plus the Applicable Margin plus, (ii) an amount equal to \$60,000 for each Rental Period (such amount being the "Scheduled Amount"); provided, that if there are less than 3 months remaining (x) after the last day of the Acquisition Period until the first Rent Payment Date, or (y) after the end of any Rental Period until the Scheduled Lease Termination Date, Basic Rent for such first or final Rental Period shall instead be a rate per annum equal to the Adjusted LIBO Rate, but for an interest period most nearly approximating such period, to the extent reasonably available, and for any portion of such period for which an interest period for the Adjusted LIBO Rate is not reasonably available, the Base Rate.

The Lessee may, on at least 1 Business Day notice to the Lessor, prepay any Unrecovered Facility Cost in whole at any time, or from time to time in part in amounts aggregating at least \$500,000, together with accrued Basic Rent thereon to the date of prepayment, provided, that in

the event any Unrecovered Facility Cost on which Basic Rent accrued based on the Adjusted LIBO Rate is prepaid other than on the last day of the Rental Period with respect thereto (including by reason of the occurrence of the Lease Termination Date), the Lessee shall compensate the Lessor for any funding losses incurred by them as a result of such prepayment pursuant to Section 27(e). Each such optional prepayment shall be applied to the Unrecovered Facility Cost funded by the Lessor. On the last day of the Acquisition Period, all Soft Costs incurred and Basic Rent accrued and unpaid during the period from the Lease Commencement Date through such date shall be capitalized and added to Facility Cost. After the commencement of the Basic Term, Basic Rent shall be payable to the Lessor for such Rental Period in arrears on the Rent Payment Date for such Rental Period.

(b) Final Rent Payment. In addition to Basic Rent and Supplemental Rent, on the Lease Termination Date (whether on the Scheduled Lease Termination Date or due to the occurrence of a Cancellation Event or a Termination Event or otherwise), the Lessee shall pay to the Lessor the Final Rent Payment.

(c) Supplemental Rent. In addition to Basic Rent and the Final Rent Payment, the Lessee will also pay to the Lessor from time to time, upon demand by the Lessor, as additional rent ("Supplemental Rent"), the following (but without duplication of any amounts included in the calculation of Rent):

(i) all out-of-pocket costs and expenses reasonably incurred by the Lessor in connection with the preparation, negotiation, execution, delivery, performance and administration of this Lease and the other Operative Documents, including, but not limited to, the following: (A) fees and expenses of the Lessor, including, without limitation, reasonable attorneys' fees and expenses (subject to the "Expense" section in the Summary of Terms and Conditions of the Commitment Letter dated September 4, 2001) and the fees and expenses for the Approved Appraisal, the Related Contracts and the Surveys, the Environmental Assessment, the title policy referred to in Section 28(a)(xi), (B) all other amounts owing to the Lessor pursuant hereto or any other Operative Document, including, without limitation, fees, indemnities, expenses, compensation in respect of increased costs of any kind or description payable under this Lease or any other Operative Document; (C) without duplication, the LIBOR Loss Amount and all other yield maintenance, capital adequacy and other costs contemplated under Section 27 and (D) all out-of-pocket costs and expenses incurred by the Lessor (including, without limitation, reasonable attorneys' fees and expenses and other expenses and disbursements reasonably incurred) associated with (1) negotiating and entering into, or the giving or withholding of, any future amendments, supplements, waivers or consents with respect to this Lease; (2) any Loss Event, Casualty Occurrence or termination of this Lease; and (3) any Default or Event of Default and the enforcement and preservation of the rights or remedies of the Lessor under this Lease and the other Operative Documents; and

(ii) all other amounts that the Lessee agrees herein to pay other than Basic Rent, the Final Rent Payment and amounts described in clause (i) above.

(d) Computations. All computations of Basic Rent shall be made by the Lessor on the basis of a year of 360 days, in each case for the actual number of days (including the first day but excluding the last day) occurring in the Rental Period for which such Basic Rent payments are payable. Whenever any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of Rent; provided, however, that if such extension would cause payment of Basic Rent to be made in the next following calendar month, such payment shall be made on the next preceding Business Day.

(e) No Offsets. This Lease is an absolute net lease, and Rent and all other sums payable by the Lessee hereunder shall be paid without notice except as otherwise expressly provided herein, and the Lessee shall not be entitled to any abatement, reduction, setoff, counterclaim, defense or deduction with respect to any Rent or other sums payable hereunder. The obligations of the Lessee to pay Rent and all other sums payable hereunder shall not be affected by reason of: (i) except as provided in Section 14 hereof, any damage to, or destruction of, the Facility or any part thereof by any cause whatsoever (including, without limitation, fire, casualty or act of God or enemy or any other force majeure event); (ii) except as provided in Section 14 hereof, any condemnation, including, without limitation, a temporary condemnation of the Facility or any part thereof; (iii) any prohibition, limitation, restriction or prevention of the Lessee's use, occupancy or enjoyment of the Facility or any part thereof by any Person (other than by the Lessor in violation of this Lease); (iv) any matter affecting title to the Facility or any part thereof; (v) any eviction of the Lessee from, or loss of possession by the Lessee of, the Facility or any part thereof, by reason of title paramount or otherwise (other than by the Lessor in violation of this Lease); (vi) any default by the Lessor hereunder or under any other Operative Document; (vii) the invalidity or unenforceability of any provision hereof or the impossibility or illegality of performance by the Lessor or the Lessee or any of them; (viii) except as provided in Section 14 hereof, any action of any Governmental Authority; or (ix) except as provided in Section 14 hereof, any other Loss Event, Casualty Occurrence or other cause or occurrence whatsoever, whether similar or dissimilar to the foregoing. The Lessee shall remain obliged under this Lease in accordance with its terms and shall not take any action to terminate, rescind or avoid this Lease, except as expressly provided in Sections 14 and 15 notwithstanding any bankruptcy, insolvency, reorganization, liquidation, dissolution or other proceeding affecting the Lessor or any action with respect to this Lease which may be taken by any trustee, receiver or liquidator or by any court. The Lessee waives all rights to terminate or surrender this Lease, except as expressly provided in Section 15, or to any abatement or deferment of Rent or other sums payable hereunder. The Lessee hereby waives any and all rights now or hereafter conferred by law or otherwise to modify or to avoid strict compliance with its obligations under this Lease. All payments made to the Lessor hereunder as required hereby shall be final and irrevocable, and the Lessee shall not seek to recover any such payment or any part thereof for any reason whatsoever, absent manifest error.

(f) Taxes. Subject to the Lessee's contest rights under Section 13, all payments of Rent, fees and all other amounts to be paid by the Lessee hereunder to the Lessor shall be made without deduction for, and free from, any taxes, imposts, levies, duties, deductions or withholdings of any nature now or at any time hereafter imposed by any Governmental Authority or by any taxing authority thereof or therein imposed or levied upon, assessed against

or measured by any Rent, fees or other sums payable hereunder, excluding (i) taxes imposed on or measured by the net income of the Lessor, and franchise taxes imposed on the Lessor by the jurisdiction under the laws of which the Lessor is organized or any political subdivision thereof, (ii) taxes imposed on or measured by its income, and franchise taxes imposed on it, by the jurisdiction of the Lessor's Funding Office or any political subdivision thereof, other than and including any tax arising by reason of a connection between the Lessor or the Lessor's Funding Office and the jurisdiction imposing such tax other than the making and performance by the Lessor of this Lease, and (iii) taxes imposed on or measured by its income, and franchise taxes imposed on it, by the State of Mississippi arising because or as a result of matters unrelated to this Lease or the Facility or the making and performance by the Lessor of this Lease, but including all such taxes arising because of or as a result of matters related to this Lease or the Facility or the making and performance by the Lessor of this Lease; provided, however, that under no circumstances shall the Lessee's tax liability for income or franchise taxes imposed by the State of Mississippi exceed \$20,000 per annual tax period, with the understanding that any such excess liability shall be borne by the Lessor (all such non-excluded taxes, imposts, levies, duties, deductions or withholdings of any nature being "Taxes"). In the event that the Lessee is required by applicable law to make any such withholding or deduction of Taxes with respect to any Rent, fees or other amount, the Lessee shall pay such deduction or withholding to the applicable taxing authority, shall promptly furnish to the Lessor in respect of which such deduction or withholding is made all receipts and other documents evidencing such payment and shall pay to the Lessor additional amounts as may be necessary in order that the amount received by the Lessor after the required deduction or withholding shall equal the amount the Lessor would have received had no such deduction or withholding been made. In addition, the Lessee agrees that it will promptly pay all other Impositions imposed upon or levied or assessed against the Facility or any part thereof, or against the Lessor in connection with the transactions contemplated by this Lease and the other Operative Documents, or any sums levied in connection with the execution, delivery or recording of the Operative Documents, and will furnish to the Lessor upon request copies of official receipts or other proof evidencing such payment; provided, however, that the Lessee shall not be obligated to pay (i) any Impositions that are excluded from the definition of Taxes; or (ii) any Impositions attributable to the gross negligence or willful misconduct of the Lessor. The Lessee further agrees that, subject to its contest rights under Section 13, it will, at its expense, do all things required to be done by the Lessor in connection with the levy, assessment, billing or payment of any Impositions that it is required to pay pursuant to the preceding sentence, and is hereby authorized by the Lessor to act for and on its behalf in any and all such respects and to prepare and file, on behalf of the Lessor all tax returns and reports required to be filed by the Lessor (other than federal income tax returns and documents related thereto, subject to Section 25) concerning the Facility. The Lessee's payment obligations under this Section 4(g) shall survive the termination of this Lease. In the event that any withholding or deduction from any payment to be made by the Lessee hereunder is required in respect of any Imposition pursuant to any Governmental Requirement, then the Lessee will:

- (1) pay directly to the relevant Governmental Authority the full amount required to be so withheld or deducted;

(2) promptly forward to the Lessor, if available, an official receipt or other documentation satisfactory to the Lessor evidencing such payment to such Governmental Authority; and

(3) pay to the Lessor such additional amount or amounts as is necessary to ensure that the net amount actually received by the Lessor will equal the full amount the Lessor would have received had no such withholding or deduction been required.

In the event the Lessor receives a refund from the authority to which such Taxes were paid of any Taxes paid by the Lessee pursuant to this Section 4(f), it will pay to the Lessee the amount of such refund promptly upon receipt thereof; provided, however, if at any time thereafter it is required to return such refund, the Lessee shall promptly repay to it the amount of such refund.

Nothing in this Section 4(f) shall require the Lessor to disclose any information about its tax affairs or interfere with, limit or abridge the right of the Lessor to arrange its tax affairs in any manner in which it desires.

Without prejudice to the survival of any other agreement of the Lessor and the Lessee hereunder, the agreements and obligations of the Lessor and the Lessee contained in this Section 4(f) shall be applicable with respect to the Lessor, any assignee or participant of the Lessor and any calculations required by such provisions (i) shall be made based upon the circumstances of the Lessor, assignee or participant (subject to Section 21(i), and (ii) constitute a continuing agreement and shall survive for a period of 1 year after the termination of this Lease and the payment in full of all Rent, fees and other payments hereunder and under the other Operative Documents.

(g) Payments to the Lessor. All payments by the Lessee pursuant to this Lease shall be made by the Lessee to the Lessor shall be made not later than 12:00 noon, Atlanta, Georgia time, on the date due, in immediately available funds, to such account with the Lessor as it shall specify from time to time by notice to the Lessee. Whenever any payment to be made shall otherwise be due on a day which is not a Business Day, except as otherwise expressly provided herein, such payment shall be made on the next succeeding Business Day and such extension shall be included in computing Rent, fees and other amounts, if any, in connection with such payment.

(h) Default Rate. The Lessee shall pay on demand to the Lessor interest at the Default Rate on all amounts payable by the Lessee to the Lessor hereunder or any of the other Operative Documents, from the due date thereof until paid in full.

Section 5. Agency Agreement. The Lessee is entering into the Agency Agreement with the Lessor pursuant to which the Lessee will act as the Acquisition Agent for the Lessor in causing the purchase, assembly and installation of the Additional Equipment, including negotiation and performance of any Related Contracts, obtaining all Applicable Permits and complying with all Governmental Requirements (including all Environmental Requirements)

relating thereto. Upon funding pursuant to the Agency Agreement, title to all components of the Additional Equipment purchased with such funding shall be and remain in the Lessor and such components shall be subject to the terms and conditions of this Lease. The Additional Equipment and all components thereof shall be purchased, manufactured, constructed, improved, renovated, assembled or installed, as applicable, in accordance with Related Contracts entered into by the Lessee pursuant to the Agency Agreement.

Section 6. Title to Remain in the Lessor. The Lessor shall own 100% of the legal and beneficial interest in the Facility. All accessories, equipment, parts, fixtures and devices affixed or placed on the Facility from time to time by the Lessee, and all modifications, alterations, renovations or improvements to the Facility made by the Lessee shall be and become part of the Facility for all purposes of this Lease and shall be Property of the Lessor and subject to the terms of this Lease; provided that the Lessor's interest in any part of the Facility that is replaced by the Lessee pursuant to and as permitted by the terms of this Lease shall be deemed released from this Lease and thereupon become the Property of the Lessee automatically, without further action by the Lessor, and the Lessor shall perform all acts and execute all documents that the Lessee reasonably requests to give effect to the foregoing at the expense of the Lessee, including the execution and delivery of bills of sale and other documents of transfer. This Lease shall not give or grant to the Lessee any right, title or interest in or to the Facility, except the rights expressly conferred by this Lease.

Section 7. Maintenance of the Facility; Operations.

(a) The Lessee shall, and it shall require and cause any and all employees, contractors, subcontractors, agents, representatives, affiliates, consultants and occupants at the Lessee's own cost and expense to: (i) cause the Facility to be maintained in all material respects in good operating order, repair and condition, in accordance with prudent industry practice and any applicable manufacturer's or supplier's manuals or warranties, subject to normal wear and tear, and take all action, and make all changes and repairs, structural and non-structural, foreseen and unforeseen, ordinary and extraordinary, which are required pursuant to any Governmental Requirement or Insurance Requirement at any time in effect to assure full compliance therewith in all material respects; and (ii) do all things necessary to prevent the incurrence of any Environmental Damages or Environmental Liabilities relating to the Facility or any business conducted in or relating to the Facility or the Site, and cause the Facility to continue to have at all times, in all material respects, and in compliance with all applicable Governmental Requirements and Insurance Requirements, the capacity and functional ability to perform, on a continuing basis (subject to normal interruption in the ordinary course of business for maintenance, inspection, service, repair and testing) and in commercial operation, the functions for which it was designed and to be utilized commercially for the Permitted Use.

(b) The Lessee shall, and it shall require and cause any and all employees, contractors, subcontractors, agents, representatives, affiliates, consultants and occupants at the Lessee's own cost and expense to, promptly replace, or cause to be replaced, any part of the Facility which may from time to time be incorporated or installed in or attached to the Facility, and which may from time to time become worn out, lost, stolen, destroyed, seized, confiscated, damaged beyond repair, obsolete or permanently rendered unfit for use for any reason

whatsoever. All accessions and replacement parts shall be free and clear of all Liens other than Permitted Liens, and, except for temporary replacement parts utilized pending installation of permanent replacement parts, shall be of a type customarily used in the industry at such time for such purpose, shall be in as good operating condition as, and shall have a utility and useful life at least equal to, the parts replaced (assuming such replaced parts were in the condition and repair required to be maintained by the terms hereof) and shall have a value at least equal to the parts replaced (assuming such replaced parts were in the condition and repair required to be maintained by the terms hereof).

(c) Notwithstanding the provisions of Section 8 and the foregoing provisions of this Section 7, the Lessee shall not (except as may be required by any Governmental Requirement) remove, replace or alter any part of the Facility or affix or place any accessory, equipment, part or device on any part of the Facility if such removal, replacement, alteration or addition would impair the originally intended function or use of the Facility so as to materially reduce the value of the Facility taken as a whole, or materially decrease the estimated useful life of the Facility.

(d) The Lessor shall not be required in any way to maintain, repair or rebuild the Facility or any part thereof and the Lessee waives any right it may now or hereafter have to make any repairs at the expense of the Lessor pursuant to any Governmental Requirement at any time in effect or otherwise.

(e) The Lessee shall, and it shall require and cause any and all employees, contractors, subcontractors, agents, representatives, affiliates, consultants and occupants at the Lessee's own cost and expense to: (i) comply with all applicable Environmental Requirements with regard to the Facility and all parts thereof; and (ii) use, employ, process, emit, generate, store, handle, transport, dispose of and/or arrange for the disposal of, any and all Hazardous Materials in, on or, directly or indirectly, related to or in connection with the Facility or any part thereof in a manner consistent with prudent industry practice and in compliance with any applicable Environmental Requirement. The Lessor and the Lessee hereby acknowledge and agree that the Lessee's obligations hereunder with respect to Environmental Requirements are intended to bind the Lessee with respect to matters and conditions involving the Facility or any part thereof.

#### Section 8. Modifications.

(a) The Lessee shall make no modifications, alterations, renovations or improvements to the Facility without the prior written consent of the Lessor, provided however, that subject to the terms of Section 8(b), the Lessee shall have the right to make modifications, alterations, renovations or improvements to the Facility so long as such modifications, alterations, renovations or improvements do not (except as may be required by any Governmental Requirement) (i) materially reduce the value of the Facility as a whole; (ii) materially and adversely affect the capacity and performance of the Facility on a continuing basis in commercial operation of the function for which the Facility was designed; or (iii) materially and adversely affect the estimated useful life of the Facility. Within 10 Business Days of the end of each calendar quarter, an Authorized Officer of the Lessee shall deliver to the Lessor a

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schedule certifying to the Lessor's satisfaction: (x) the nature of the repairs, replacements, modifications, alterations, renovations or improvements to the Facility made during such quarter having a cost of at least \$50,000 at the time made, and (y) that the Facility continues to have, in all material respects, the capacity and functional ability to perform on a continuing basis (subject to normal interruption in the ordinary course of business for maintenance, inspection, service, repair and testing) and in commercial operation, the functions for which it was designed or, if not, specifying the reason for any such deficiency, including, without limitation, the occurrence and nature of any Loss Event or Casualty Occurrence with respect to the Facility.

(b) If the Lessee determines that any part of the Facility is no longer necessary for the performance of the Facility on a continuing basis in commercial operation of the function for which the Facility was designed, then the Lessee (except when such action or removal may be required by any applicable Governmental Requirement, in which event, the Lessee shall promptly give the Lessor notice of such action or removal) shall give the Lessor at least 30 days' notice prior to taking any action as the result of such determination and shall not remove any such part unless and until the Lessor has determined that (i) such part is no longer necessary for the performance of the Facility on a continuing basis in commercial operation of the function for which the Facility was designed in all material respects, (ii) removal of such part does not materially reduce the value of the Facility as a whole, and (iii) removal of such part does not materially decrease the estimated useful life of the Facility. This Section 8(b) shall not apply to worn out or obsolete Property or damaged Property (to the extent such damage does not constitute a Casualty Occurrence or Loss Event) removed and replaced by the Lessee in accordance with Section 7(b).

Section 9. Further Assurances. The Lessee, at its expense, shall execute, acknowledge and deliver from time to time such further counterparts of this Lease or such affidavits, certificates, certificates of title, bills of sale, financing and continuation statements, consents and other instruments as may be required by applicable law or reasonably requested by the Lessor in order to evidence the Lessor's title to the Facility and the Lessor's interests in this Lease, and shall, at the Lessee's expense, cause such documents to be recorded, filed or registered in such places as the Lessor reasonably may request and to be re-recorded, refiled or re-registered in such places as may be required by applicable law or at such times as may be required by applicable law in order to maintain and continue in effect the recordation, filing or registration thereof.

Section 10. Compliance with Governmental Requirements and Insurance Requirements; Related Contracts. The Lessee, at its expense, will comply with all Governmental Requirements applicable to the Facility or any part thereof or the ownership, construction, operation, mortgaging, possession, use, non-use or condition of the Facility or any part thereof, all Insurance Requirements, and all instruments, contracts or agreements affecting title to ownership of the Facility or any part thereof. In addition, the Lessee, so long as no Event of Default has occurred and is continuing, is hereby authorized by the Lessor to, and shall, fully and promptly keep, observe, perform and satisfy on behalf of the Lessor any and all obligations, conditions, covenants and restrictions of or on the Lessor or the Lessee under any and all Related Contracts so that there will be no default thereunder and so that the other parties thereunder shall be, and remain at all times, obliged to perform their obligations thereunder, and the Lessee, to the extent

within its control, shall not permit to exist any condition, event or fact that could allow or serve as a basis or justification for any such Person to avoid such performance.

Section 11. Condition and Use of Facility; Quiet Enjoyment.

(a) The Facility is leased and the Lessee accepts and takes possession of the Facility as is, where is, and with all faults and in the condition thereof and subject to rights of any parties in possession thereof, the state of the title thereto, the rights of ownership therein, and subject to all Governmental Requirements now in effect or hereafter adopted, in each case as in existence when the same first becomes subject to this Lease, without representations and warranties of any kind as to title by the Lessor or any Person acting on behalf of it. The Lessee acknowledges and agrees that the Facility has not been selected by the Lessor, that the Lessor has not supplied any specifications with respect to the Facility and that the Lessor (i) is not a Vendor of, or merchant or supplier with respect to, any of the Property comprising the Facility or any Property of such kind, (ii) has not made any recommendation, given any advice or taken any other action with respect to the choice of any manufacturer, supplier or transporter of, or any vendor of or other contractor, including, without limitation, with respect to ANY OF THE Property comprising the Facility, (iii) has not at any time had physical possession of any such Property, (iv) has not made or is not making any warranty, express or implied, relating to the Facility, including without limitation, with respect to title, merchantability, fitness for a particular purpose or otherwise, the design, condition, quality of material or workmanship, conformity to specifications, freedom from patent or trademark infringement, absence of any latent or other defects, whether or not discoverable, whether arising pursuant to the UCC or any other present or future law or otherwise, or compliance with Applicable Permits or other Governmental Requirements, or (v) shall not be liable for incidental or consequential damages (including liability in tort, strict or otherwise). In the event of any defect or deficiency of any nature in the Facility or any Property or other item constituting a part thereof, whether patent or latent, the Lessor shall not have any responsibility or liability with respect thereto. The provisions of this Section 11 have been negotiated and are intended to be a complete exclusion and negation of any and all warranties, express or implied, by the Lessor with respect to the Facility or any Property or other item constituting a part thereof, whether arising pursuant to the UCC or any other law now or hereafter in effect.

(b) The Lessor hereby assigns to the Lessee, until the occurrence of an Event of Default, any other Cancellation Event or an Termination Event hereunder, the benefits in respect of any Vendor's warranties or undertakings, express or implied, relating to the Facility (including any labor, equipment or parts supplied therewith), and, to the extent assignment of the same is prohibited or precludes enforcement of any such warranty or undertaking, the Lessor hereby subrogates the Lessee to its rights in respect thereof. The Lessor hereby authorizes the Lessee, at the Lessee's expense, to assert any and all claims and to prosecute any and all suits, actions and proceedings, in its own name or in the name of the Lessor, in respect of any such warranty or undertaking and, except during the continuance of an Event of Default, or after the occurrence of any other Cancellation Event or a Termination Event hereunder, to retain the proceeds received, and after the termination of this Lease or after the occurrence and during the continuation of an Event of Default, or after the occurrence of any other Cancellation Event or a

Termination Event, to pay the same in the form received (with any necessary endorsement) to the Lessor.

(c) The Lessee may use the Facility for the Permitted Use provided that the value of the Facility is not diminished by any such use other than as a result of normal wear and tear in the ordinary course of business. During the term of this Lease, the Lessor covenants that unless an Event of Default, any other Cancellation Event or a Termination Event has occurred and is continuing and except as may arise under a Permitted Lien or as may otherwise be contemplated under the Operative Documents, the Lessor will not, and will not permit any party claiming by, through or under the Lessor to, interfere with the peaceful and quiet possession and enjoyment of the Facility by the Lessee; provided, however, that the Lessor and its successors, assigns, representatives and agents may, upon reasonable notice to the Lessee, enter upon and examine the Facility or any part thereof at reasonable times, subject to the provisions of Section 19; and provided further, however, that the Lessor is not hereby warranting the state or quality of the title to any part of the Facility. Any failure by the Lessor to comply with the foregoing provisions of this Section 11(c) shall not give the Lessee any right to cancel or terminate this Lease, or to abate, reduce or make reduction from or offset against any Rent or other sum payable under this Lease or any other Operative Document, or to fail to perform or observe any other covenant, agreement or obligation hereunder or thereunder. The Lessee will not do, or fail to do, or permit or suffer to exist any act or thing, which action or thing or failure might impair the value, use or usefulness of the Facility for the Permitted Use in accordance with the design of the Facility ordinary wear and tear excepted.

#### Section 12. Liens.

(a) The Lessee will not directly or indirectly create, or permit to be created or to remain, and at the Lessee's expense will discharge within 10 days of notice of the filing or assertion thereof, by bond, deposit or otherwise, any Lien upon the Lease or any of the Facility except (i) any Lien being contested as permitted by and in accordance with Section 13, or (ii) Permitted Liens. The Lessor agrees that the Lessee shall have during the term of this Lease the exclusive right (so long as no Default has occurred and is continuing) to grant, create or suffer to exist Permitted Liens in the ordinary course of business and in accordance with prudent industry practices, provided that the fair market value or use of the Facility or the applicable part thereof for the Permitted Use is not materially lessened thereby. The Lessor agrees to execute such documents and take all other actions as shall be reasonably necessary, and otherwise to cooperate with the Lessee in connection with the matters described above, provided that all reasonable out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred by the Lessor in connection therewith shall be borne by the Lessee, and the Lessor shall not be required to execute any document that would, in their opinion, materially and adversely affect the value or use of the Facility or any part thereof for the Permitted Use or otherwise materially and adversely affect the transactions contemplated by the Operative Documents or the interests of the Lessor in the Facility or under the Operative Documents or otherwise.

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(b) The Lessee will not directly or indirectly create, or permit to be created or to remain, and will discharge, any Lien of any nature whatsoever on, in or with respect to, its interest in the Facility arising by or through it or its actions, except Permitted Liens.

(c) The Lessee will not directly or indirectly sell, transfer, or otherwise dispose of its interest in the Facility without the prior written consent of the Lessor, except as provided in Section 21.

Section 13. Permitted Contests. Notwithstanding any other provision of this Lease to the contrary, after prior written notice to the Lessor and provided there is no material risk of sale, forfeiture or loss of the Facility or any material part thereof, the Lessee may at its expense contest any Imposition which it is required to pay hereunder or any Lien related thereto, by appropriate proceedings conducted in good faith and with due diligence, so long as such proceedings are effective to prevent the collection of such Imposition from the Lessor or against the Facility or any part thereof; provided, however, that the actions of the Lessee, as authorized by this Section 13, shall be subject to the express written consent of the Lessor if such actions would subject the Lessor or the Facility or any part thereof to any liability or loss not indemnified in full by the Lessee hereunder or any sanction, criminal or otherwise, for failure to pay any such Imposition. Except in the event of Lessor's gross negligence or willful misconduct, the Lessee will pay, and save the Lessor harmless against, all losses, judgments and reasonable costs, including attorneys' fees and expenses, in connection with any such contest and will, promptly after the final determination of such contest, pay and discharge the amounts which shall be imposed or determined to be payable therein, together with all penalties, costs and expenses incurred in connection therewith. The Lessee shall prevent any foreclosure, judicial sale, taking, loss or forfeiture of the Facility or any part thereof, or any interference with or deductions from any Rent or any other sum required to be paid by the Lessee hereunder by reason of such nonpayment or nondischarge of an Imposition. The Lessor shall cooperate with the Lessee in any contest and shall allow the Lessee to conduct such contest (in the name of the Lessor, if necessary) at the Lessee's sole cost and expense and the Lessee shall indemnify and hold the Lessor harmless from and against all liabilities, costs and expenses in connection with such contest. The Lessee shall notify the Lessor of each such proceeding within 10 days after the commencement thereof, which notice shall describe such proceeding in reasonable detail.

Section 14. Insurance, etc.

(a) The Lessee will, at its own expense, purchase and maintain, or cause to be purchased and maintained, throughout the term of this Lease, insurance with respect to its business and the Facility in accordance with the requirements of Schedule 14.

(b) The Lessee shall bear all risk of loss (including any Loss Event or Casualty Occurrence), whether by casualty, theft, taking, confiscation or otherwise, with respect to the Facility or any part thereof, at all times during the term of this Lease until possession of the Facility has been accepted by the Lessor pursuant to Section 17.

(c) So long as no Event of Default shall have occurred and be continuing and no other Cancellation Event and no Termination Event shall have occurred, any payments,

whether constituting insurance proceeds, amounts paid by any Governmental Authority or otherwise, received by the Lessee, the Lessor upon the occurrence of any loss with respect to the Facility or part thereof (other than a Casualty Occurrence), whether as a result of casualty, theft, taking or other confiscation, shall be applied in payment for necessary repairs and replacement to the Facility in accordance with Section 7 or, to the extent the costs of such repairs and replacement shall have been paid by the Lessee, to reimburse the Lessee, unless such event constitutes a taking of substantially all of the Facility or otherwise is so substantial that repair or replacement is not feasible, in which case such event shall be treated as a Termination Event and the proceeds or amounts shall be applied to the obligations of the Lessee. The Lessee shall be entitled to retain any excess funds remaining after necessary repairs and replacements have been completed and all costs therefor paid in full, or if such event has been treated as a Termination Event, after they have been applied to the obligations of the Lessee hereunder. Upon the occurrence and during the continuance of any Event of Default or the occurrence of any other Cancellation Event or any Termination Event, the Lessor shall be entitled to receive and retain any such payments for application to the obligations of the Lessee hereunder.

(d) Upon a Casualty Occurrence, the Lessee shall give prompt notice thereof to the Lessor and shall within 30 days of the date of such Casualty Occurrence either (i) offer to purchase the whole of the Facility for the Termination Value as provided in Section 15(c) or (ii) provide the Lessor with a replacement plan acceptable to it setting forth how the Lessee shall replace, or cause to be replaced, at the Lessee's own cost and expense (including insurance proceeds and any condemnation awards), within 6 months after the date of such Casualty Occurrence (but in no event later than the Scheduled Lease Termination Date, such part of the Facility that is the subject of a Casualty Occurrence in accordance with this Section 14(d) and Section 7. If the Lessee chooses the option set forth in clause (ii) of the preceding sentence, within the later to occur of (x) 60 days after the date of the Casualty Occurrence and (y) satisfaction of all applicable Governmental Requirements, and obtaining all authorizations of Governmental Authorities, required therefor (but in no event later than 90 days after the date of the Casualty Occurrence), the Lessee shall have commenced repairs or replacements as specified in the replacement plan and shall thereafter proceed diligently with such repairs and replacements to completion. After completion of the repairs and replacements, the Lessee shall demonstrate to the satisfaction of the Lessor that operations, capacity and production of the Facility have been restored to the standards required hereby.

(e) All replacement Property of the Facility (other than temporary replacement parts and equipment installed pending installation of permanent replacement Property) installed pursuant to Section 14(d) shall be free and clear of all Liens except Permitted Liens, and shall be in as good operating condition as, and shall have a value and utility at least equal to, the Property replaced immediately prior to the Casualty Occurrence to which such Property was subject. For purposes of this Lease (including without limitation Section 14(d) and Section 7), the Funded Amount and book value of the replacement Property shall be deemed to equal the Funded Amount and book value of the part(s) replaced thereby. All Property of the Facility at any time removed from this Lease pursuant to Section 14(d) and Section 7 shall remain the property of the Lessor, no matter where located, until such time as insurance proceeds have been received by the Lessor at least equal to the book value of such part of the Facility or such part shall be replaced by suitable items that have been incorporated or installed on or

attached to the Facility and that meet the requirements specified above. Immediately upon any permanent replacement Property becoming incorporated or installed on or attached to the Facility as provided above, without further act, such permanent replacements shall become subject to this Lease and be deemed part of the Facility for all purposes hereof to the same extent as any other parts of the Facility. All amounts of insurance proceeds for Property losses and all other proceeds (whether resulting from damage or destruction or from condemnation, confiscation or seizure) relating to the Facility shall be deposited into the Restoration Account and held and released, together with accrued interest thereon, as hereinafter provided. So long as an Event of Default shall not have occurred and be continuing and no other Cancellation Event or Termination Event shall have occurred and, and provided that the Lessor shall have received a written application of the Lessee accompanied by a certificate of an Authorized Officer of the Lessee showing in reasonable detail the nature of any necessary repair, rebuilding and restoration, the actual cash expenditures necessary for such repair, rebuilding and restoration, the expected total expenditures required to complete such work and evidence that sufficient funds are or will be available to complete such work on a timely basis (such certificate to be acceptable to the Lessor in all respects), then the amounts available in such Restoration Account, together with accrued interest thereon, shall be released by the Lessor immediately upon receipt of such certification or, if applicable, from time to time on the last Business Day of each month during the period of repair, rebuilding and restoration in payment therefor against presentation to the Lessor of a certificate executed by an Authorized Officer of the Lessee to the effect that expenditures have been made, or costs incurred, by or for the account of the Lessee or are reasonably anticipated to be made during the immediately following one month period in a specified amount for the purposes of making repairs, rebuilding and restoration in the amounts specified, that no Event of Default, other Cancellation Event or Termination Event exists and all conditions precedent herein provided relating to such withdrawal and payment have been satisfied. Upon the occurrence of any Event of Default, other Cancellation Event or Termination Event, the Lessor shall be entitled to retain all amounts in the Restoration Account for application to the obligations of the Lessee hereunder.

(f) If any Loss Event or Casualty Occurrence shall occur, the Lessee shall promptly notify the Lessor of such event in writing.

Section 15. Termination; Cancellation; Purchase Option; Application of Payments.

(a) (i) The termination of this Lease in accordance with Section 2(b) (whether upon the scheduled expiration hereof or by the refusal of the Lessor to agree to extend the then current Scheduled Lease Termination Date) shall be a "Termination Event," the effect of which shall be to cause this Lease to terminate on the Lease Termination Date.

(ii) If a Termination Event occurs, the Lessee, on the Lease Termination Date, shall, in accordance with the terms of Section 2(c) or (d), as applicable, without further notice or demand to the Lessee, either:

(A) purchase the Facility from the Lessor for the Termination Value; or

(B) so long as no Cancellation Event has occurred:

(1) pay to the Lessor the Final Rent Payment and provide to the Lessor a satisfactory update of the Environmental Assessment; and

(2) attempt to sell (until such time as the Lessor shall have terminated, in accordance with the Agency Agreement, the Lessee's obligation to so attempt to sell the Facility) subject to the Lessor's prior written approval, the Facility, as agent for the Lessor, without recourse or warranty by the Lessor, for a net cash purchase price not less than, and remit to the Lessor the net cash sales proceeds equal to, the Termination Value less any amount paid pursuant to Section 15(a)(ii)(B)(1). The Lessor shall also have the right (but not the obligation) to sell the Facility and/or solicit bids, in its sole and absolute discretion.

(b) (i) Each of the following events shall be a "Cancellation Event", the effect of which shall be to cause this Lease to be terminated in accordance with the following provisions on the "Cancellation Date" specified:

(A) the occurrence of (1) an Event of Default (other than an Event of Default under Section 17(a)(v)) and the delivery by the Lessor to the Lessee of a notice stating that the Lessor elects to terminate this Lease by reason of the existence of such Event of Default, in which case the Cancellation Date will be the 5th Business Day after the date of delivery of said notice to the Lessee, or (2) an Event of Default under Section 17(a)(v), in which case the Cancellation Date shall occur immediately upon the occurrence of such Event of Default; or

(B) the occurrence of a Loss Event, in which case the Cancellation Date shall be the 5th Business Day after such event occurs; or

(C) the occurrence of a Casualty Occurrence in respect of the Facility and the failure of the Lessee to purchase the Facility or to replace or repair the Facility or such part thereof in accordance with, and within the time required by, Section 14 and the delivery by the Lessor to the Lessee of a notice after the expiration of such time stating that the Lessor elects to terminate this Lease by reason of the existence of such Casualty Occurrence, in which case the Cancellation Date shall be the 5th Business Day after the date of delivery of said notice; or

(D) the occurrence of Change of Control and the delivery by the Lessor to the Lessee of a notice stating that the Lessor elects to terminate this Lease by reason of the occurrence of such Change of Control, in which case the Cancellation Date will be the 5th Business Day after the date of delivery of said notice to the Lessee.

(ii) If a Cancellation Event occurs, the Lessee, on the Cancellation Date, shall, without further notice or demand to the Lessee, either (A) purchase the Facility from the Lessor for the Termination Value, or (B) pay the Termination Value to the Lessor.

(c) At any time on or after 180 days prior to the 2<sup>nd</sup> anniversary of the Lease Commencement Date, the Lessee may deliver to the Lessor notice of its intent to terminate this Lease, in which case the Lessee shall purchase the Facility from the Lessor for the Termination Value on any Rent Payment Date specified in such notice that is not less than 180 days after such notice (the "Option Date"). Upon payment in full of the Termination Value, this Lease shall terminate.

(d) This Lease shall cease and terminate on the Lease Termination Date, except with respect to (i) obligations and liabilities of the Lessee, actual or contingent, which arose under this Lease, or by reason of events or circumstances occurring or existing, on or prior to its termination, and which have not been satisfied (which obligations shall continue until satisfied and which include, but are not limited to, obligations for Rent, and the Termination Value and amounts owing pursuant to Section 16), and (ii) obligations of the Lessee which by the terms of this Lease expressly survive termination. Promptly after the Lessee shall learn of the happening of any Termination Event or Cancellation Event, the Lessee shall give notice thereof to the Lessor.

(e) In the event the Lessee elects to purchase the Facility upon the occurrence of a Termination Event (other than the expiration of this Lease on a Scheduled Lease Termination Date) or a Cancellation Event therefor, the Lessor in its sole discretion in order to ensure the orderly conveyance of the Facility may postpone the closing date for such conveyance (whether or not extended, the "Purchase Closing Date") to a reasonable date within 60 days following the Lease Termination Date or Cancellation Date, as applicable. The Lessor shall notify the Lessee of any such postponement and the proposed extended Purchase Closing Date in writing on or before the Lease Termination Date or Cancellation Date, as applicable. Provided that the Lessee deposits the estimated Termination Value on or before the applicable Lease Termination Date or Cancellation Date, as appropriate, the Lessee shall be deemed to have been granted a temporary license by the Lessor entitling the Lessee to retain possession of the Facility through the Purchase Closing Date provided that the Lessee complies with all obligations of the Lessee under this Lease with respect thereto as though this Lease were still in full force and effect (including without limitation, compliance with permitted use, maintenance and insurance coverage requirements). In the event of an extension of the Purchase Closing Date as herein contemplated, the Termination Value will be calculated as of such extended Purchase Closing Date. This Section 15(e) shall survive the termination of this Lease.

(f) Upon (i) a Cancellation Event, or (ii) a Termination Event (and the Lessee elects to exercise its option to purchase the Facility for the Termination Value), or (iii) the Lessee otherwise electing to acquire the Facility for the Termination Value, all monies received by the Lessor in connection with this Lease or any other Operative Document will be applied in the following order:

(1) first, to pay or reimburse all costs, expenses and liabilities, including, without limitation, those in connection with Indemnified Risks, increased costs, Supplemental Rent, Taxes or Other Taxes and other Impositions, then due and owing to the Lessor and the Lessor under the Operative Documents (collectively, the "**Other Transaction Expenses**");

(2) second, to pay all accrued, unpaid Basic Rent;

(3) third, to pay the outstanding Unrecovered Facility Cost.

Any monies remaining after payment in full of the foregoing amounts and all other amounts owing by the Lessee under the Operative Documents will be distributed to the Lessee.

(g) If (i) a Termination Event has occurred, (ii) a Cancellation Event does not exist and (iii) the Lessee has not elected to exercise its option to purchase the Facility for the Termination Value and has paid the Final Rent Payment, and the Lessor has been furnished a satisfactory update of the Environmental Assessment initially furnished with respect to the Facility, then:

(A) the Final Rent Payment will be applied as follows:

(1) first, to pay or reimburse Other Transaction Expenses;

(2) second, to pay all accrued, unpaid Basic Rent and Supplemental Rent;

(3) third, to pay the outstanding principal balance of the Unrecovered Facility Cost, up to the Recourse Amount;

(4) fourth, the balance, if any, to be applied as provided in clause (C) below;  
and

(B) all other monies received by the Lessor in connection with the Lease or any other Operative Document or as proceeds of disposition of the Facility will be applied as follows:

(1) first, to pay the aggregate Unrecovered Facility Cost;

(2) second, to reimburse the Company for Support Expenses incurred by it under the Agency Agreement; and

(C) any monies remaining after payment in full of the foregoing amounts and all other amounts owing by the Company under the Operative Documents will be distributed to the Lessee.

Section 16. Transfer of Title on Removal of Facility; Expenses of Transfer.

(a) Upon any sale or purchase of the Facility permitted by Section 15, the Lessor will transfer to the Lessee or the appropriate Third Party all of their title to and legal and beneficial ownership interest in the Facility (i) free and clear of any Lien created by, through or under the Lessor other than Permitted Liens or Liens created at the request of or as a result of the actions of the Lessee or the Guarantor or anyone acting by, through or under the Lessee, or a result of the failure of the Lessee to carry out any of its obligations under this Lease or the other Operative Documents, and (ii) by special warranty deed, without recourse, representation or warranty of any nature whatsoever (except as to the absence of such Liens as aforesaid).

(b) Whenever the Lessee has the right to purchase or transfer to itself the Facility pursuant to any provision of this Lease, the Lessee may cause such purchase to be effected by, or such transfer to be effected to, any other Person specified by the Lessee, but in no event shall the Lessee be relieved from any of its obligations hereunder as a result thereof without the prior written consent of the Lessor.

(c) Upon any sale or transfer of the Facility pursuant to any provision of this Lease, the Lessee shall pay the expenses of the Lessor, including, without limitation, reasonable attorneys' fees and expenses, in connection with such sale or transfer.

(d) If, on the Lease Termination Date or on the Cancellation Date therefor, as applicable, the Lessee or any of its Affiliates has not elected to acquire the Facility, the Lessee shall surrender the Facility to the Lessor free from all Liens except Permitted Liens (other than those described in clause (ii)(b) of the definition of Permitted Liens), in the same operating condition (except for ordinary wear and tear) with the remaining portion of the original estimated useful life intact and having the same capacity and efficiency as the Facility had on the Lease Commencement Date with respect thereto, and in compliance in all material respects with all Governmental Requirements and Insurance Requirements and free of all Environmental Damages and Environmental Liabilities. To evidence the foregoing and accomplish the surrender of the Facility, the Lessee shall provide the following items (x) in the event of a Termination Event under Section 15(a)(ii)(A) within 9 months prior to the then current Lease Termination Date, with final confirmation of the same at least 30 days but not more than 60 days prior thereto and (y) in the event of a Termination Event under Section 15(a)(ii)(B), as soon as practicable but in any event at least 3 Business Days prior to the Lease Termination Date or Cancellation Date, as applicable:

(i) evidence satisfactory to the Lessor that all Applicable Permits, Related Contracts or any other similar documents, and all other rights and services reasonably required to operate the Facility have been, or on or prior to the Lease Termination Date therefor shall be, transferred to the Lessor (or the Lessor has been, or on or prior to the Lease Termination Date or Cancellation Date, as applicable, shall be, given the right to use each such item) and can be transferred to (or used by) any successor or assignee of the Lessor without further consent or approval by any Person (subject only to normal Governmental Requirements);

(ii) conveyancing, assignment, transfer, termination and other documents that, in the reasonable discretion of the Lessor, are sufficient to (A) vest in the Lessor good and marketable title to the Facility, free and clear of all Liens except Permitted Liens (other than those described in clause (ii)(b) of the definition of Permitted Liens) and (B) terminate the rights of the Lessee and all other Persons in and to the Facility.

(iii) evidence reasonably satisfactory to the Lessor that the Facility has been operated and maintained in accordance with the requirements of the Operative Documents, all Governmental Requirements, all Applicable Permits and prudent industry practices;

(iv) evidence reasonably satisfactory to the Lessor that the Facility is being used solely for the Permitted Use and is capable of operating and being used for the Permitted Use, and has the remaining portion of the original estimated useful life contemplated by the Lessee;

(v) evidence reasonably satisfactory to the Lessor, in its sole discretion, that (A) no default exists under the Agency Agreement, (B) all agreements and arrangements to provide the services and rights contemplated by the Agency Agreement are in place, executed by the parties thereto, and are valid, enforceable and in full force and effect on or before the Lease Termination Date or Cancellation Date, as applicable and (C) such agreements and arrangements adequately provide for the services and other rights contemplated by the Agency Agreement;

(vi) an Environmental Assessment; and

(vii) such other documents, instruments, assessments, investigations, legal opinions, surveys and other items as the Lessor may reasonably request to evidence to the satisfaction of the Lessor, in its sole discretion) that (A) the Lessor has all Property, services, Permits, assets and rights necessary to own, operate and maintain the Facility from and after the Lease Termination Date or Cancellation Date therefor, as applicable, and (B) no Default, Loss Event or Casualty Occurrence then exists.

To the extent the Facility is materially not in the condition required by this Section 16(d), the Lessee will pay to the Lessor such additional amounts as are reasonably required to place it in compliance. The Lessee shall also pay all costs and expenses relating to the surrender and clean-up in connection with the surrender of the Facility as may be required by Governmental Requirements or Insurance Requirements or which are otherwise necessary to prevent or remedy any Environmental Damages or Environmental Liabilities not caused by Lessor or to consummate the delivery of possession of the Facility to the Lessor hereunder.

#### Section 17. Events of Default and Remedies.

(a) Each of the following acts or occurrences shall constitute an "Event of Default" hereunder:

(i) default in the payment of the Termination Value on the Option Date, or in the payment of the Termination Value on the Cancellation Date or Purchase Closing Date, as applicable, or in the payment of the Termination Value or the Final Rent Payment on the Lease Termination Date or Purchase Closing Date, as applicable; or default in the payment when due of any Basic Rent, and the continuance of such default for 5 Business Days; or the default in the payment when due of any Supplemental Rent, or the amount of any Indemnified Risk or of any other amount due hereunder or under any other Operative Document and the continuance of such default for 5 Business Days thereafter; or

(ii) the Lessee shall fail to observe or perform any covenant contained in Sections 30(a)(vi), 30(b)(ii), 30(c) through (f), inclusive, or 30(r); or

(iii) the Lessee (including in its capacity as Acquisition Agent) shall fail to observe or perform any covenant or agreement contained or incorporated by reference in this Lease (other than those covered by any other paragraph of this Section 17(a)) or any other Operative Document, or the Guarantor shall fail to observe or perform any covenant or agreement contained or incorporated by reference in the Guaranty, other than any covered by any other paragraph of this Section 17(a) and in either case such failure shall not have been cured within 30 days after written notice thereof has been given to the Lessee and the Guarantor by the Lessor; or

(iv) any representation or warranty made or deemed made by the Lessee herein, in any other Operative Document by the Lessee or otherwise in writing in connection with or pursuant to this Lease or any other Operative Document, shall prove to have been incorrect in any material respect on the date made or deemed made; or

(v) (1) The Lessee, the Guarantor or any Material Subsidiary shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator of itself or of its property, (ii) be unable, or admit in writing inability, to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated a bankrupt or insolvent, or (v) file a voluntary petition in bankruptcy or a petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any insolvency law or an answer admitting the material allegations of a petition filed against it in any bankruptcy, reorganization or insolvency proceeding, or corporate action shall be taken by it for the purpose of effecting any of the foregoing; or (2) an order, judgment or decree shall be entered, without the application, approval or consent of the Lessee, the Guarantor or any Material Subsidiary, by any court or governmental agency of competent jurisdiction, approving a petition seeking reorganization of the Lessee, the Guarantor or any Material Subsidiary, or appointing a receiver, trustee, liquidator, intervenor or the like of the Lessee, the Guarantor or any Material Subsidiary, or of all or a substantial part of its assets, and such order, judgment or decree, if being contested in good faith and by

appropriate proceedings, shall continue unstayed and in effect for any period of 30 consecutive days; or

(vi) the Lessee shall abandon the Facility; provided however that for purposes of this Section 17(a)(vi), the term "abandon" shall not include the mere failure of the Lessee to occupy the Facility so long as the Lessee continues to perform its obligations hereunder and other Operative Documents, including, without limitation, maintenance of the Facility, maintenance of required insurance, compliance with Governmental Requirements and Insurance Requirements and payment of all Rent; or

(vii) Any payment on any bond, debenture, note or other evidence of indebtedness of the Lessee, the Guarantor or any Consolidated Subsidiary, exceeding in aggregate one percent of Net Worth as of the date of the most recent financial statement received by the Lessor, shall become due whether by maturity, acceleration or otherwise and shall not be promptly paid; or

(viii) the Lessee, the Guarantor or any member of the Controlled Group shall fail to pay when due any material amount which it shall have become liable to pay to the PBGC or to a Plan under Title IV of ERISA; or the PBGC shall institute proceedings under Title IV of ERISA to terminate or to cause a trustee to be appointed to administer any such Plan or Plans or a proceeding shall be instituted by a fiduciary of any such Plan or Plans to enforce Section 515 or 4219(c)(5) of ERISA and such proceeding shall not have been dismissed within 30 days thereafter; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any such Plan or Plans must be terminated; or

(ix) a federal tax lien shall be filed against the Lessee, the Guarantor or any Material Subsidiary under Section 6323 of the Code or a lien of the PBGC shall be filed against the Lessee, the Guarantor or any Subsidiary under Section 4068 of ERISA and in either case such lien shall remain undischarged for a period of 25 days after the date of filing, in either case if such lien is either (1) in a material amount, if such lien is not filed against any part of the Facility, or (2) in any amount and is filed against any part of the Facility;

(b) Upon the occurrence and during the continuance of any Event of Default, in accordance with the determination of the Lessor, the Lessor may do any one or more of the following (without prejudice to the obligations of the Lessee under Section 15(b)(ii)):

(i) proceed by appropriate judicial proceedings, either at law, in equity or in bankruptcy, to enforce performance or observance by the Lessee of the applicable provisions of this Lease, or to recover damages for the breach of any such provisions, or any other equitable or legal remedy, all as the Lessor shall deem necessary or advisable; and/or

(ii) by notice to the Lessee, either (x) terminate this Lease in accordance with Section 15, whereupon the Lessee's interest and all rights of the Lessee

to the use of the Facility shall forthwith terminate subject to the Lessee's rights under such Section 15 to acquire the Facility on the Purchase Closing Date as provided herein, but the Lessee shall remain liable with respect to its obligations and liabilities hereunder; or (y) terminate the Lessee's right to possession of the Facility or any part thereof; and/or

(iii) exercise any and all other remedies available under applicable law or at equity.

(c) After the occurrence and during the continuance of a Cancellation Event or Termination Event, in the event the Lessor elects not to terminate this Lease and the Lessee has not exercised its option under Section 15(c), this Lease shall continue in effect and the Lessor may enforce all of the Lessor's rights and remedies under this Lease, including, without limitation, the right to recover the Basic Rent and the Supplemental Rent, any LIBOR Loss Amount and all other yield protection payments and other amounts with respect thereto, as it becomes due under this Lease. For the purposes hereof, the following do not constitute a cancellation or termination of this Lease: (i) acts of maintenance or preservation of the Facility or any part thereof, (ii) efforts by the Lessor to relet the Facility or any part thereof, including, without limitation, termination of any sublease of the Facility and removal of any tenant from the Site thereof, (iii) or the appointment of a receiver upon the initiative of the Lessor to protect the Lessor's interest under this Lease.

(d) If (i) on the Lease Termination Date, the Facility is not acquired by the Lessee or its designee by payment of the Termination Value or (ii) on the Cancellation Date or Option Date, the Lessee or its designee has defaulted in its obligation to acquire the Facility and pay the Termination Value in accordance with the Lessee's election under Section 15(b)(ii), then the Lessor shall have the immediate right of possession of the Facility and the right to enter onto the Site, and to remove any and all of the Property comprising the Facility, and the Lessor may thenceforth hold, possess and enjoy such Facility, free from any rights of the Lessee and any Person claiming by, through or under the Lessee. The Lessor shall be under no liability by reason of any such repossession or entry onto the premises of the Lessee.

(e) Should the Lessor elect to repossess the Facility or any part thereof upon cancellation or termination of this Lease or otherwise in the exercise of the Lessor's remedies, the Lessee shall peaceably quit and surrender the Facility to the Lessor and either (i) deliver possession of the Facility to the Lessor or (ii) allow the Lessor or its agents or assigns to enter onto the Site to remove any and all of the Property comprising the Facility at the expense of the Lessee, and neither the Lessee nor any Person claiming through or under the Lessee shall thereafter be entitled to possession or to remain in possession of the Facility or any part thereof but shall forthwith peaceably quit and surrender the Facility to the Lessor.

(f) At any time after the repossession of the Facility or any part thereof, whether or not this Lease shall have been cancelled or terminated, the Lessor may (but shall be under no obligation to) relet the Facility or the applicable part thereof without notice to the Lessee, for such term or terms and on such conditions and for such usage as the Lessor in its sole and absolute discretion may determine. The Lessor may collect and receive any rents payable by

reason of such reletting, and the Lessor shall not be liable for any failure to relet the Facility or for any failure to collect any rent due upon any such reletting.

(g) The remedies herein provided in case of an Event of Default are in addition to, and without prejudice to, the Lessee's continuing obligations under Section 15(b)(ii), and shall not be deemed to be exclusive, but shall be cumulative and shall be in addition to all other remedies existing at law, in equity or in bankruptcy. The Lessor may exercise any remedy without waiving its right to exercise any other remedy hereunder or existing at law, in equity or in bankruptcy.

(h) No waiver by the Lessor hereunder of any Default or Event of Default shall constitute a waiver of any other or subsequent Default or Event of Default. To the extent permitted by applicable law, the Lessee waives any right it may have at any time to require the Lessor to mitigate the Lessor's damages upon the occurrence of a Default or Event of Default by taking any action or exercising any remedy that may be available to the Lessor, the exercise of remedies hereunder being at the discretion of the Lessor.

(i) Except as otherwise specifically provided herein, under no circumstances shall the Lessee be liable for special, indirect, incidental or consequential damages.

Section 18. Change in the Lessee's Name, Structure or State of Registered Organization. The Lessee will not change its name, identity, corporate structure (including, without limitation, by any merger, consolidation or sale of substantially all of its assets, which in any event is subject to Section 30(d)) or state of registered organization except pursuant to and in accordance with Section 26(a). The Lessee is a business corporation organized and registered under the laws of the State of Delaware, and its organization charter number is 2825802. Its federal tax identification number is 76-0554120.

Section 19. Inspection; Right to Enter Premises of the Lessee. The Lessee shall permit, and cause each Co-Lessee and Sublessee to permit, the Lessor or its authorized representatives to (but without any obligation to do so) (i) enter upon the Site or any premises of the Lessee, Co-Lessee or Sublessee at which the books and records pertaining to the Facility are kept at reasonable times upon reasonable advance notice in order to inspect the Facility (subject to compliance with applicable safety requirements of the Lessee and applicable Governmental Requirements) and to examine, audit and make abstracts from any of their respective books and records pertaining to the Facility and to discuss the condition, compliance with Governmental Requirements, performance of the Facility and the respective affairs, finances and accounts of the Lessee, Co-Lessee and Sublessee pertaining to the Facility with their respective officers, employees and independent accountants. The Lessee agrees to coordinate and assist in such visits and inspections, in each case at such reasonable times and as often as may be reasonable be desired.

Section 20. Right to Perform the Lessee's Covenants. Subject to Section 13, if the Lessee shall fail to make any payment or perform any act required to be made or performed by it hereunder, the Lessor, upon notice to or demand upon the Lessee but without waiving or releasing any obligation or Default or Event of Default, may (but shall be under no obligation to)

at any time thereafter make such payment or perform such act for the account and at the expense of the Lessee as, at the Lessor's sole discretion, may be necessary or appropriate therefor and, upon the occurrence and during the continuance of a Cancellation Event or Termination Event, may enter upon the Site for such purpose and take all such action thereon as, at the Lessor's sole discretion, may be necessary or appropriate therefor. No such entry shall be deemed an eviction of the Lessee. All sums so paid by the Lessor and all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses so incurred) shall be paid by the Lessee to the Lessor on demand as Supplemental Rent.

Section 21. Participation by Co-Lessees or Sublessees; Participations by Lessor.

(a) Except as otherwise permitted in this Section 21, the Lessee may not assign its rights or obligations under this Lease without the prior consent of the Lessor.

(b) The Lessee may, so long as no Default, Event of Default, other Cancellation Event or Termination Event shall have occurred and be continuing, enter into documentation assigning all or any part of this Lease and, as necessary, the other Operative Documents, to any affiliate or subsidiary of the Lessee or the Guarantor or to another Person, so long as (i) such documentation evidences the undertaking of such Person (a "Co-Lessee") to be responsible for all or certain obligations of the Lessee and, if approval of the Lessor is granted as contemplated in clause (iii) below, the attendant reduction in the obligations of the Lessee hereunder, (ii) such documentation expressly states that such assignment is subject and subordinate to the terms of this Lease and the Liens created hereby and (iii) unless the Lessor has granted its prior written approval, acting in its sole discretion, of such assignment to said Co-Lessee and such documentation (it being understood that the may for any reason whatsoever elect not to grant such approval), the Lessee shall remain primarily liable for all obligations of the tenant of all of the Facility under this Lease. The Lessee will furnish promptly to the Lessor copies of all such documentation entered into by the Lessee from time to time. Any assignment made otherwise than as expressly permitted by this Section 21(b) shall be null and void and of no force and effect.

(c) The Lessee may, from time to time, so long as no Default, Event of Default, other Cancellation Event or Termination Event shall have occurred and be continuing, enter into a sublease as to the Facility and such other documentation as may be necessary with to any affiliate or subsidiary of the Lessee or the Guarantor or one or more Persons (each a "Sublessee"). In any event, any documentation executed by the Lessee in connection with the subletting of the Facility (i) shall expressly state that such sublease is subject and subordinate to the terms of this Lease and the Liens created hereby and (ii) shall not provide for a sublease term ending after the then current Scheduled Lease Termination Date. The Lessee will furnish promptly to the Lessor copies of all subleases and related documentation entered into by the Lessee from time to time. No sublease permitted by the terms hereof will reduce in any respect the obligations of the Lessee hereunder, it being the intent of the Lessee and the Lessor that the Lessee be and remain directly and primarily liable as a principal for its obligations hereunder. Any sublease made otherwise than as expressly permitted by this Section 21(c) shall be null and void and of no force or effect.

(d) The Lessor may at any time, with the express written consent of the Lessee, if no Default is in existence, assign to one or more banks or other financial institutions or an affiliate thereof all or a portion of its rights and obligations in and to the Facility and under this Lease (including, without limitation, all or a portion of its Commitment and its rights to receive Rent pursuant hereto) and the assignee thereof shall assume all such rights and obligations. Upon such execution, delivery, acceptance and recording, from and after the effective date of such assignment, (A) the assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such assignment, have the rights and obligations of a Lessor hereunder and (B) the assigning Lessor thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such assignment, relinquish its rights and be released from its obligations under this Lease (and, in the case of an assignment covering all or the remaining portion of an assigning Lessor's rights and obligations under this Lease, such assigning Lessor shall cease to be a party hereto). The Lessee shall not be responsible for any costs associated with any such assignment.

(e) By executing and delivering an assignment, each assignor thereunder and the assignee thereunder by accepting such assignment confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such assignment, such assigning Lessor makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Lease or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Lease or any other instrument or document furnished pursuant hereto; (ii) such assigning Lessor makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Guarantor or the Lessee or the performance or observance by the Lessee of any of its obligations under this Lease or any other Operative Document; (iii) such assignee confirms that it has received a copy of this Lease, together with copies of the financial statements referred to in Sections 29(d) and 30(a) and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to accept such assignment; (iv) such assignee will, independently and without reliance upon the Lessor, such assigning Lessor or any other Lessor and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Lease; (v) such assignee appoints and authorizes the Lessor to take such action as agent on its behalf and to exercise such powers under this Lease as are delegated to the Lessor by the terms hereof, together with such powers as are reasonably incidental thereto; and (vi) such assignee agrees that it will perform in accordance with their terms all of the obligations which by the terms of this Lease are required to be performed by it as a Lessor.

(f) The Lessor may sell participations to one or more banks or other entities in or to all or a portion of its rights and obligations under this Lease (including, without limitation, all or a portion of its Commitment and its right to receive Rent pursuant hereto); provided, however, that (i) the Lessor's obligations under this Lease (including, without limitation, its Commitment) shall remain unchanged, (ii) the Lessor shall remain solely responsible to the other parties hereto for the performance of such obligations, (iii) the Lessor shall remain a Lessor for all purposes of this Lease, (iv) the Lessee and the Guarantor, shall continue to deal solely and directly with the Lessor in connection with its rights and obligations under this Lease and the other Operative Documents, (v) the Lessor shall continue to be able to

agree to any modification or amendment of this Lease or any waiver hereunder without the consent, approval or vote of any such participant or group of participants, other than modifications, amendments and waivers which (A) postpone any date fixed for any payment of, or reduce any payment of, Rent payable to the Lessor or (B) increase the amount of the Lessor's Commitment in a manner which would have the effect of increasing the amount of a participant's participation, or (C) reduce the Applicable Margin, or (D) consent to the assignment or the transfer by the Lessee of any of its rights and obligations under this Lease and (vi) except as contemplated by the immediately preceding clause (v), no participant shall be deemed to be or to have any of the rights or obligations of the "Lessor" hereunder. The Lessee shall not be responsible for any costs associated with implementing any such participation.

(g) The Lessor may, in connection with any assignment or participation or proposed assignment or participation pursuant to this Section 21, disclose to the assignee or participant or proposed assignee or participant any information relating to the Lessee or the Guarantor furnished to the Lessor by or on behalf of the Lessee or the Guarantor; provided that, prior to any such disclosure, the assignee or participant or proposed assignee or participant shall agree in writing for the benefit of the Lessee and the Guarantor to preserve the confidentiality of any confidential information relating to the Lessee or the Guarantor received by it from the Lessor in a manner consistent with Section 31(k).

(h) Anything in this Lease to the contrary notwithstanding, the Lessor may at any time create a security interest in all or any portion of its rights under this Lease (including, without limitation, the Advances made by and Rent owing to it) in favor of any Federal Reserve Bank in accordance with Regulation A and the applicable operating circular of such Federal Reserve Bank.

(i) Notwithstanding any other provision of this Lease to the contrary, no assignee or participant shall be entitled to receive any greater payment under Section 4(g) or 27(c) than the transferor Lessor would have been entitled to receive with respect to the rights transferred.

Section 22. Notices. Except as otherwise provided herein, all notices, requests and other communications to any party provided for hereunder shall be in writing (including telecopier and other readable communication) and shall be given to such party at its address or telecopier number set forth on the signature pages hereof (or in an assignment executed by the Lessor pursuant to Section 21(d) of the Lease); or, as to any party, at such other address as shall be designated by such party in a written notice to the other parties. Each such notice, request or other communication shall be effective (i) if given by telecopier, when such telecopy is transmitted to the telecopier number specified in this Section and the confirmation is received, (ii) if given by mail, 72 hours after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid or (iii) if given by any other means, when delivered at the address specified in this Section; provided that notices to the Lessor under Sections 3 and 28 shall not be effective until received. A notice received by the Lessor by telephone, as permitted hereby, shall be effective if the Lessor believes in good faith that it was given by an authorized representative of the Lessee (as Lessee or as the Acquisition Agent) and acts pursuant thereto, notwithstanding the absence of written confirmation or any contradictory provision thereof.

Section 23. Amendments and Waivers. The provisions of this Lease may from time to time be amended, modified or waived only if such amendment, modification or waiver is in writing and consented to by the Lessee, the Lessor and, if applicable, any participants of the Lessor in accordance with Section 21(f).

Section 24. Severability. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 25. Federal Income Tax Considerations. It is the understanding of the parties that for income tax purposes this transaction will be treated as a financing and the Lessee will be treated as the owner of the Facility and the Lessee and the Lessor agree not to take any action inconsistent with such treatment, subject to the following sentence. Notwithstanding anything in this Section 25 to the contrary, the Lessor retains the right to assert that it is the owner of the Facility subject to this Lease for income tax purposes in the event that there is a determination (within the meaning of Section 1313 of the Internal Revenue Code of 1986, as amended, or with respect to state or local income tax, a comparable determination under state or local law) that the Lessee is not to be treated as the owner of the Facility.

The Lessee agrees that neither it nor any of its Affiliates (whether or not consolidated or combined returns are filed for any such Affiliate and the Lessee for federal, state or local income tax purposes) will at any time take any action, directly or indirectly, or file any return or other document inconsistent with the intended income tax treatment set forth in the preceding sentence, and the Lessee agrees that the Lessee and any such Affiliates will file such returns, maintain such records, take such action and execute such documents (as reasonably requested by the Lessor from time to time) as may be appropriate to facilitate the realization of such intended income tax treatment. The Lessor agrees that neither it nor any affiliate (whether or not consolidated or combined returns are filed for such affiliate and the Lessor for federal, state or local income tax purposes) will at any time take any action, directly or indirectly, or file any return or other document claiming, or asserting that it is entitled to, the income tax benefits, deductions and/or credits which, pursuant to the intended income tax treatment set forth herein, would otherwise be claimed or claimable by the Lessee or the Guarantor, and that it and any such affiliates will file such returns, maintain such records, take such actions, and execute such documents (as reasonably requested by the Lessee or the Guarantor from time to time) as may be appropriate to facilitate the realization of, and as shall be consistent with, such intended income tax treatment, and if any such filing, maintenance, action or execution requested by the Lessee or the Guarantor would result in any additional income tax liability payable by it or any affiliate, or could reasonably be expected to result in liability payable by it or any affiliate, unrelated to the intended income tax treatment set forth herein, then the Lessee and the Guarantor will provide an indemnity against such unrelated income tax liability satisfactory to the Lessor, in its sole opinion.

The Lessee acknowledges that neither the Lessor, nor any affiliate of any thereof is making any representation, nor is it required to make any disclosure, now or in the future, with respect to the parties' tax or accounting treatment of the Facility or the financing thereof, nor is the Lessor or any affiliate thereof responsible, nor will it be responsible in the future, for tax and accounting advice with respect to the Facility or the financing thereof, and the Lessee has had or will have the benefit of the advice of its own independent tax and accounting advisors with respect to such matters.

Section 26. Other Provisions. In order to protect the rights and remedies of the Lessor and the Lessee both during the term of this Lease and following a Default, an Event of Default, any other Cancellation Event or a Termination Event, and for the purposes of Federal, state and local income and ad valorem taxes, state and local sales taxes, documentary stamp and intangibles taxes and other taxes relating to or assessable as a result of the execution, delivery or recording of any of the Operative Documents and for purposes of Title 11 of the United States Code (or any other applicable Federal, state or local insolvency, reorganization, moratorium, fraudulent conveyance or similar law now or hereafter in effect for the relief of debtors), the parties hereto intend that (A) this Lease be treated as the repayment and security provisions of loans by the Lessor to the Lessee in the face amount of the aggregate Advances of Facility Cost made by them, (B) all payments of Rent and the Termination Value be treated as payments of principal, interest and other amounts owing with respect to such loans, respectively, (C) the Lessee should be treated as entitled to all benefits of ownership of the Facility or any part thereof, and (D) this Lease be treated (i) as a deed of trust and security agreement or other similar instrument (this Lease, as so treated, is the "Deed of Trust") from the Lessee, as grantor (the "Grantor"), to the Trustee, as trustee and grantee, for the benefit of the Lessor, on that part of the Facility constituting real property and is made under those provisions of the existing laws of the State of Mississippi relating to deeds of trust and that the Grantor (in such, hereby transfers and conveys sets over unto the Trustee, as Grantee, the Grantor's right, title and interest in and to any real property of any kind or character comprising the Facility and all proceeds therefrom, to have and to hold said real property and all hereditaments, appurtenances, parts, rights, members and appurtenance thereof or belonging thereto (the "Mortgaged Property") to the use, benefit and behoof of the Trustee, forever and the Grantor covenants that the Grantor is lawfully seized and possessed of the Mortgaged Property and has good right to convey the same, that the same is unencumbered except for the Permitted Liens and that the Grantor does warrant and will forever defend title thereto against the claims of all persons whomsoever; and (ii) as a security agreement from the Grantor, as debtor, to the Lessor, as secured party, encumbering the Facility and all personal property comprising the Facility, and that the Grantor, as debtor, hereby grants to the Lessor, as secured party (the "Beneficiary") a first and prior Lien on and security interest in the equipment, fixtures, and any and all other personal property of any kind or character comprising the Facility and all proceeds therefrom, in each case being effective as of the date of this Lease. In such event, the Trustee shall have all of the rights, powers and remedies of a grantee and secured party available under applicable law, including, without limitation, judicial or nonjudicial foreclosure or power of sale, as and to the extent available under applicable law, and the amounts secured by the Liens and security interests shall be the collective amount of the aggregate unpaid Advances, together with unpaid interest thereon, plus any other amounts owing to the Beneficiary under the Operative Documents (including, without limitation, Supplemental Rent) (collectively, the "Secured Amount"). The filing of this Lease (or a memorandum hereof)

shall be deemed to constitute the filing of a deed of trust and the filing of any financing statement in connection with this Lease shall be deemed to constitute the filing of a financing statement to perfect the deed of trust security interests in the Facility as aforesaid to secure the payment of all amounts due from time to time from the Grantor to the Beneficiary under this Lease and the other Operative Documents. If this transaction is treated as a financing, the obligation arising hereunder shall be with full recourse to the Grantor and shall not be treated as recourse only to the Facility.

This Deed of Trust secures and shall be security for any and all future advances made by Beneficiary to the Grantor. Nothing contained herein shall be deemed an obligation on the part of the Beneficiary to make any further advances.

In order to preserve the security interest and lien provided for herein, the Beneficiary and the Grantor agree to abide by the following provisions with regard to the Facility (for purposes of this Section 26, hereinafter referred to as "Collateral"):

(a) Change in Location of Collateral or the Grantor. The Grantor (i) will notify the Beneficiary on or before the date of any change in (A) the location of the Collateral (B) the location of the Grantor's chief executive office or address or its state of registered organization, (C) the name of the Grantor and (D) the corporate structure of the Grantor, and (ii) will, on or before the date of any such change, prepare and file new or amended financing statements as necessary so that the Beneficiary shall continue to have a first and prior perfected Lien (subject only to Permitted Liens) in the Collateral after any such change.

(b) Documents; Collateral in Possession of Third Parties. If certificates of title or other documents evidencing ownership or possession of the Collateral are issued or outstanding, the Grantor will cause the interest of the Beneficiary to be properly noted thereon and will, forthwith upon receipt, deliver same to the Beneficiary. If any Collateral is at any time in the possession or control of any warehouseman, bailee, agent or independent contractor, the Grantor shall notify such Person of the Beneficiary's security interest in such Collateral. Upon the Beneficiary's request, the Grantor shall instruct any such Person to hold all such Collateral for the Beneficiary's account subject to the Grantor's instructions, or, if an Event of Default shall have occurred and be continuing, subject to the Beneficiary's instructions.

(c) Sale, Disposition or Encumbrance of Collateral. Except for Permitted Liens, as permitted by any of the Operative Documents or with the Beneficiary's prior written consent, the Grantor will not in any way encumber any of the Collateral (or permit or suffer any of the Collateral to be encumbered) or sell, assign, lend, rent, lease or otherwise dispose of or transfer any of the Collateral to or in favor of any Person other than the Beneficiary, except that the Grantor may sell and dispose of worn out or obsolete Equipment, so long as such Equipment is replaced with Equipment having at least an equivalent value, condition and fitness for the purpose for which it is intended to be used.

(d) Proceeds of Collateral. Except as permitted by any of the Operative Documents, the Grantor will deliver to the Beneficiary promptly upon receipt all proceeds delivered to the Grantor from the sale or disposition of any Collateral, except proceeds used

solely for the purchase of replacement Equipment pursuant to Section 26(c). After the occurrence and during the continuance of a Cancellation Event or Termination Event, in the event the Grantor has not purchased the Facility pursuant to Section 15(a)(ii)(A) or paid the Final Rent Payment and made available to the Beneficiary a satisfactory update of the Environmental Assessment pursuant to Section 15(a)(ii)(B), all such proceeds and all proceeds received by the Beneficiary from the sale or disposition of any Collateral pursuant to this Section 26 shall first be applied (i) first to the expenses of sale, (ii) secondly, to the portion of Unrecovered Facility Cost constituting the Non-Recourse Amount, (iii) thirdly, to pay all accrued and unpaid Supplemental Rent, (iv) fourthly, to pay all accrued and unpaid Basic Rent; (v) and fifthly, to pay the portion of Unrecovered Facility Cost constituting the Recourse Amount. This Section 26 shall not be construed to permit sales or dispositions of the Collateral except as may be elsewhere expressly permitted by this Lease or the other Operative Documents.

(e) Further Assurances. Upon the request of the Beneficiary, the Grantor shall (at the Grantor's expense) execute and deliver all such assignments, certificates, financing statements or other documents and give further assurances and do all other acts and things as the Beneficiary may reasonably request to perfect the Beneficiary's interest in the Collateral or to protect, enforce or otherwise effect the Beneficiary's rights and remedies hereunder, all in form and substance satisfactory to the Beneficiary.

(f) Collateral Attached to Other Property. In the event that any of the Collateral is removed from the Facility and is to be attached or affixed to any real property, the Grantor hereby agrees that a financing statement which is a fixture filing may be filed for record in any appropriate real estate records. If the Grantor is not the record owner of such real property, it will provide the Beneficiary with any additional security documents or financing statements necessary for the perfection of the Beneficiary's Lien in the Collateral, as requested by the Beneficiary.

(g) Secured Amount. Should the Secured Amount be paid according to the tenor and effect thereof when the same becomes due and payable hereunder, and should the Grantor perform all covenants contained in the Operative Documents in a timely manner, then the Deed of Trust shall be cancelled and surrendered.

(h) Deed of Trust Remedies.

If the Grantor shall perform all obligations required to be performed by it hereunder and under the aforementioned documents, then this trust conveyance shall be of no further force or effect. But if there shall exist an Event of Default and such Event of Default shall not have been remedied within the applicable period of time for remedy thereof, if any, as provided in this Lease, then this conveyance in trust shall remain in full force and effect, and, at the option of the Beneficiary or its assign, all remaining unpaid indebtedness of the Grantor under the Lease shall become due and payable as provided in the Lease. In such event, the Trustee or his successor in trust is hereby authorized and empowered to take actual possession of the Collateral as for condition broken, and the Trustee, in her or his discretion, without force, and with or without process of law, at the direction of the Beneficiary or its assign, may enter upon, take and maintain possession of, all or any part of said Collateral, and the Trustee, at the direction of the

Beneficiary or its assign, may hold, manage, and operate said Collateral and may collect the rents, issues and profits therefrom and, at the direction of the Beneficiary or its assign, the Trustee may cancel any lease or sublease of all or any part of the Collateral for any cause or on any ground that would entitle the Beneficiary to cancel the same; and the Trustee shall, after paying out of the revenue from the Collateral all expenses of management and operation thereof, including insurance premiums, repairs, replacements, alterations and useful additions as may be reasonable and prudent, and all taxes, assessments or charges, or liens upon the Collateral, together with reasonable attorneys' fees in connection therewith, and after retaining from the amounts so collected reasonable compensation for the Trustee's services in that behalf, apply the residue, if any, in the manner specified in the Lease, which provision is incorporated herein by reference.

In lieu of, or in addition to, proceeding as above provided, so long as there exists an Event of default, then the Trustee may, at the direction of the Beneficiary or its assign, advertise the sale of the Mortgaged Property for three consecutive weeks preceding the sale date in a newspaper published in the county where the Mortgaged Property is located, or if none is so published, then in some newspaper having a general circulation therein, and post notice of sale for the Mortgaged Property at the courthouse of the county where the Mortgaged Property is located. Such notice and advertisement shall disclose the names of the original grantor in this Deed of Trust. The Grantor waives the provisions of Section 89-1-55 of the Mississippi Code of 1972, as amended, if any, as far as such section restricts the right of the Trustee to offer at sale more than 160 acres at a time, and the Trustee may offer the Mortgaged Property herein conveyed in parcels or as a whole, regardless of how it is described. If the Mortgaged Property is situated in two or more counties, or in two judicial districts of the same county, Trustee shall have full power to select in which county, or judicial district, the sale of the Mortgaged Property is to be made, newspaper advertisement published and notice of sale posted, and the Trustee's selection shall be binding upon the Grantor and the Beneficiary. At any sale hereunder, the Trustee may, from time to time, adjourn said sale to a later date without readvertising the sale by giving notice of the time and place of such continued sale at the time the Trustee shall make said adjournment. The Trustee shall have full power to conduct any sale hereunder through an agent duly appointed by him for that purpose and said appointment need not be recorded; and the Trustee or his successors in trust or his agent is hereby authorized and empowered to execute and to deliver a trustee's deed to the purchaser of the Mortgaged Property. The Beneficiary or its assign may bid at any sale under this Deed of Trust.

So long as an Event of Default exists, the Trustee is hereby authorized to divide, parcel and sell, and to retain and manage, all or any portion of the Collateral in such portions or parcels as the Beneficiary or its assign may deem advisable in its sole discretion; provided that such sales, and retention for management, are at all times in accordance with the preceding two paragraphs.

The Beneficiary or its assign is hereby authorized, at any time prior to the payment in full of the Secured Amount, to remove the Trustee herein named and appoint a successor or successors by an instrument in writing, which shall be duly registered in the office in which this Deed of trust is recorded, and the new Trustee or Trustees shall thereupon become successor in title to the Mortgaged Property, and such title shall vest in it in trust for the purposes and uses of

these presents, with all the powers, duties and obligations conferred on the Trustees herein named in the same manner and to the same extent as though he or they were named herein as Trustees. This power to substitute trustee shall not be exhausted by one exercise and may be exercised as many times as the Beneficiary elects.

At the request of the Beneficiary, the Trustee shall sell the Equipment concurrently with and in conjunction with a sale of the Mortgaged Property, in which case the provisions of the preceding paragraphs shall apply to the Equipment as well as the Mortgaged Property. The Beneficiary stipulates and agrees that a sale of the Equipment in conjunction with the Mortgaged Property is a commercially reasonable manner of disposing of the Equipment. Alternatively, the Beneficiary may sell or otherwise dispose of the Personal Property separately and apart from the Mortgaged Property in the time and manner provided by the UCC. To the extent that the UCC shall require prior notice of sale or other disposition of the Equipment, ten (10) days written notice shall be deemed to be reasonable notice. Any sale by Trustee or the Beneficiary shall be made without warranty of title, merchantability, quiet enjoyment, possession or the like, and the Grantor agrees that all such disclaimers shall be commercially reasonable. The Beneficiary also may (a) require the Grantor to, and the Grantor hereby agrees that the Grantor will, at the Grantor's expense and upon request of the Beneficiary, forthwith assemble all or part of the Equipment as directed by the Beneficiary and make it available to the Beneficiary at a place to be designated by the Beneficiary which is reasonably convenient to the parties; and (b) sell the Equipment or any part thereof in one or more parcels at public or private sale for cash or credit or for future delivery, and at such price or prices and upon such other terms as the Beneficiary may deem commercially reasonable. The Beneficiary shall not be obligated to make any sale of the Equipment regardless of notice of sale having been given. The Beneficiary may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

The Grantor agrees to indemnify and hold the Trustee and the Beneficiary harmless from and against any and all claims, losses, and liabilities (including reasonable costs and expenses) arising out of or resulting from this Deed of Trust and the grant of security interests contained herein (including, without limitation, enforcement of this Deed of Trust), and/or arising out of or in connection with any other documents to which the Grantor is a party which were used in connection with the issuance of Secured Amount, except claims, losses, or liabilities of the Trustee or the Beneficiary resulting from their respective gross negligence or willful misconduct. In the event that the Beneficiary or the Trustee shall assign or transfer its rights hereunder, the rights of the Beneficiary or the Trustee hereunder which require the Grantor to indemnify or pay expenses of the Beneficiary or the Trustee shall continue in favor of the Beneficiary or the Trustee originally named herein as well as any successor or assign of the Beneficiary or the Trustee; and any such provision may be enforced severally by the original Beneficiary or Trustee named herein or any such successor or assign or, at their option, by all of such parties acting jointly.

The Grantor hereby acknowledges to the Beneficiary that (a) the identity and expertise of the Grantor were and continue to be material circumstances upon which the Beneficiary has relied in connection with, and which constitute valuable consideration to the Beneficiary for, the

obligation of the Grantor evidenced by the Note, and (b) any change in such identity or expertise could materially impair or jeopardize the security granted to the Beneficiary by this Deed of Trust for the payment of the Note. The Grantor therefore covenants and agrees with the Beneficiary that the Note secured by this Deed of Trust shall, at the absolute option of the Beneficiary, be and become immediately due and payable should the Grantor, without the prior written consent of the Beneficiary (which consent may be given or withheld in the sole and absolute discretion of the Beneficiary), sell, assign, transfer, convey, lease with option to purchase, enter into a contract for sale, grant an option to purchase, or further encumber any or all of the Grantor's interest in the Mortgaged Property or the Personal Property, or any portion thereof, except for the Lease, the Lease and any other conveyance or transaction which is a Permitted Encumbrance, or permit the same to be sold, assigned, transferred, conveyed, contracted for or further encumbered, except for the Lease, the Lease and any other conveyance or transaction which is a Permitted Encumbrance.

Section 27. Yield Protection and Illegality.

(a) Basis for Determining Interest Rate Inadequate or Unfair. If on or prior to the first day of any Rental Period with respect to any Basic Rent which is determined on the basis of the Adjusted LIBO Rate or Modified Adjusted LIBO Rate:

(i) the Lessor determines that deposits in Dollars (in the applicable amounts), are not being offered in the relevant market for such Rental Period, or

(ii) the Lessor determines and gives notice to the Lessee that, as a result of conditions in or generally affecting the London interbank eurodollar market, the rates or yield for Basic Rent, determined on the basis of the Adjusted LIBO Rate or the Modified Adjusted LIBO Rate for any Rental Period will not adequately and fairly reflect the cost to the Lessor of making, funding or maintaining the Advances of Facility Cost giving rise to such Basic Rent for such Rental Period, the Lessor shall forthwith so notify the Lessee, whereupon,

(A) the Basic Rent for such Rental Period shall be determined on the basis of the Base Rate,

(B) the obligation of the Lessor to make an Advance of any Facility Cost having Basic Rent or to continue to accrue Basic Rent based on the Adjusted LIBO Rate or Modified Adjusted LIBO Rate shall be suspended until the Lessor shall notify the Lessee that the circumstances causing such suspension no longer exist, and

(C) unless the Lessee notifies the Lessor at least 2 Business Days before the date of any requested Advance for which notice has previously been given that it elects not to obtain such Advance on such date, Basic Rent relating to such Advance shall be determined at a rate of interest equal to the Base Rate. Upon the written request of the Lessee, the Lessor shall negotiate with the Lessee for a reasonable period

of time, as determined in the Lessor's discretion, to develop a substitute interest rate basis hereunder; provided, however, (x) the Lessor and the Lessee make no representation, warranty or covenant that any such agreement will be made, and (y) any relevant Basic Rent shall continue to be determined based on the Base Rate during the continuance of any such negotiations and thereafter should no alternate interest rate be agreed to by the parties.

(b) Illegality. If, after the date hereof, the adoption of any applicable law, rule or regulation, or any change therein, or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof (any such agency being referred to as a "Banking Authority" and any such event being referred to as a "Change of Law"), or compliance by the Lessor (or its Funding Office) with any request or directive (whether or not having the force of law) of any Banking Authority shall make it unlawful or impossible for the Lessor (or its Funding Office) to make an Advance of any Facility Cost having Basic Rent, or to continue to accrue Basic Rent, based on the Adjusted LIBO Rate or Modified Adjusted LIBO Rate, the Lessor shall notify the Lessee and the Guarantor, whereupon until the Lessor notifies the Lessee and the Guarantor, that the circumstances giving rise to such suspension no longer exist, the obligation of the Lessor to make an Advance of any Facility Cost having Basic Rent or to continue to accrue Basic Rent based on the Adjusted LIBO Rate or Modified Adjusted LIBO Rate shall be suspended. Before giving any notice to the Lessee pursuant to this Section 27(b), the Lessor shall designate a different Funding Office if such designation will avoid the need for giving such notice and will not, in the judgment of the Lessor, be otherwise disadvantageous to the Lessor. If the Lessor shall determine that it may not lawfully continue to make an Advance of any Facility Cost having Basic Rent, or to continue to accrue Basic Rent based on the Adjusted LIBO Rate or Modified Adjusted LIBO Rate to the end of the Rental Period and shall so specify in such notice, the Basic Rent for such Rental Period shall immediately be converted to and be determined based on the Base Rate, and the Lessee shall immediately pay to the Lessor any amounts payable pursuant to Section 27(c).

(c) Increased Cost and Reduced Return.

(i) If after the date hereof, a Change of Law or compliance by the Lessor (or its Funding Office) with any request or directive (whether or not having the force of law) of any Banking Authority:

(A) shall impose, modify or deem applicable any reserve, special deposit or similar requirement (including, without limitation, any such requirement imposed by the Board of Governors of the Federal Reserve System (but excluding any reserve or deposit insurance assessment already included in the computation of the Adjusted LIBO Rate or Modified Adjusted LIBO Rate, as the case, may be) against assets of, deposits with or for the account of, or credit extended by, the Lessor (or its Funding Office); or

(B) shall impose on the Lessor (or its Funding Office) or on the relevant interbank market any other condition affecting the Basic Rent, to the extent it is determined based on the Adjusted LIBO Rate or Modified Adjusted LIBO Rate;

and the result of any of the foregoing is to increase the cost to the Lessor (or its Funding Office) of determining Basic Rent based on the Adjusted LIBO Rate or Modified Adjusted LIBO Rate, or to reduce the amount of any sum received or receivable by the Lessor (or its Funding Office) under this Lease or under any other Operative Document with respect thereto, by an amount deemed by the Lessor to be material, then, within 15 days after demand by the Lessor, the Lessee shall pay to the Lessor such additional amount or amounts as will compensate the Lessor for such increased cost or reduction.

(ii) If the Lessor shall have determined that after the date hereof the adoption of any applicable law, rule or regulation regarding capital adequacy, or any change therein, or any change in the interpretation or administration thereof, or compliance by the Lessor (or its Funding Office) with any request or directive regarding capital adequacy (whether or not having the force of law) of any Banking Authority, has or would have the effect of reducing the rate of return on the Lessor's capital as a consequence of its obligations hereunder to a level below that which the Lessor could have achieved but for such adoption, change or compliance (taking into consideration the Lessor's policies with respect to capital adequacy) by an amount deemed by the Lessor to be material, then from time to time, within 15 days after demand by the Lessor, the Lessee shall pay to the Lessor such additional amount or amounts as will compensate the Lessor for such reduction, subject to the proviso at the end of Section 27(c)(i).

(iii) The Lessor will promptly notify the Lessee of any event of which it has knowledge, occurring after the date hereof, which will entitle the Lessor to compensation pursuant to and subject to the limitations contained in this Section 27(c) and will designate a different Funding Office if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in the judgment of the Lessor be otherwise disadvantageous to the Lessor. A certificate of the Lessor claiming compensation under this Section 27(c) and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error. In determining such amount, the Lessor may use any reasonable averaging and attribution methods. Such calculation shall be set forth in reasonable detail. Nothing in this Section 27(c) shall require the Lessor to disclose any information about its tax affairs or interfere with, limit or abridge the right of the Lessor to arrange its tax affairs in any manner in which it desires.

(iv) The provisions of this Section 27(c) shall (i) subject to the provisions of Section 21(l), be applicable with respect to any assignee or participant of the Lessor and any calculations required by such provisions shall be made based upon the circumstances of the Lessor, assignee or participant and (ii) constitute a continuing agreement and shall survive for a period of one year after the termination of this Lease and the payment in full all Rent.

(d) Base Rate Substituted for Adjusted LIBO Rate or Modified Adjusted LIBO Rate. If (i) the obligation of the Lessor to make an Advance of any Facility or Modified Adjusted LIBO Rate has been suspended pursuant to Section 27(b) or (ii) the Lessor has demanded compensation under Section 27(c), and the Lessee shall, by at least 5 Business Days' prior notice to the Lessor, have elected that the provisions of this Section 27(d) shall apply to the Lessor, then, unless and until the Lessor notifies the Lessee that the circumstances giving rise to such suspension or demand for compensation no longer apply, after the Basic Rent made or maintained based upon the Adjusted LIBO Rate or Modified Adjusted LIBO Rate has been repaid, all Advances of any Facility Cost, or accrual of Basic Rent, that would otherwise be made or maintained by the Lessor based upon the Adjusted LIBO Rate or Modified Adjusted LIBO Rate shall be made or, from the beginning of the next Rental Period be maintained instead based upon the Base Rate.

(e) Compensation. Upon the request of the Lessor, delivered to the Lessee and the Guarantor, the Lessee shall pay to the Lessor such amount or amounts as shall compensate the Lessor for any loss, cost or expense (but not loss of margin or profit) incurred by the Lessor as a result of:

(i) any payment or prepayment (whether due to a voluntary prepayment or the occurrence of the Lease Termination Date for any reason) of Basic Rent on a date other than the last day of the Rental Period therefor (or of the second of 2 consecutive Rental Periods, as applicable) or payment of any Unrecovered Facility Cost on which Basic Rent accrued based on the Adjusted LIBO Rate or Modified Adjusted LIBO Rate on any day other than the last day of the Rental Period therefor (or of the second of 2 consecutive Rental Periods, as applicable), or any failure to prepay any Unrecovered Facility Cost on the date specified for such prepayment by the Lessee in a notice to the Lessor; or

(ii) any failure by the Lessee to cause the funding of the purchase of any part of the Facility pursuant to the Agency Agreement to occur on the date for such funding as specified in the applicable notice delivered pursuant to the Agency Agreement (other than by reason of a default by the Lessor);

such compensation to include, without limitation, as applicable: an amount equal to the LIBOR Loss Amount, with respect to any payment of Basic Rent which is not paid on the last day of the Rental Period (or 2 consecutive Rental Periods, if applicable).

(f) Payments and Computations. Each determination by the Lessor of Basic Rent or an increased cost or increased capital or of illegality hereunder shall be conclusive and binding for all purposes (absent manifest error) if made reasonably and in good faith, such calculation to be set forth in reasonable detail.

#### Section 28. Conditions Precedent.

(a) Closing; Conditions Precedent to Effectiveness of this Lease. On the Closing Date, at such place as the parties hereto shall agree, this Lease and each of the Operative Documents shall be duly executed and delivered by the parties to such documents. This Lease shall become effective when (i) it shall have been executed by the Lessor and the Lessee, and (ii) the Lessor shall, on or before December 10, 2001 (and the date set forth in Part B.4 of the letter agreement dated September 4, 2001 between the Lessor and the Guarantor as the outside closing date, hereby is deemed to be modified from December 1, 2001 to December 10, 2001), have received the following, each being in form and substance satisfactory to the Lessor:

(i) Certificates of the Lessee and the Guarantor. A Certificate of the Secretary or Assistant Secretary of the Lessee and the Guarantor setting forth (i) resolutions of its board of directors authorizing the execution, delivery and performance of the obligations contained in this Lease, the Guaranty and the other Operative Documents to which it is a party, (ii) the identities and incumbency, and containing the specimen signatures, of the Authorized Officers and the officers of the Guarantor specified in such Secretary's certificates that are authorized to sign the Guaranty and (iii) true and correct copies of the articles or certificate of incorporation and the bylaws of the Lessee and the Guarantor. The Lessor may conclusively rely on such certificate until the Lessor receives notice in writing from the Lessee or the Guarantor to the contrary.

(ii) Opinion of the Lessee's and the Guarantor's Counsel. A favorable opinion or opinions of general or special counsel to the Lessee and the Guarantor, in substantially the form of Exhibit B, and as to such other matters as the Lessor may reasonably request.

(iii) Execution and Delivery of Operative Documents. Each of the other Operative Documents including the Guaranty, duly completed and executed in sufficient number of counterparts for recording, where appropriate.

(iv) Recordation of Lease and Financing Statements. This Lease (or a memorandum thereof, as determined by the Lessor) and all related financing statements and other requisite filing documents shall have been duly filed in the appropriate offices and, to the fullest extent allowed by applicable law, all costs and taxes associated with such filing shall have been paid or provided for by the Lessee.

(v) Insurance Certification. The Lessor shall have received a report by a firm of independent insurance brokers or consultants chosen by the Lessee (i) setting forth the insurance obtained, and to be obtained pursuant to this Lease, with respect to the Facility and the Lessee's operations with respect thereto, and (ii) certifying that in the opinion of such firm, such insurance complies with the requirements of this Lease and, as to amounts, coverage and provisions, constitutes reasonable and customary coverage against risks customarily insured against affecting the Facility.

(vi) Financial Statements. The Lessor shall have received the financial statements described in Section 29(d).

(vii) Termination of Operating Lease. The Operating Lease shall have been terminated.

(viii) Environmental Matters. The Lessor shall have received the Environmental Assessment.

(ix) Survey. The Lessor shall have received the Survey of the Site.

(x) Appraisal. The Lessor shall have received an Approved Appraisal of the Site and the Improvements, which Approved Appraisal shall be in form and substance satisfactory to the Lessor, and shall indicate that (i) as of the Lease Commencement Date, the estimated fair market value of the Site and the Improvement is not less than Facility Cost attributable to the acquisition thereof, and (ii) the projected fair market value of the Site and the Improvement as of the expiration of the Basic Term, is not less than the Facility Cost.

(xi) Title Insurance. A title insurance company acceptable to the Lessor in its reasonable discretion shall have issued, or provided the Lessor with evidence satisfactory to the Lessor that such title insurance company is irrevocably obligated to issue immediately after closing of the acquisition of the Site by the Lessor, an owner's title policy issued to the Lessor insuring the Lessor as fee simple owner of the Site and, in the event that the Lease is ever deemed to be a mortgage, as mortgagee of the Facility under this Lease.

(xii) Payment of Fees. Payment (i) to the Lessor of an upfront fee in an amount equal to \$30,000 and (ii) to the Lessor of the fees payable to it on the Closing Date pursuant to the letter agreement between the Lessor and the Lessee dated September 4, 2001; and

(xiii) Other. Such other documents as the Lessor or special counsel to the Lessor may reasonably request.

(b) Conditions to Initial and Subsequent Advances. The obligation of the Lessor to make the initial Advances and each subsequent Advance pursuant to this Lease is subject to the following further conditions precedent:

(i) Receipt of Advance Notice. The Lessor shall have received an Advance Notice with regard to each Advance, containing the information required by Section 3(b)(i), which shall be true and correct and shall be duly and properly executed and completed by the Lessee as Acquisition Agent for the Lessor.

(ii) No Default. The fact that immediately before and after such Advance is made, no Default or Event of Default shall have occurred and be continuing.

(iii) Accuracy of Representations, etc. The representations and warranties of the Lessee contained in this Lease and the representations and warranties of

the Lessee and the Guarantor contained in any other Operative Document, are true and correct in all material respects on and as of the date of such Advance (except for any representations which were correct on the date of this Lease but are not correct on the date of any Advance because of a change permitted by the terms of this Lease or any other Operative Document).

(iv) Title to Site; Conditions to Advances for Additional Equipment.

As to an Advance for the acquisition of the Site and the Improvements, the Lessor shall have good and marketable title to the Site and the Improvements; and the Lessor shall have received executed copies of all Related Contracts requested by it. As to an Advance for the acquisition of the Additional Equipment, in addition to the conditions set forth in this Section 28(b), the conditions set forth in Section 28(c) hereof shall have been satisfied.

(v) Receipt of Applicable Permits. All Permits that are or will become

Applicable Permits shall have been obtained, except Applicable Permits customarily obtained or which are permitted by Governmental Requirements to be obtained after the date of the requested Advance (in which case the Lessee, having completed all appropriate due diligence in connection therewith, shall have no reason to believe that such Permits will not be granted in the usual course of business prior to the date that such Permits are required by Governmental Requirements). All such obtained Permits shall be in proper form, in full force and effect and not subject to any appeal or other unsatisfied contest that may allow modification or revocation thereof.

(vi) Casualties. The Facility shall not have suffered (i) a Loss Event or

(ii) a Casualty Occurrence other than a Casualty Occurrence for which a plan acceptable to the Lessor for replacing, or causing to be replaced, the parts of the Facility that are the subject of such Casualty Occurrence has been provided to the Lessor.

(vii) Taxes, Filings, Recordings. All filings or recordings reasonably

considered necessary or desirable by the Lessor have been completed and all taxes and fees in connection therewith, and all Impositions with respect to the Facility that are then due and payable, shall have been paid by the Lessee.

Each acceptance of an Advance hereunder shall be deemed to be a representation and warranty by the Lessee on the date of such funding as to the facts specified in each subsections of this Section 28(b).

(c) Conditions to Fundings for and Acquisition of Equipment. Funding of

Advances for and the addition of the Additional Equipment and Specific Equipment to this Lease is subject to the satisfaction of the conditions set forth in Section 28(b) above and of the following conditions as to such Additional Equipment:

(i) Acquisition Date. The Acquisition Date shall have occurred as to

such Additional Equipment or Specific Equipment. The term "Acquisition Date" with respect to any item of Equipment shall mean the date on which each of such conditions has been satisfied (A) the Lessor shall have paid the cost therefor and shall have received

bills of sale or other evidence of ownership thereof, taking good and marketable title thereto, free and clear of all liens and encumbrances of third parties, pursuant to the Agency Agreement (B) the Lessor shall have received copies of all Related Contracts, and all other contracts entered into in connection with the acquisition, development and installation of the Equipment, pursuant to the Agency Agreement (C) all Permits that are or will become Applicable Permits with respect to such Equipment shall have been obtained, except Applicable Permits customarily obtained or which are permitted by Governmental Requirements to be obtained after the acquisition of the Equipment (in which case the Lessee, having completed all appropriate due diligence in connection therewith pursuant to the Agency Agreement, shall have no reason to believe that such Permits will not be granted in the usual course of business prior to the date that such Permits are required by Governmental Requirements), and such obtained Permits shall be in proper form, in full force and effect and not subject to any appeal or other unsatisfied contest that may allow modification or revocation thereof, (D) the Lessor shall have received evidence of perfection under local law of its ownership of the Equipment subject to a Lease intended as security and of filing of protective financing statements under applicable local law, properly executed by the Lessee, evidencing a first priority, perfected interest in the Equipment in favor of the Lessor as security for payment by the Lessee of all amounts, and the performance of all obligations, of the Lessee under the Lease, (E) the Lessor shall have received a Certificate of Acceptance in substantially the form of Exhibit C attached hereto and by reference made a part hereof from the Lessee with respect to such Additional Equipment and (F) as to the Additional Equipment, the Lessor shall have received a Lease Supplement in substantially the form of Exhibit D attached hereto and by reference made a part hereof from the Lessee with respect to such Additional Equipment.

(ii) Taxes, Filings, Recordings. All filings or recordings considered necessary or desirable by the Lessor have been completed and all taxes and fees in connection therewith, and all Impositions with respect to the Additional Equipment or Specific Equipment that are then due and payable, shall have been paid by the Lessee.

Each presentation of a Lease Supplement hereunder or of an Advance Notice to pay the remaining balance due on the purchase price for any Specific Equipment shall be deemed to be a representation and warranty by the Lessee on the Acquisition Date relating thereto as to the facts specified in Section 29(b) hereof and in paragraph (ii) of this Section 28(c).

(d) Conditions Precedent for the Benefit of Lessor. All conditions precedent to the obligations of the Lessor to make any Advance are imposed hereby solely for the benefit of the Lessor, and no other Person may require satisfaction of any such condition precedent or be entitled to assume that the Lessor will refuse to make any Advance in the absence of strict compliance with such conditions precedent.

(e) Closing. On the Closing Date (or in the case of clause (b), as soon thereafter as the applicable closing conditions shall have been satisfied), at such place as the parties hereto shall agree:

(i) this Lease and each of the Operative Documents shall be duly executed and delivered by the parties to such documents; and

(ii) subject to the satisfaction of the conditions precedent specified in Section 28(a) and 28(b), the Lessor shall make the initial Advances in the amounts set forth in the Advance Notice given by the Lessee, up to an aggregate amount not in excess of the Commitment, in immediately available funds to the account of the Lessee, as Acquisition Agent for the Lessor, may direct.

Section 29. The Lessee's and Guarantor's Representations and Warranties.

Each of the Lessee and the Guarantor (by incorporation by reference in the Guaranty) represents and warrants to the Lessor that:

(a) Corporate Existence and Power. The Lessee is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware. The Guarantor is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Ohio. Each of the Lessee and the Guarantor is duly qualified to transact business in every jurisdiction (including, as to the Lessee, the State of Mississippi) where, in their respective opinions, such qualification is necessary, and has all corporate powers and all government authorizations, licenses, consents and approvals required to engage in its business and operations as now conducted, except for any failure to comply with the foregoing which, in the reasonable opinion of the Lessee, does not have a Material Adverse Effect.

(b) Corporate and Governmental Authorization. The execution, delivery and performance by the Lessee of this Lease and the other Operative Documents to which it is a party and by the Guarantor of the Guaranty (i) are within their respective corporate powers, (ii) have been duly authorized by all necessary corporate action, (iii) require no action by or respect of or filing with, any governmental body, agency or official, (iv) do not contravene, or constitute a default under, any material provision of applicable law or regulation or of the certificate of incorporation or by-laws of the Lessee or the Guarantor or, to the best of the Lessee's and the Guarantor's knowledge, any material agreement relating to Debt, Judgment, injunction or other instrument relating to Debt binding upon the Lessee, the Guarantor or any Subsidiary and (v) do not result in the creation or imposition of any Lien on any asset of the Lessee, the Guarantor or any Subsidiary or on the Facility.

(c) Binding Effect. This Lease and the Operative Documents to which it is a party constitutes a valid and binding agreement of the Lessee, and the Guaranty constitutes a valid and binding agreement of the Guarantor, in each case enforceable in accordance with their respective terms, provided that the enforceability hereof and thereof is subject in each case to general principles of equity and to bankruptcy, insolvency and similar laws affecting the enforcement of creditor's rights generally.

(d) Financial Information.

(i) The consolidated balance sheet of the Guarantor and its Consolidated Subsidiaries as of December 31, 2000, and the related consolidated

statements of income, stockholders' equity and cash flows for the Fiscal Year then ended, reported on by Ernst & Young LLP, copies of which have been delivered to the Lessor fairly present, in conformity with GAAP, the consolidated financial position of the Guarantor and its Consolidated Subsidiaries as of such date and the consolidated results of operations and cash flows for such Fiscal Year.

(ii) Since December 31, 2000, in the reasonable opinion of the Lessee, there has been no event, act, condition or occurrence having a Material Adverse Effect.

(c) No Litigation. There is no action, suit or proceeding pending, or to the knowledge of the Lessee, threatened, against or affecting the Lessee, the Guarantor or any Subsidiary before any court or arbitrator or any governmental body, agency or official which in the opinion of the Lessee, if determined adversely to the Lessee, Guarantor or any Subsidiary, could result in the occurrence of an Event of Default.

(f) Compliance with ERISA.

The Guarantor has met its minimum funding requirements under ERISA with respect to all of its Plans and has not incurred any material liabilities to PBGC under ERISA in connection with any such Plan.

(g) Payment of Taxes. The Guarantor and each Consolidated Subsidiary have filed all tax returns which were required to be filed and paid all taxes shown thereon to be due, including interest and penalties, or provided adequate reserves for payment thereof.

(h) Investment Company Act. Neither the Lessee, the Guarantor nor any of the Subsidiaries is an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

(i) Public Utility Holding Company Act. Neither the Lessee, the Guarantor nor any of the Subsidiaries is a "holding company", or a "subsidiary company" of a "holding company", or an "affiliate" of a "holding company" or of a "subsidiary company" of a "holding company", as such terms are defined in the Public Utility Holding Company Act of 1935, as amended.

(j) Ownership of Property; Liens. The Guarantor and all Consolidated Subsidiaries have good title to their respective properties and assets, free and clear of all mortgages, liens and encumbrances, except for Permitted Liens and except covenants, restrictions, rights, easements and minor irregularities in title which do not interfere with the occupation, use and enjoyment by the Guarantor or such Consolidated Subsidiaries of such properties and assets in the normal course of business as presently conducted or materially impair the value thereof for such business.

(k) Full Disclosure. To the best of the Lessee's and the Guarantor's knowledge, all written information heretofore furnished by the Lessee, for itself and as agent for the Lessor, or by the Guarantor, to the Lessor for purposes of or in connection with this Lease, any of the Operative Documents, or any transaction contemplated hereby or thereby is, and all

such information hereafter furnished by the Lessee, for itself and as Acquisition Agent for the Lessor, or by the Guarantor, to the Lessor will be, true, accurate and complete in every material respect or based on reasonable estimates on the date as of which such information is stated or certified.

(l) Environmental Matters.

(i) To the best of the Lessee's and the Guarantor's actual knowledge, neither the Lessee, the Guarantor nor any Subsidiary is aware that it is subject to any Environmental Liability with regard to the Site which, in the reasonable opinion of the Lessee, could have or cause a Material Adverse Effect, neither the Lessee, the Guarantor nor any Subsidiary (except in respect of immaterial Environmental Liabilities in de minimis amounts) has received notice that it has been designated as a potentially responsible party under CERCLA or under any state statute similar to CERCLA with regard to the Site or that the Site has been identified on any current or proposed (1) National Priorities List under 40 C.F.R. § 300, (2) CERCLIS list or (3) any list arising from a state statute similar to CERCLA.

(ii) Except to the extent specified on Schedule 29(1), to the best of the Lessee's and the Guarantor's actual knowledge (without having performed any further independent inquiry therefor solely in connection with this Lease), no Hazardous Materials have been or are being used, produced, manufactured, processed, treated, recycled, generated, stored, disposed of, managed or otherwise handled at, or shipped or transported to or from the Site or are otherwise present at, on, in or under the Site or, to the best of the actual knowledge of the Lessee and the Guarantor, at or from any adjacent site or facility, except for Hazardous Materials, such as cleaning solvents, pesticides and other materials used, produced, manufactured, processed, treated, recycled, generated, stored, disposed of, managed, or otherwise handled in minimal amounts in the ordinary course of business in compliance with all applicable Environmental Requirements.

(iii) The Lessee and the Guarantor each represents, for itself and each Subsidiary, that to the best of their actual knowledge (without having performed any further independent inquiry therefor solely in connection with this Lease), the Lessee, the Guarantor and each of the Subsidiaries is in compliance in all material respects with all Environmental Requirements in connection with the operation of the Facility and the Site.

(iv) Except to the extent specified on Schedule 29(1), (1) there are no Hazardous Materials on the Site, other than minimal amounts of cleaning solvents, pesticides and other similar materials used, produced, manufactured, processed, treated, recycled, generated, stored, disposed, managed, or otherwise handled in the ordinary course of business or in management or maintenance of the Facility, (2) no Hazardous Material has migrated from the Site to, upon, about or beneath other properties, (3) no Hazardous Material has migrated or threatened to migrate from other properties to, upon, about or beneath the Site and (4) all Hazardous Materials or solid wastes generated by the

Facility have at all times been transported, treated and disposed of in compliance with Environmental Requirements.

(v) Except to the extent specified on Schedule 29(1), to the best of the Lessee's and the Guarantor's actual knowledge, (1) there is not, nor has there been, constructed, placed, deposited, stored, disposed of or located on the Site any asbestos in any form, (2) no underground improvements, including treatment or storage tanks, pumps, or water wells, are or have been located on the Site, (3) there are no polychlorinated biphenyls (PCBs) or transformers, capacitors, ballasts, machinery, fixtures or other equipment which contain PCBs (no greater than 50 p.p.m.) constructed, placed, deposited, stored, disposed of or located on the Site, (4) the uses and activities of, on or relating to the Facility have at all times complied in all material respects with all Environmental Requirements, and the use which the Lessee, the Guarantor and their Affiliates, Subsidiaries and/or Sublessees make of the Facility will not result in the disposal or other Environmental Release of any Hazardous Material, (5) the Lessee has obtained all permits necessary under applicable Environmental Requirements, and (6) the Site has not been, and is not now, listed on CERCLIS, the Environmental Protection Agency's list of violating facilities established pursuant to the Clean Water Act or the National Priorities List established pursuant to CERCLA.

(vi) Except to the extent specified on Schedule 29(1), to the best of the Lessee's and the Guarantor's actual knowledge, (1) there exists no Judgment or injunction outstanding, or litigation, action, suit, claim (including citation or directive) or proceeding pending or, to the knowledge of the Lessee, the Guarantor or any of their Affiliates, Subsidiaries and/or Sublessees, threatened, relating to the ownership, use, maintenance or operation of the Facility by any person or entity, or arising from any alleged violation of Environmental Requirements, or any alleged liability for Environmental Damages associated with the Facility, (2) there are no existing facts or conditions that could give rise to any such violation or liabilities, (3) there have been no written or oral reports of environmental investigations, audits, studies, tests, reviews or other analyses conducted by or which have been presented to or are in the possession of the Lessee, the Guarantor or any of their Affiliates, Subsidiaries and/or Sublessees, relating to the Facility which have not been delivered to the Lessor and (4) neither the Lessee or the Guarantor nor any other person or entity has received any notice or other communication concerning any alleged violation of Environmental Requirements, whether or not corrected to the satisfaction of the appropriate authority, or any notice or other communication concerning alleged liability for Environmental Damages in connection with the Facility.

(vii) From the date hereof, there shall be no actual or threatened Environmental Release of a Hazardous Material on or from the Facility caused by the, the Guarantor or any of their Affiliates, Subsidiaries and/or Sublessees.

(viii) Except to the extent specified on Schedule 29(1), the Lessee (a) has obtained all permits, licenses, and other authorizations which are required under Environmental Requirements in association with the Facility; and (b) will operate the

Facility in full compliance with all terms and conditions of such required permits, licenses, and other authorizations associated with the Facility.

(ix) To the best of the Lessee's and the Guarantor's actual knowledge, no permits or licenses are required to be obtained or maintained in connection with the use, operation, or ownership of the Facility arising from any part thereof which constitute (i) "wetlands" under any Environmental Requirement, or (ii) habitat for species which is deemed to be endangered under any Environmental Requirement, nor are there any ongoing or continuing obligations regarding any part of the Facility which constitutes wetlands. There are no species of plants or animals located on any part of the Facility which are classified as threatened or endangered under any Environmental Requirement. There have been no written or, to the knowledge of the Lessee, the Guarantor or any of their Affiliates, Subsidiaries and/or Sublessees, oral wetlands delineations conducted by or which have been presented to or are in the possession of the Lessee, the Guarantor or any of their Affiliates, Subsidiaries and/or Sublessees relating to the Facility which have not been delivered to the Lessor.

(m) Capital Stock. All Capital Stock, debentures, bonds, notes and all other securities of the Guarantor presently issued and outstanding are validly and properly issued in accordance with all applicable laws in all material respects, including but not limited to, the "Blue Sky" laws of all applicable states and the federal securities laws.

(n) Use of Proceeds; Margin Stock. The proceeds of fundings of Advances by the Lessor are being used to finance the acquisition of the Facility by the Lessor pursuant to the Agency Agreement, including the Improvements to be made thereto and the design, renovation, construction and installation thereof. The Lessee is not engaged principally, or as one of its important activities, in the business of purchasing or carrying any Margin Stock, and no part of the proceeds of fundings of the Facility Cost will be used to purchase or carry any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock, or be used for any purpose which violates, or which is inconsistent with, the provisions of Regulations T, U or X.

(o) Insolvency. After giving effect to the execution and delivery of this Lease, the Lessee will not be "insolvent," within the meaning of such term as defined in § 101 of Title 11 of the United States Code, as amended from time to time, or be unable to pay its debts generally as such debts become due, or have an unreasonably small capital to engage in any business or transaction, whether current or contemplated.

(p) Subsidiaries. As of the date of this Lease, the Guarantor has no Subsidiaries except for those Subsidiaries listed on Schedule 29(p), which accurately sets forth each such Subsidiary's complete name and jurisdiction of incorporation.

Section 30. Covenants. Each of the Lessee and the Guarantor (by incorporation by reference in the Guaranty) covenants and agrees with the Lessor to comply with the following covenants until either (i) the Facility has been purchased by the Lessee (or one of its Affiliates) for the Termination Value, (ii) this Lease has been terminated, the Facility has been returned to

the Lessor and the Termination Value or the Final Rent Payment, as the case may be, and all other amounts payable under this Lease and the other Operative Documents upon such occurrence have been paid in full:

(a) Information. The Lessee (as to clauses (iii) and (vi)) and the Guarantor (except as to clause (vi)) will deliver to the Lessor:

(i) As soon as available and in any event within 60 days after the end of each of the first three fiscal quarters in each fiscal year consolidated statements of income of the Guarantor and its Consolidated Subsidiaries, for the period from the beginning of such fiscal year to the end of such fiscal quarter, the related consolidated balance sheet of the Guarantor and its Consolidated Subsidiaries as at the end of such fiscal quarter and the related consolidated statement of cash flows, setting forth in comparative form in the case of consolidated statements of income and consolidated statements of cash flows, the corresponding figures for the corresponding period of the preceding fiscal year, all in reasonable detail and accompanied by (x) a certificate signed by an authorized financial officer of the Guarantor stating that said financial statements include all adjustments, consisting only of normal recurring adjustments, necessary for a fair presentation of the financial information for the periods indicated, which certificate shall include a statement that such officer has no knowledge, except as specifically stated, of any default by the Guarantor in the observance of any of the provisions in this Lease and (y) a certificate signed by an authorized financial officer of the Guarantor, in form and substance satisfactory to the Lessor, demonstrating compliance with the covenants contained below in this Section.;

(ii) As soon as available and in any event within 120 days after the end of each fiscal year consolidated statements of income and reconciliation of capital accounts of the Guarantor and its Consolidated Subsidiaries for such year, the related consolidated balance sheet of the Guarantor and its Consolidated Subsidiaries as at the end of such year and the related consolidated statement of cash flows, setting forth in each case in comparative form the corresponding figures for the preceding fiscal year, all in reasonable detail and accompanied by (i) an unqualified opinion of independent public accountants of recognized standing selected by the Guarantor and acceptable to the Lessor together with a written statement of such accountants to the effect that in making the audit necessary to such opinion they have obtained no knowledge of any default by the Guarantor in the fulfillment of any of the covenants contained in this Lease or if, in the opinion of such accountants any such default exists, specifying such default and the nature thereof, (ii) a certificate signed by an authorized financial officer of the Guarantor stating that said financial statements fairly present in accordance with generally accepted accounting principles the financial condition and the results of operations of the Guarantor and its Consolidated Subsidiaries as at the end of such year and for the year involved and that such officer has no knowledge, except as specifically stated, of any default by the Guarantor in the observance of any of the provisions in this Lease; and (iii) a certificate signed by an authorized financial officer of the Guarantor, in form and substance satisfactory to the Lessor, demonstrating compliance with the covenants contained below in this Section;

(iii) Promptly upon a responsible financial officer of the Guarantor or the Lessee becoming aware of the existence of a condition, event or act which constitutes an Event of Default or which, with notice or lapse of time or both, would constitute such an Event of Default, a written notice specifying the nature and period of existence thereof and what action the Guarantor, the Lessee or a Subsidiary, as the case may be, is taking or proposes to take with respect thereto

(iv) Promptly after their becoming available:

(a) Copies of all financial statements, reports and proxy statements which the Guarantor or any Subsidiary which has shares listed on a stock exchange shall have sent to its respective public stockholders.

(b) Copies of all regular and periodic reports, if any, which the Guarantor or any Consolidated Subsidiary shall have filed with the Securities and Exchange Commission;

(v) From time to time, with reasonable promptness, such additional information regarding the business, affairs and financial condition of the Guarantor and its Subsidiaries as the Lessor may reasonably request; and

(vi) promptly upon becoming aware of the occurrence of either a Loss Event or a Casualty Occurrence, or any other event or condition requiring notice under either Section 7 or Section 8 of this Lease, the Lessee shall give the Lessor written notice thereof, which notice shall specify the damage or loss to the Facility in reasonable detail.

(b) Maintenance and Inspection of Property, Books and Records. The Lessee and the Guarantor will keep books of record and account regarding this Lease and shall maintain, on a current basis, books of proper record and account in conformity with GAAP, consistently applied (to the extent applicable), which books shall include copies of all Related Contracts and any amendments thereto and the Facility Cost and of each material item of Property comprising or included in the Facility, and shall provide copies of the foregoing to the Lessor from time to time on request at the Lessee's expense. The Lessee and the Guarantor will (i) keep proper books of record and account in which full, true and correct entries in conformity with GAAP shall be made of all dealings and transactions in relation to the business and activities of the Guarantor and the Lessee with regard to the Facility and the Site; and (ii) permit representatives of the Lessor (x) at the Lessor's expense prior to the occurrence of a Default and (y) at the Lessee's and the Guarantor's expense after the occurrence of a Default, to visit and inspect the Facility and the Site, to examine and make abstracts from any of their respective books and records and to discuss its affairs, finances and accounts with their respective officers, employees and independent public accountants. The Lessee and the Guarantor agree to cooperate and assist in such visits and inspections, in each case at such reasonable times and as often as may reasonably be desired.

(c) Maintenance of Existence. The Lessee and the Guarantor shall each maintain its existence, except as otherwise permitted by Section 30(d).

(d) Consolidations, Mergers and Sales of Assets. The Guarantor shall not, nor shall it permit any Consolidated Subsidiary to, merge or consolidate with any other corporation or sell, lease, transfer or otherwise dispose of all or a substantial part of its assets, or assets which shall have contributed 10 percent or more of Operating Earnings for the fiscal year then most recently ended, to any person, firm or corporation, or acquire by purchase or otherwise all or substantially all of the stock or assets of any person, firm or corporation, except that:

(i) Any Consolidated Subsidiary may merge or consolidate with the Guarantor (provided that the Guarantor shall be the continuing or surviving corporation unless the purpose of such merger or consolidation is to effect a change in the State of incorporation or Country of organization of the Guarantor) or with any one or more other Consolidated Subsidiaries.

(ii) Any Consolidated Subsidiary may sell, lease, transfer or otherwise dispose of any of its assets to the Guarantor or another Consolidated Subsidiary; and

(iii) Any corporation not a Consolidated Subsidiary may be merged into or consolidated with the Guarantor or any Consolidated Subsidiary, or the Guarantor or any Consolidated Subsidiary may acquire all or substantially all of the stock or assets of any corporation, provided that, in the case of each such transaction, immediately thereafter and after giving effect thereto:

(a) the Guarantor and the Lessee shall be in compliance with this Lease; and

(b) in the case of any merger into or consolidation with the Guarantor, the Guarantor shall be the continuing or surviving corporation; and

(c) if the consideration payable by the Guarantor and/or the Consolidated Subsidiaries in connection with any such transaction shall consist, in whole or in part, of shares of stock of the Guarantor (except for liabilities to dissenting shareholders), the total number of shares of stock of the Guarantor having ordinary voting power for the election of directors issued or exchanged in connection with, or outstanding as a result of, such transaction shall not exceed 40 percent of the total of such voting shares of the Guarantor outstanding immediately prior to such transaction; and

(e) any Subsidiary acquired in, or continuing as a result of, any such transaction shall be or forthwith become a Consolidated Subsidiary.

Lessor hereby authorizes and approves, in the event it occurs, that certain merger and reorganization whereby Cooper Mergerco, Inc., a newly formed Ohio corporation, will be merged into the Guarantor, and in which the Guarantor shall be the surviving company in

the merger and become a wholly owned, indirect subsidiary of Cooper Industries, Ltd., a Bermuda corporation.

(c) Dissolution. Neither the Lessee nor the Guarantor shall be permitted to be dissolved or liquidated, except through corporate reorganization to the extent permitted by Section 30(d).

(f) Use of Proceeds. The proceeds of Advances by the Lessor will be used to fund the Facility Cost. Without limiting the generality of the foregoing, no portion of the proceeds of Advances will be used by the Lessor or the Guarantor (i) in connection with, whether directly or indirectly, any tender offer for, or other acquisition of, stock of any corporation with a view towards obtaining control of such other corporation, except in a negotiated, consensual transaction (ii) directly or indirectly, for the purpose, whether immediate, incidental or ultimate, of purchasing or carrying any Margin Stock or (iii) for any purpose in violation of any applicable Governmental Requirement.

(g) Compliance with Laws; Payment of Taxes. The Lessee and the Guarantor will each comply in all material respects with applicable laws (including but not limited to ERISA), regulations and similar requirements of governmental authorities (including but not limited to PBGC), except where the necessity of such compliance is being contested in good faith through appropriate proceedings or if failure to comply does not, in the reasonable opinion of the Lessee, have a Material Adverse Effect. The Lessee or the Guarantor will pay, prior to the date on which penalties attach thereto, all taxes, assessments, governmental charges, claims for labor, supplies, rent and other obligations which, if unpaid, might become a lien against any part of the Facility or against Property of the Lessee or the Guarantor, except liabilities being contested in good faith and against which, if requested by the Lessor, the Lessee will set up reserves in accordance with GAAP.

(h) Insurance. Each of the Lessee and the Guarantor will maintain (either in the name of the Lessor or the Lessee or Guarantor, as applicable), with financially sound and reputable insurance companies, insurance on the Facility in at least such amounts, and with such deductibles, and against at least such risks as are usually insured against in the same general area by companies of established repute engaged in the same or similar businesses. The Lessee or the Guarantor will deliver or cause to be delivered to the Lessor, promptly upon request the Lessor, and in any event on August 1st of each calendar year, commencing with the first calendar year commencing after the Closing Date, a certificate of insurance acceptable to the Lessor (a) setting forth the insurance or self-insurance obtained pursuant to Section 14, including, without limitation, the amounts thereof, the names of the insurers and the property, hazards and risks covered thereby, that all premiums then due and payable thereon have been paid and that the same are in full force and effect, that the Lessor has been named as additional insured and loss payee, as its interests may appear, under each such policy, that such policies may not be cancelled without at least 30 days prior notice to the Lessor with an opportunity to cure any default thereunder. The Lessor shall be entitled to rely on the certificate of insurance without further investigation of the facts and circumstances set forth therein.

(i) Change in Fiscal Year. The Guarantor will not change its Fiscal Year without the consent of the Lessor, which consent shall not be unreasonably withheld.

(j) Maintenance of Property. The Lessee shall maintain and preserve the Facility in accordance with the requirements of this Lease. Each of the Lessee and the Guarantor shall, and cause each Material Subsidiary to, maintain and preserve all of their respective properties and assets useful and necessary in its respective businesses in good condition, repair and working order, ordinary wear and tear excepted.

(k) Environmental Notices. The Lessee and the Guarantor shall furnish to the Lessor prompt written notice of all Environmental Liabilities, pending or threatened Environmental Proceedings, Environmental Notices, Environmental Judgments and Orders, and Environmental Releases at, on, in, under or in any way affecting the Facility or the Site or any adjacent property, and all facts, events, or conditions actually known to the Lessee or the Guarantor that could reasonably be expected to lead to any of the foregoing.

(l) Environmental Matters. The Lessee, the Guarantor and the Subsidiaries shall not, and shall not permit any Third Party to, use, produce, manufacture, process, treat, recycle, generate, store, dispose of, manage at, or otherwise handle, or ship or transport to or from any of the Facility or Site any Hazardous Materials except for Hazardous Materials such as cleaning solvents, pesticides and other similar materials used, produced, manufactured, processed, treated, recycled, generated, stored, disposed of, managed, or otherwise handled in the ordinary course of business or of management or maintenance of the Facility or the Site in material compliance with all applicable Environmental Requirements.

(m) Environmental Release. The Lessee agrees that upon the occurrence of an Environmental Release, except for any Environmental Release which occurred in substantial compliance with all Environmental Requirements, at or on the Facility or the Site, it will act promptly to determine the extent of, and to take appropriate remedial action to eliminate, any such Environmental Release, whether or not ordered or otherwise directed to do so by any Environmental Authority.

(n) Further Assurances. The Lessee will cure promptly any defects in the due execution and delivery by it of the Operative Documents, including this Lease. The Lessee at its expense will promptly execute and deliver to the Lessor upon request all such other and further documents, agreements and instruments in compliance with or accomplishment of the covenants and agreements of the Lessee in the Operative Documents, including this Lease, or to further evidence and more fully describe the Facility or any part thereof or to correct any item that the Lessee and the Lessor agree constitutes an omission or error in the Operative Documents, or more fully to state the existing security obligations set out herein or in any of the Operative Documents, or to perfect, protect or preserve any Liens created pursuant to any of the Operative Documents, or to make any recordings, to file any notices, or obtain any consents, required by the terms of the Operative Documents, all as may be necessary or appropriate in connection therewith.

(o) Encroachments. The Facility shall be situated wholly within the boundary lines of the Site and shall not encroach upon any contiguous or adjoining Property (other than those parts of the Site for which the Lessee has the right to locate and operate such parts pursuant to use or operating agreements) and the Facility shall not materially violate any other easements, rights-of-way, licenses or other agreements affecting the Site therefor.

(p) Liens, Etc. on the Facility. The Lessee covenants and agrees that it shall not grant, create, assume or suffer to exist, any Liens upon the Facility or any part thereof, other than Permitted Liens.

(q) Liens on other Assets. Neither the Lessee, the Guarantor nor any Consolidated Subsidiary will create, assume or suffer to exist any Lien on any asset not constituting part of the Facility (Liens on the Facility being restricted by Section 30(p)) now owned or hereafter acquired by it, and the Lessee shall not permit any Subsidiary to incur any Debt, except:

(i) any Lien existing on any specific fixed asset of any corporation at the time such corporation becomes a Consolidated Subsidiary and not created in contemplation of such event;

(ii) any Lien on any specific fixed asset securing Debt incurred or assumed for the purpose of financing all or any part of the cost of acquiring or constructing such asset, provided that such Lien attaches to such asset concurrently with or within 18 months after the acquisition or completion of construction thereof;

(iii) any Lien on any specific fixed asset of any corporation existing at the time such corporation is merged or consolidated with or into the Lessee or a Consolidated Subsidiary and not created in contemplation of such event;

(iv) any Lien existing on any specific fixed asset prior to the acquisition thereof by the Lessee, the Guarantor or a Consolidated Subsidiary and not created in contemplation of such acquisition;

(v) Liens securing Debt owing by any Subsidiary to the Lessee or the Guarantor;

(vi) any Lien arising out of the refinancing, extension, renewal or refunding of any Debt secured by any Lien permitted by any of the foregoing paragraphs of this Section 30(q), provided that (x) such Debt is not secured by any additional assets, and (y) the amount of such Debt secured by any such Lien is not increased;

(vii) Liens incidental to the conduct of its business or the ownership of its assets which (i) do not secure Debt and (ii) do not in the aggregate materially detract from the value of its assets or materially impair the use thereof in the operation of its business; and

(viii) Pre-existing liens, namely liens (including interests existing in favor of a lessor under a lease) securing capitalized lease obligations and other debt of the Guarantor, which liens were in existence on September 30, 2001; provided that pre-existing liens shall not include any lien renewing, extending or refunding any such pre-existing lien existing on September 30, 2001;

(ix) The Guarantor or any Consolidated Subsidiary may create or suffer to exist or renew, extend or refund any interests in favor of the United States of America or any state thereof or any department, agency, instrumentality or political subdivision of any such jurisdiction to secure partial, progress, advance or other payments pursuant to any contract or statute or to secure any Debt payable to the foregoing incurred for the purpose of financing or refinancing all or any part of the purchase price or cost of constructing or improving the property subject to such interests, including without limitation interests to secure Debt in respect of any pollution control, industrial revenue bond or similar type of financing;

(x) Liens which are incidental to the purchase or sale of marketable securities and which secure obligations not exceeding 10% of the Net Worth of Guarantor; and

(xi) Liens, not otherwise permitted by the foregoing provisions of this Section, securing Debt not exceeding two percent of the Net Worth of Guarantor in principal amount at any one time outstanding.

(r) Indebtedness. The Guarantor and the Consolidated Subsidiaries may incur, create, assume or suffer to exist any Debt provided that the Company shall at no time permit Debt of the Company and the Consolidated Subsidiaries, determined on a consolidated basis, to exceed 60 percent of Total Capitalization.

(s) More Restrictive Covenants. Should the Guarantor, while this Agreement is in effect, issue any Debt pursuant to a loan agreement, credit agreement, note purchase agreement, indenture or other similar instrument, which instrument includes financial covenants or rights of inspection other than those set forth herein or in any of the other Operative Documents, the Guarantor shall promptly so notify the Lessor and, if the Lessor shall so request by written notice to the Guarantor (after a determination has been made by the Lessor that any of the above-referenced documents or instruments contain any financial covenants or rights of inspection which are more favorable than any of the provisions set forth herein), the Lessee and the Lessor shall promptly amend this Agreement to incorporate some or all of such financial covenants or rights of inspection, in the discretion of the Lessor, into this Agreement and, to the extent necessary and reasonably desirable to the Lessor, into any of the other Operative Documents, all at the election of the Lessor.

### Section 31. Miscellaneous.

(a) Entire Agreement. **THIS LEASE AND THE OTHER OPERATIVE DOCUMENTS EMBODY THE ENTIRE AGREEMENT AND UNDERSTANDING BETWEEN THE LESSEE**

AND THE LESSOR AND SUPERSEDE ALL OTHER AGREEMENTS AND UNDERSTANDINGS BETWEEN SUCH PARTIES RELATING TO THE SUBJECT MATTER HEREOF. THIS WRITTEN LEASE AND THE OTHER OPERATIVE DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

(b) Interpretation. Captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Lease.

(c) Governing Law. THIS LEASE AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO RELATING TO THE FACILITY SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF GEORGIA, BUT EXCLUDING ALL CONFLICT-OF-LAWS RULES; EXCEPT TO THE EXTENT THAT THE LAWS OF THE STATE OF MISSISSIPPI MANDATORILY APPLY.

(d) No Third Party Beneficiaries. Nothing in this Lease, express or implied, shall give to any Person, other than the parties hereto and their respective successors and permitted assigns, any benefit or any legal or equitable right, remedy or claim under this Lease including, without limitation, under any provision of this Lease regarding the priority or application of any amounts payable hereunder.

(e) Counterparts. This Lease may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Lease by signing any such counterpart.

(f) Waiver of Jury Trial. EACH OF THE PARTIES HERETO WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR TO DEFEND ANY RIGHTS UNDER THIS LEASE OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HEREWITH OR THEREWITH OR ARISING FROM ANY RELATIONSHIP EXISTING IN CONNECTION WITH THIS LEASE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

(g) Invalidity. In the event that any one or more of the provisions contained in this Lease shall, for any reason, be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of the Lease.

(h) Usury. Notwithstanding anything to the contrary contained in this Lease or any of the Operative Documents, the amounts which the Lessee is obliged to pay pursuant to this Lease and the other Operative Documents, and the amounts which the Lessor is entitled to receive pursuant to this Lease and the other Operative Documents, are subject to the following

limitations. It is the intention of the parties hereto that the Lessor shall conform strictly to usury laws applicable to it. Accordingly, if the transactions contemplated hereby would be usurious as to the Lessor under laws applicable to (including the laws of the United States of America and the state where their respective main offices are located or any other jurisdiction whose laws may be mandatorily applicable to the Lessor notwithstanding the other provisions of this Lease), then, in that event, notwithstanding anything to the contrary in this Lease or in any other Operative Document, it is agreed as follows: (i) the aggregate of all consideration which constitutes interest under law applicable to the Lessor that is contracted for, taken, reserved, charged or received by the Lessor under this Lease or under any of the other aforesaid Operative Documents or other agreements or otherwise in connection with this Lease shall under no circumstances exceed the maximum amount allowed by such applicable law, and any excess shall be cancelled automatically and if theretofore paid shall be credited by the Lessor on the amounts paid by the Lessee, to the extent that the obligations with respect thereto shall have been or would thereby be paid in full, refunded by the Lessor to the Lessee and (ii) in the event that any amounts hereunder become due and payable prior to the regularly scheduled maturity (whether by reason of the occurrence of a Cancellation Event or a Termination Event or otherwise, or in the event of any required or permitted prepayment), then such consideration that constitutes interest under law applicable to the Lessor may never include more than the maximum amount allowed by such applicable law, and excess interest, if any, provided for in this Lease or otherwise shall be cancelled automatically by the Lessor as of the date of such prepayment and, if theretofore paid, shall be credited by the Lessor on the amounts payable hereunder (or, to the extent that the amounts payable hereunder shall have been or would thereby be paid in full, refunded by the Lessor to the Lessee). All sums paid or agreed to be paid to the Lessor for the use, forbearance or detention of sums due hereunder shall, to the extent permitted by law applicable to the Lessor, be amortized, prorated, allocated and spread in equal parts throughout the full term of this Lease until payment in full so that the rate or amount of interest on account of any amounts payable hereunder does not exceed the maximum amount allowed by such applicable law. If at any time and from time to time (i) the amount of Rent or yield payable to the Lessor on any date shall be computed at the Highest Lawful Rate applicable to the Lessor pursuant to this Section 31(h) and (ii) in respect of any subsequent Rent computation period the amount of Rent otherwise payable to the Lessor would be less than the amount of Rent payable to the Lessor computed at the Highest Lawful Rate applicable to the Lessor, then the amount of Rent payable to the Lessor in respect of such subsequent Rent computation period shall continue to be computed at the Highest Lawful Rate applicable to the Lessor until the total amount of Rent payable to Lessor shall equal the total amount of Rent which would have been payable to the Lessor if the total amount of Rent had been computed without giving effect to this Section 31(h).

(i) Time of the Essence. Time is of the essence in connection with the payment of Rent and all other amounts payable hereunder and the performance of the Lessee's other obligations hereunder.

(j) Indemnification.

(i) The Lessee agrees, in addition to any other indemnity obligations set forth in any Operative Document, to indemnify and save harmless, the Lessor and any of its successors and assigns (other than a Third Party purchaser of the Facility at a sale

pursuant to Section 15(a)(ii)(B)(2) and Section 16), and its officers, directors, incorporators, shareholders, employees, agents, partners, attorneys, affiliates and servants (individually an "Indemnified Party" and collectively the "Indemnified Parties") from and against all liabilities, Liens, Taxes, losses, obligations, claims, damages (including, without limitation, penalties, fines, court costs and administrative service fees), penalties, demands, causes of action, suits, proceedings (including any investigations, litigation or inquiries), Judgments, sums paid in settlement of claims, and costs and expenses of any kind or nature whatsoever, including, without limitation, reasonable attorneys' fees and expenses and all other expenses incurred in connection with investigating, defending or preparing to defend any cause of action, suit or proceeding (including any investigations, litigation or inquiries) or claim which may be incurred by or asserted against or involve any of them (whether or not any of them is named as a party thereto) as a result of, arising directly or indirectly out of or in any way related to (A) any actual or proposed use by the Lessee of the amounts funded as Facility Cost, (B) any other aspect of this Lease and the other Operative Documents, (C) the operations of the business of the Lessee, (D) the failure of the Lessee or any of its contractors, employees, agents, licensees, representatives or any other Person for whose conduct the Company is responsible in connection with this Lease, any Related Contract or under any Operative Document (individually and collectively, as the context shall require, the "Company Agents") to comply with any Governmental Requirement in connection with the purchase, design, construction, manufacture, engineering, assembly, installation, use, operation or ownership of the Facility or any part thereof, (E) the breach of any representation or warranty set forth herein regarding Environmental Laws, (F) the failure of the Lessee as agent for the Lessor under the Agency Agreement to pay any amount required to be paid hereunder or to acquire, in the name of and on behalf of the Lessor, good fee simple title to the Site and good title to the Improvements, (G) the failure of the Lessee (directly or by any of the Company Agents) to perform any obligation herein required to be performed pursuant to Environmental Laws, or any act or omission which occurred or will occur at any prior or subsequent time, or any condition or state of facts in existence at any prior or subsequent time relating in any way to the Facility the failure of which gives rise to any liability or obligation under any Environmental Requirement or gives rise to any Environmental Damages, (H) the Lessee's ownership and leasing of the Facility or any part hereof pursuant to this Lease, (I) the sale of the Facility either to the Lessee or any other Person pursuant to the provisions of this Lease, (J) all acts or omissions of the Lessee, any Company Agent or any Sublessee, (K) any Imposition, Lien, Judgment, tax, or other payment owing in respect of any part of the Facility or which the Lessee is obligated to discharge or pay to any Person, (L) any action or omission of the Lessee or any Company Agent pursuant to, or breach of or failure to perform under, the Agency Agreement, (M) any injury to, or death of, any Person, or damage to or loss of Property to the extent not reimbursed by insurance prior to the Indemnified Party having to make any payment in respect thereof, or any other thing occurring on or resulting from activities involving the Facility or any part thereof, (N) the renovation, construction, leasing, subleasing, operation, occupancy, possession, use or non-use by the Lessee (whether in its individual capacity or as Acquisition Agent for the Lessor) of the Facility or any part thereof, or the condition of the Facility or any part thereof, (O) any Default or Event of Default under this Lease, (P) any act or omission of

the Lessee or its agents, contractors, licensees, Sublessees, invitees, representatives, other Company Agents or any other Person on or relating to, or in connection with, the ownership, renovation, construction, leasing, subleasing, operation, management, maintenance, occupancy, possession, use, non-use or condition of the Facility or any part thereof, (Q) performance of any labor or services or furnishing of any materials or other Property in respect of the Facility or any part thereof, (R) any permitted contest referred to in Section 13, (S) any claims for patent, trademark, trade name or copyright infringement or (T) any violation by the Lessee of any Operative Document or any Related Contracts or any other contract or agreement to which the Lessee is a party, or of any Insurance Requirement, in each case affecting any Indemnified Party, of the Facility or any part thereof or the ownership, operation, occupancy, possession, use, non-use or condition thereof, in each case regardless of the acts, omissions or negligence of any Indemnified Party, it being the intent of the Lessee to indemnify the Indemnified Parties for their own negligent acts or omissions (other than gross negligence or willful misconduct) in connection with any of the foregoing (collectively, the "Indemnified Risks"); provided, however, that no Indemnified Party shall be entitled to indemnity (or any other payment or reimbursement) for any Indemnified Risks to the extent such Indemnified Risks result from or arise out of one or more of the following: (1) any representation or warranty by such Indemnified Party in the Operative Documents being incorrect; (2) the willful misconduct or gross negligence of such Indemnified Party; (3) the failure on the part of the Lessor to distribute in accordance with this Lease any amounts received and distributable by it hereunder; (4) any claim for economic losses based upon the rate of return under this Lease and (5) for any risks arising from any third-party damage claims arising from acts or omissions occurring during the Acquisition Period.

(ii) If any cause of action, suit, proceeding or claim arising from any of the foregoing is brought against any Indemnified Party, whether such action, proceeding, suit or claim shall be actual or threatened, or in preparation therefor, the Lessee will have the right, at its expense, to assume the resistance and defense of such cause of action, suit, proceeding or claim or cause the same to be resisted and defended; provided that such Indemnified Party shall be entitled (but not obligated) to participate jointly in such defense, in which case such Indemnified Party will be responsible for its own legal fees or other expenses, if any, related to such defense incurred subsequent to the joint participation by such party in such defense. Notwithstanding the foregoing, if any Indemnified Party shall have been advised by counsel chosen by it that there may be one or more legal defenses available to such Indemnified Party that are different from or additional to those available to the Lessee, the Indemnified Party may assume the defense of such action and the Lessee agrees to reimburse such Indemnified Party for the reasonable fees and expenses of any counsel retained by the Indemnified Party. The Lessee may settle any action which it defends hereunder on such terms as it may deem advisable in its sole discretion, subject to its ability promptly to perform in full the terms of such settlement; provided, however, that it may not in connection therewith admit liability or wrongdoing on the part of any Indemnified Party without the prior written consent of such Indemnified Party. No Indemnified Party may seek indemnification or other reimbursement or payment, including attorneys' fees or expenses, from the Lessee

for any cause of action, suit, proceeding or claim settled, compromised or in any way disposed of by the Indemnified Party without the Lessee's prior written consent, which will not be unreasonably withheld.

(iii) The obligations of the Lessee under this Section 31(j) shall survive the expiration or any termination of this Lease (whether by operation of law or otherwise) and the payment of amounts owed by the Lessee under this Lease and the other Operative Documents for a period of 10 years; provided, however, notwithstanding the foregoing, that (1) the obligations of the Lessee under this Section 31(j) shall be limited to events occurring prior to the sale of the Facility as permitted hereunder and (2) no Third Party purchaser of the Facility at a sale pursuant to Section 15(a)(ii)(B)(2) and Section 16 shall be entitled to the benefits of this Section 31 or be an Indemnified Party hereunder.

(iv) Upon demand for payment by any Indemnified Party of any Indemnified Risks incurred by it for which indemnification is sought, the Lessee shall pay when due and payable the full amount of such Indemnified Risks to the appropriate party, unless and only so long as: (A) the Lessee shall have assumed the defense of such action and is diligently prosecuting the same; (B) the Lessee is financially able to pay all its obligations outstanding and asserted against the Indemnified Party at that time, including the full amount of the Indemnified Risks; and (C) the Lessee has taken all action as may be reasonably necessary to prevent (1) the collection of such Indemnified Risks from, or the assertion of any Lien in respect thereof against, the Indemnified Party; (2) the sale, forfeiture or loss of the Facility or any part thereof during such defense of such action; and (3) the imposition of any civil or criminal liability for failure to pay such Indemnified Risks when due and payable.

(v) The Lessee acknowledges and agrees that, subject to the limitations contained in clause (i), its obligations under this Section 31(j) are intended to include and extend to any and all liabilities, Liens, Taxes, losses, obligations, claims, damages (including, without limitation, penalties, fines, court costs and administrative service fees), penalties, demands, causes of action, suits, proceedings (including any investigations, litigation or inquiries), Judgments, sums paid in settlement of claims, costs and expenses (including, without limitation, response and remediation costs, stabilization costs, encapsulation costs, and treatment, storage or disposal costs), imposed upon or incurred by or asserted at any time against any Indemnified Party (whether or not indemnified against by any other party) as a result of, arising directly or indirectly out of or in any way related to (1) the treatment, storage, disposal, generation, use, transport, movement, presence, release, threatened release, spill, installation, sale, emission, injection, leaching, dumping, escaping or seeping of any alleged hazardous substance or material containing or alleged to contain hazardous substance at, under, onto, above, within or from the Facility or any part thereof; (2) the violation or alleged violation of any Environmental Requirements relating to or in connection with Facility or any part thereof or any acts or omissions thereon or relating thereto; (3) all other federal, state and local laws designed to protect the environment or persons or property therein, whether now existing or hereinafter enacted, promulgated or issued by any Governmental Authority relating to or in connection with the Facility or any part thereof or any acts or

omissions thereon or relating thereto; (4) the Lessee's failure to comply with its obligations under Section 7; and (5) any abandonment of any of the Facility or any part thereof by the Lessee.

(vi) Without limiting the generality of the foregoing provisions of this Section 31(j), the Lessee agrees to pay or reimburse, promptly upon demand, and protect, indemnify and save harmless, the Lessor, following the occurrence of a Termination Event, from any action by any Sublessee or other owner of an interest in the Facility or any part thereof (other than a Co-Lessee) which causes the Lessor any delay in exercising its remedies, or results in the reduction of the Lessor's remedies hereunder.

(vii) In case any action shall be brought against any Indemnified Party in respect of which indemnity may be sought against the Lessee, such Indemnified Party shall promptly notify the Lessee in writing, but the failure to give such prompt notice shall not relieve the Lessee from liability hereunder, except to the extent the Lessee is prejudiced by such failure.

(k) Confidentiality. The Lessor agrees to exercise commercially reasonable efforts to keep any information delivered or made available by the Lessee to it which is clearly indicated or stated to be confidential information (or when the circumstances under which such information is delivered or when the content thereof would cause a reasonable person to believe that such information is confidential), confidential from anyone other than Persons employed or retained by such Party who are or are expected to become engaged in evaluating, approving, structuring or administering the Advances or the Operative Documents (such Persons to likewise be under similar obligations of confidentiality with respect to such information); provided, however, that nothing herein shall prevent the Lessor from disclosing such information (i) upon the order of any court or administrative agency, (ii) upon the request or demand of any regulatory agency or authority having jurisdiction over the Lessor, (iii) which has been publicly disclosed, (iv) to the extent reasonably required in connection with any litigation to which the Lessor or its affiliates may be a party, (v) to the extent reasonably required in connection with the exercise of any remedy hereunder, (vi) to the Lessor's legal counsel and independent auditors, (vii) to any actual or proposed assignee or participant in all or part of its rights hereunder which has agreed in writing to be bound by the provisions of this Section 31(k); provided that should disclosure of any such confidential information be required by virtue of clause (ii), (iii) or (iv) of the immediately preceding sentence, the Lessor shall, to the extent permitted by law, promptly notify the Lessee of same so as to allow the Lessee to seek a protective order or to take any other appropriate action; provided, further, that the Lessor shall not be required to delay compliance with any directive to disclose beyond the last date such delay is legally permissible any such information so as to allow the Lessee to effect any such action.

(l) No Waiver; Remedies. No failure on the part of the Lessor to exercise, and no delay in exercising, any right hereunder or under any other Operative Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder or under any other Operative Document preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

(m) Right of Set-Off. The Lessee agrees that, in addition to (and without limitation of) any right of setoff, bankers' lien or counterclaim the Lessor may otherwise have, the Lessor shall be entitled, at its option, to offset balances held by it or any of its affiliates for the account of the Lessee at any of its or their offices, in Dollars or in any other currency, against any of the obligations of the Lessee now or hereafter existing under this Lease or any other Operative Document which are not paid when due (regardless of whether such balances are then due to the Lessee) and each such affiliate is hereby irrevocably authorized to permit such offset, in which case the Lessor shall promptly notify the Lessee thereof, provided that the Lessor's failure to give such notice shall not affect the validity thereof.

(n) References. The words "herein," "hereof," "hereunder" and other words of similar import when used in this Lease refer to this Lease as a whole, and not to any particular article, section or subsection. Any reference herein to an Article or Section shall be deemed to refer to the applicable Article or Section of this Lease unless otherwise stated herein. Any reference herein to an exhibit or schedule shall be deemed to refer to the applicable exhibit or schedule attached hereto unless otherwise stated herein.

(o) Successors; Survivals. This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. The obligations of the Lessee under Section 4(g), Section 27, and Section 31(j) shall survive the repayment of the Rent and all other obligations of the Lessee to the Lessor under this Lease and the other Operative Documents and the termination of the Commitments.

(p) Captions. Captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Lease.

(q) Characterization.

The parties hereto intend that for all purposes under GAAP, this Lease be treated, classified and reported as an operating lease under Financial Accounting Standard 13 and all related pronouncements. In order to protect the rights and remedies of the Lessor following a Default, an Event of Default, any other Cancellation Event or a Termination Event, and for the purposes of Federal, state and local income and ad valorem taxes, Title 15, Section 18A of the United States Code (Hart-Scott-Rodino Act), commercial law and Title 11 of the United States Code (or any other applicable Federal, state or local insolvency, reorganization, moratorium, fraudulent conveyance or similar law now or hereafter in effect for the relief of debtors), the parties hereto intend that (i) this Lease be treated as the repayment and security provisions of a loan by the Lessor to the Lessee in the amount of the Facility Cost, (ii) all payments of Basic Rent, Supplemental Rent, the Final Rent Payment and the Termination Value be treated as payments of principal, interest and other amounts owing with respect to such loan and (iii) the Lessee be treated as entitled to all benefits of ownership of the Facility or any part thereof. In addition, the parties acknowledge that after payment in full of the Rent and all other obligations of the Lessee to the Lessor under this Lease and the Operative Documents, any remaining proceeds of the Facility shall be distributed to the Lessee.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed by their respective officers thereunto duly authorized as of the date first above written.

LESSEE:

COOPER LIGHTING, INC.

By: Robert J. Martha  
Title: Vice President

Notice Address:

Cooper Lighting, Inc.  
1121 Highway 74 South  
Peachtree City, Georgia 30269  
Telephone: 770-486-4800  
Telecopier: 770-486-4801  
Attention: Robert Marta

With a copy to:

Cooper Industries, Inc.  
600 Travis, Suite 5800  
Houston, Texas 77002  
Attention: Treasurer  
Telephone: 713-209-8400  
Telecopier: 713-209-8983

STATE OF Georgia  
COUNTY OF Coweta

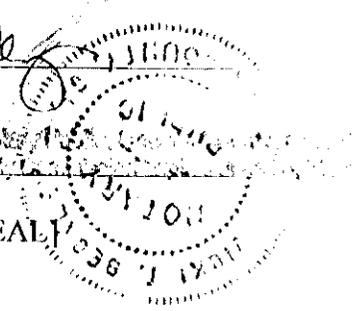
I, Vicki T. Beckley, a Notary Public of the State and County aforesaid do hereby certify that Robert J. Mark personally appeared before me this day and acknowledged that he is Vice President of COOPER LIGHTING, INC., a Delaware corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this 1<sup>st</sup> day of December, 2001.

Vicki T. Beckley  
Notary Public

My commission expires: 11/12/2003

[NOTARIAL SEAL]



LESSOR: P BK 92 PG 269

WACHOVIA CAPITAL INVESTMENTS, INC.  
as Lessor

Commitment:  
\$13,500,000

By:   
Title: *Senior Vice President*

Funding Office and Notice Address:

Wachovia Capital Investments, Inc.  
101 North Cherry Street  
Winston-Salem, NC 27150  
Attention: Jonathan E. Head  
Telecopier: 336-735-6061  
Confirmation: 336-735-6052

STATE OF Georgia  
COUNTY OF DeKalb

P BK 92 PG 270

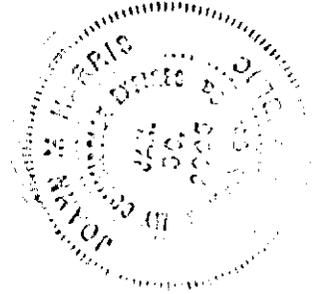
I, So Ann M. Harris, a Notary Public of the State and County aforesaid do hereby certify that Kevin T. McNeill personally appeared before me this day and acknowledged that he is Senior Vice President of WACHOVIA CAPITAL INVESTMENTS, INC., a corporation organized and existing under the laws of the State of Georgia, and that by authority duly given and as the act said corporation, the foregoing instrument was signed in its name by him/her.

WITNESS my hand and official stamp or seal, this 4th day of December, 2001.

So Ann M. Harris  
Notary Public

Notary Public, DeKalb County, Georgia  
My Commission Expires January 30, 2005

[NOTARIAL SEAL]



## SCHEDULE 1(a)

P BK 92PG 271

## Defined Terms

The following terms shall have the following meanings (all terms defined in the singular to have the same meanings when used in the plural and vice versa):

"Acquisition Agent": Lessee, in its capacity as Acquisition Agent for the Lessor under the Agency Agreement.

"Acquisition Date": as defined in Section 28(c)(i) of the Lease.

"Acquisition Period": the period from the Closing Date to the date which is the earliest of (i) 60 days after the Closing Date, (ii) the date the Commitment has been fully funded and (iii) the date the Lessee notifies the Lessor that all of the Additional Equipment which it desires to have included under the Lease has been acquired.

"Additional Equipment": any other equipment purchased during the Acquisition Period with Advances for adding to the Lease pursuant to Section 28(c) thereof.

"Adjusted LIBO Rate": with respect to any Rental Period (or 2 consecutive Rental Periods, if so selected by the Lessee as set forth in the definition of LIBO Rate), a rate per annum equal to the quotient obtained (rounded upwards, if necessary, to the next higher 1/100th of 1%) by dividing (i) the applicable LIBO Rate for such Rental Period or 2 consecutive Rental Periods, if applicable, by (ii) 1.00 minus the Eurodollar Reserve Percentage.

"Advance Notice": as defined in Section 3(b) of the Lease.

"Advances": collectively, all Advances of Facility Cost made by the Lessor pursuant to Section 2(a) of the Lease in an aggregate principal amount not to exceed the Commitment; and individually, any such Advance made by any of them, as the context shall require.

"Affiliate": with respect to the Lessee or the Guarantor, (i) any Person that, directly or indirectly, through one or more intermediaries, controls the Lessee or the Guarantor (a "Controlling Person"), (ii) any Person (other than the Lessee or the Guarantor or a Subsidiary) which is controlled by or is under common control with a Controlling Person, or (iii) any Person (other than a Subsidiary) of which the Lessee or the Guarantor owns, directly or indirectly, 20% or more of the common stock or equivalent equity interests. As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"Agency Agreement": the Acquisition, Agency, Indemnity and Support Agreement, of even date with the Lease, between the Lessor and the Lessee, as the Acquisition Agent, as amended, supplemented or otherwise modified from time to time.

"Applicable Margin": With respect to Basic Rent calculated on the basis of the Adjusted LIBO Rate or Modified Adjusted LIBO Rate, a rate per annum equal to 1.25%.

"Applicable Permit": any Permit that is or may be necessary to own, renovate, construct, install, start-up, test, maintain, modify, expand, remove, operate, lease or use all or any part of the Facility (including, without limitation, the Site or any business conducted on or related to the Facility or the Site) in accordance with the Operative Documents, and the failure to obtain or maintain which, in the reasonable opinion of the Lessee, would have a Material Adverse Effect.

"Approved Appraisal": any appraisal, ordered by the Lessor, but at the Lessee's cost, from an appraiser or appraisers reasonably acceptable to the Lessor, which: (i) complies with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended, 12 U.S.C. 3331, et seq., and The Regulations and Statements of General Policy on Appraisals promulgated by the Federal Deposit Insurance Corporation, 12 C.F.R. Part 32, as amended, (ii) is performed by a state-certified real estate appraiser certified under the laws of any State, (iii) reflects the Market Value of the Facility on an "as completed" basis, and (iv) estimates the Market Value of the Facility as of the expiration of the Basic Term.

"Authorized Officers": relative to the Lessee, the officers whose signatures and incumbency shall have been certified to the Lessor in a certificate certified by its Secretary in form and substance satisfactory to the Lessor that are authorized to sign the Lease and the other Operative Documents to which the Lessee is a party and, until replaced by another Authorized Officer duly authorized for that purpose, to act as its respective representative for the purposes of signing documents and giving notices and other communications in connection with the Lease and the Operative Documents to which it is a party.

"Banking Authority": as defined in Section 27(b) of the Lease.

"Base Rate": for any day, the rate per annum equal to the higher as of such day of (i) the Prime Rate, and (ii) one-half of one percent above the Federal Funds Rate. For purposes of determining the Base Rate for any day, changes in the Prime Rate shall be effective on the date of each such change.

"Basic Rent": with respect to any Rental Period, the amounts payable as Basic Rent for such Rental Period pursuant to Section 4(a) of the Lease.

"Basic Term": with respect to the Lease, and subject to the terms and conditions set forth therein and in the other Operative Documents, the period commencing on the last day of the Acquisition Period and ending on the earlier to occur of (i) the Option Date, (ii) the Cancellation Date, or (iii) the Scheduled Lease Termination Date.

"Beneficiary": as defined in Section 26 of the Lease.

"Business Day": (a) for all purposes other than as covered by clause (b) below, any day except Saturday, Sunday or other day on which commercial banks in Atlanta, Georgia are authorized or required by law or other government action to close, and (b) with respect to all notices and determinations in connection with Rental Periods, and payments of Basic Rent, any day that is a Business Day described in clause (a) above and that is also a day for trading by and between banks in the London interbank eurodollar market.

"Cancellation Date": as defined in Section 15(b) of the Lease.

"Cancellation Event": as defined in Section 15(b) of the Lease, and shall include a Loss Event.

"Capitalized Expenses": all acquisition, design and installation costs and all legal, architectural, engineering and other professional fees and expenses, brokerage fees, appraisal fees, environmental assessment fees, title insurance, survey expenses, mortgage recording fees and taxes, intangibles taxes, yield maintenance costs and other "soft costs" of a nature ordinarily and reasonably incurred in connection with the acquisition, design, engineering, construction, assembly, installation, testing, improvement and completion of property substantially similar to the Facility (including soft and hard costs previously incurred as mutually agreed and all Basic Rent (as defined below), Commitment Fee and other fees, in each case to the extent accrued and unpaid prior to the last day of the Acquisition Period. "Capitalized Expenses" shall not include fixtures, furniture or equipment included in, attached to or otherwise relating to the Site or the Facility.

"Capital Stock": means any nonredeemable capital stock, membership interests or partnership interests of the Borrower or any Consolidated Subsidiary (to the extent issued to a Person other than the Borrower), whether common or preferred.

"Casualty Occurrence": any of the following events in respect of the Facility, (i) any material loss of the Facility or material loss of use thereof which does not constitute a Loss Event, or (ii) the condemnation, confiscation or seizure of, or requisition of title to or use of, any material part of the Facility which action does not constitute a Loss Event.

"CERCLA": the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 et.seq. and its implementing regulations and amendments.

"CERCLIS": the Comprehensive Environmental Response Compensation and Liability Inventory System established pursuant to CERCLA.

"Change of Control": the earlier of (i) the date of public announcement, or a filing with the Securities and Exchange Commission of the Securities and Exchange Act of 1934, as amended, (the "1934 Act"), by an Acquiring Person to the effect that such Acquiring Person has become such or (ii) the determination by the Guarantor that an Acquiring Person has become such; "Acquiring Person" shall mean any Person who, or which, together with all Affiliates and Associates of such Person, shall be the Beneficial Owner of Voting Stock constituting a Controlling Block; "Person" shall mean any individual, firm, corporation or other entity;

"Affiliate" and "Associate" shall have the respective meanings ascribed to such terms in Rule 12b-2 of the General Rules and Regulations under the 1934 Act, as in effect on the date of the Lease; "Beneficial Owner" shall have the meaning ascribed to such term in Rule 13d-3 of the General Rules and Regulations under the 1934 Act, as in effect on the date of the Lease; "Controlling Block" shall mean a number of shares of Voting Stock which possess more than 50 percent of the aggregate voting power of Voting Stock then outstanding; and "Voting Stock" shall mean all securities of the Guarantor or any entitling the owner or holder thereof to vote for the election of directors of the Guarantor, other than upon the happening of a default or contingency.

"Change of Law": as defined in Section 27(b) of the Lease.

"Closing Date": December 3, 2001.

"Code": the Internal Revenue Code of 1986, as amended, and any successor Federal tax code.

"Collateral": as defined in Section 26 of the Lease.

"Co-Lessee": as defined in Section 21(b) of the Lease.

"Commitment": an amount equal to the Lessor's Commitment set forth on the signature page of the Lease (or in an assignment executed by the Lessor pursuant to Section 21(d) of the Lease), as it may be reduced at the request of the Lessee in accordance with Section 3(c) of the Lease.

"Commitment Fee": as defined in Section 4(b) of the Lease.

"Commitment Fee Rate": a rate per annum equal to 0.25%.

"Consolidated Subsidiary": a Subsidiary, the accounts of which are customarily consolidated with those of the Guarantor for the purpose of reporting to stockholders of the Guarantor or, in the case of a recently acquired Subsidiary, the accounts of which would, in accordance with the Guarantor's regular practice, be so consolidated for that purpose.

"Controlled Group": all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Guarantor, are treated as a single employer under Section 414 of the Code.

"Debt": at any time obligations under capitalized leases and debt created, issued, guaranteed (whether directly, or indirectly by way of agreement, contingent or otherwise, to purchase, to provide funds for payment, to supply funds to or otherwise invest in the debtor, or otherwise to assure the creditor against loss), incurred or assumed for money borrowed or for the deferred (for 91 days or more) purchase price of property or services purchased, excluding, however, accounts payable (other than for borrowed money or for such deferred purchase price) and accrued expenses incurred in the ordinary course of business, provided that the same are not

overdue in a material amount of, if overdue, are being contested in good faith and by appropriate proceedings.

"Deed of Trust": as defined in Section 26 of the Lease.

"Default": any condition or event that constitutes an Event of Default or that with the giving of notice or the lapse of time or both would, unless cured or waived, become an Event of Default.

"Default Rate": with respect to any amount payable under the Lease or under any of the other Operative Documents on any day, the sum of 2% plus the Adjusted LIBO Rate or Modified Adjusted LIBO Rate, as then in effect.

"Dollars" and "\$": dollars in lawful currency of the United States of America.

"Environmental Assessment": collectively, a Phase 1 investigation conducted by an independent engineering firm reasonably acceptable to the Lessor in scope and substance satisfactory to the Lessor and in any event satisfying the minimum standards set forth in ASTM E 1527-00, and, if recommended in or indicated by the Phase 1 environmental report, a Phase 2, environmental soil test or other environmental report or reports, reflecting compliance of the Facility in all material respects with all applicable Environmental Requirements.

"Environmental Authority": any foreign, federal, state, local or regional Governmental Authority that exercises any form of jurisdiction or authority under any Environmental Requirement.

"Environmental Authorizations": all licenses, permits, orders, approvals, notices, registrations or other legal prerequisites for conducting the business of the Lessor, the Guarantor or any Subsidiary, or for the uses and activities of, on or relating to the Facility, required by any Environmental Requirement.

"Environmental Damages": any and all claims, losses, costs, damages, penalties and expenses which are incurred at any prior or subsequent time as a result of the existence or release of Hazardous Materials upon, about or beneath the Facility or migrating or threatening to migrate to or from the Facility, or the existence of a violation of Environmental Requirements pertaining to the Facility, regardless of whether the existence of such Hazardous Materials or the violation of Environmental Requirements arose prior to the present ownership or operation of the Facility.

"Environmental Judgments and Orders": all Judgments arising from or in any way associated with any Environmental Requirements, whether or not entered upon consent or written agreements with an Environmental Authority or other entity arising from or in any way associated with any Environmental Requirement, whether or not incorporated in a Judgment.

"Environmental Liabilities": any liabilities or Liens, whether accrued, contingent or otherwise, arising from and in any way associated with any Environmental Requirements.

"Environmental Notices": notice from any Environmental Authority or by any other Person, of possible or alleged noncompliance with or liability under any Environmental Requirement, including without limitation any complaints, citations, demands or requests from any Environmental Authority or from any other person or entity for correction of any violation of any Environmental Requirement or any investigations concerning any violation of any Environmental Requirement.

"Environmental Proceedings": any judicial or administrative proceedings arising from or in any way associated with any Environmental Requirement.

"Environmental Release": any actual or threatened release defined in CERCLA or under any state or local environmental law or regulation.

"Environmental Requirements": any statute, rule, regulation, ordinance, permit, license administration or judicial decision or order (whether by consent or otherwise) or the requirement of law with respect to: (i) the protection of human health and/or the environment; (ii) the existence, handling, use, generation, treatment, storage, packaging, labeling, removal or Environmental Release of Hazardous Materials on, under, about and/or from the Facility; and (iii) the effects on the environment of any activity now, previously, or hereinafter conducted on the Facility. The Environmental Requirements shall include, but not be limited to, the following: CERCLA; the Superfund Amendments and Reauthorization Act, Public Law 99-499, 100 Stat. 1613; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251, et seq.; the Clean Air Act, 42 U.S.C. §§ 7401, et seq.; the Occupational Safety and Health Act, 29 U.S.C. §§ 651, et seq.; the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §§ 11001, et seq.; the state and local analogies thereto, all as amended or superseded from time to time; and any applicable common-law doctrine, including but not limited to, negligence, nuisance, strict liability, trespass, personal injury, or property damage related to or arising out of the presence, Environmental Release or exposure to a Hazardous Material; and all federal, state and local ordinances, regulations, orders, writs and decrees.

"Equipment": (i) the Specific Equipment, (ii) the Additional Equipment, and (iii) any replacements or substitutions of any of the foregoing.

"Equipment Cost": (i) for the Specific Equipment, an amount equal to the Specific Equipment Purchase Price, including the portion thereof which has been funded as of the Initial Funding Date (which shall be deemed to have been advanced on the Initial Funding Date by the Lessor pursuant to Section 3(a)), and the amount of Advances made during the Acquisition Period for the payment of the remaining balance due for the acquisition of the Specific Equipment and (ii) for the Additional Equipment, the amount of Advances made during the Acquisition Period for the Additional Equipment.

"ERISA": the Employee Retirement Income Security Act of 1974, as amended from time to time, or any successor law and the regulations promulgated and rulings issued from

time to time thereunder. Any reference to any provision of ERISA shall also be deemed to be a reference to any successor provision or provisions thereof.

"Eurocurrency Liabilities": as defined in Regulation D.

"Eurodollar Reserve Percentage": for any day the percentage (expressed as a decimal) that is in effect on such day, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the maximum reserve requirement for a member bank of the Federal Reserve System in respect of Eurocurrency Liabilities (or in respect of any other category of liabilities which includes deposits by reference to which the interest rate on loans made at the LIBO Rate is determined or any category of extensions of credit or other assets which includes loans by a non-United States office of the Lessor to United States residents). The Adjusted LIBO Rate or Modified Adjusted LIBO Rate shall be adjusted automatically on and as of the effective date of any change in the Eurodollar Reserve Percentage.

"Event of Default": as defined in Section 17 of the Lease.

"Facility": the collective reference to (i) the Lessor's fee simple estate in the Site, (ii) the Improvements, (iii) the Equipment and (iv) all plans, specifications, warranties and related rights and operating, maintenance and repair manuals related thereto and all replacements of any of the above.

"Facility Cost": an aggregate amount equal to the lesser of: (i) the sum of (a) all costs associated with the Lessor's acquisition of a fee simple estate in the Site and of title to the Improvements and any refinancing thereof, (b) the Equipment Cost of the Equipment and (c) all Capitalized Expenses to be provided by the Lessor; and (ii) \$13,500,000 (of which \$11,985,466 is for the Site and the Improvements).

"Federal Funds Rate": for any day, the rate per annum (rounded upward, if necessary, to the next higher 1/100th of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day, provided that (i) if the day for which such rate is to be determined is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day, and (ii) if such rate is not so published for any day, the Federal Funds Rate for such day shall be the average rate charged to the Lessor on such day on such transactions, as determined by the Lessor.

"Final Rent Payment": an amount determined as of the date payment thereof is required equal to the sum of (i) the portion of the Unrecovered Facility Cost constituting the Recourse Amount, plus (ii) all other amounts owing by the Lessee under the Operative Documents (including in any event all unpaid Impositions accrued, arising or payable in connection with the Facility or otherwise pursuant to the Lease through or as at the end of the Lease Term, and all unpaid Supplemental Rent, but excluding in any event the Non-Recourse Amount).

"Fiscal Quarter": any fiscal quarter of the Lessee.

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"Fiscal Year": any fiscal year of the Lessee.

"Funded Amount": the aggregate amount of Facility Cost, accrued and unpaid Rent and all other amounts owed by the Lessee to the Lessor pursuant to this Lease or any other Operative Document.

"Funding Office": the funding office of the Lessor (or an affiliate of the Lessor) designated for any Advance on the signature pages of the Lease (or in an assignment executed by the Lessor pursuant to Section 21(d) of the Lease) or such other offices of the Lessor (or of an affiliate of the Lessor) as the Lessor may from time to time specify to the Lessee as the office from which its Advances are to be made and maintained.

"GAAP": generally accepted accounting principles in the United States of America applied on a basis consistent with those which, in accordance with Section 1(c) of the Lease, are to be used in making the calculations for purposes of determining compliance by the Guarantor with the provisions of the Operative Documents applicable thereto.

"Governmental Authority": to include the country, state, county, city and political subdivisions in which any Person or any such Person's property is located or that exercises valid jurisdiction over any such Person or any such Person's property, and any court, agency, department, commission, board, bureau or instrumentality of any of them including monetary authorities that exercise valid jurisdiction over any such Person or any such Person's property. Unless otherwise specified, all references to Governmental Authority herein shall mean a Governmental Authority having jurisdiction over, where applicable, the Lessee, the Guarantor, the Site, the Facility, the Lessor, any Funding Office or any Operative Document.

"Governmental Requirement": any law, statute, code, ordinance, order, determination, regulation, judgment, injunction, franchise, permit, certificate, license, authorization or other direction or requirement (having the force of law), including, without limitation, Environmental Requirements, and occupational, safety and health standards or controls, of any Governmental Authority.

"Grantor": as defined in Section 26 of the Lease.

"Guarantee": with respect to any Person, any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt or other obligation of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (i) to secure, purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation of such other Person (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to provide collateral security, to take-or-pay, or to maintain financial statement conditions or otherwise) or (ii) entered into for the purpose of assuring in any other manner the obligee of such Debt or other obligation of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part), provided that the term

Guarantee shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" used as a verb has a corresponding meaning.

"Guarantor": Cooper Industries, Inc., an Ohio corporation, together with its successors and permitted assigns.

"Guaranty": the Guaranty of even date herewith, executed by the Guarantor in favor of the Lessor, pursuant to which the Guarantor unconditionally guarantees all obligations of the Lessee under the Operative Documents (as the same may be amended, modified or supplemented from time to time).

"Hazardous Materials": to include, without limitation, (a) solid or hazardous waste, as defined in the Resource Conservation and Recovery Act of 1980, 42 U.S.C. § 6901 et seq. and its implementing regulations and amendments, or in any applicable federal, state or local law or regulation, (b) "hazardous substance", "pollutant", or "contaminant" as defined in CERCLA, or in any applicable state or local law or regulation, (c) gasoline, or any other petroleum product or by-product, including, crude oil or any fraction thereof, (d) insecticides, fungicides, or rodenticides, as defined in the Federal Insecticide, Fungicide, and Rodenticide Act of 1975, or in any applicable state or local law or regulation, as each such Act, statute or regulation may be amended from time to time, or (e) any toxic or hazardous materials, wastes, polychlorinated biphenyls ("PCBs"), lead-containing materials, asbestos or asbestos-containing materials, urea formaldehyde, radioactive materials, pesticides, the discharge of sewage or effluent, or any other materials or substances defined as or included in the definition of "hazardous materials," "hazardous waste," "contaminants" or similar terms under any Environmental Requirement.

"Highest Lawful Rate": with respect to the Lessor, the maximum non-usurious Rent rate that at any time or from time to time may be contracted for, taken, reserved, charged or received with respect to any amounts owing hereunder under laws applicable to the Lessor which are presently in effect or, to the extent allowed by law, under such applicable laws which may hereafter be in effect and which allow a higher maximum non-usurious Rent rate than applicable laws now allow.

"Impositions": without duplication, as to any Person, (i) all Taxes, assessments, levies, fees, water and sewer rents and charges, inspection fees and other authorization fees and all other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of every character (including all penalties and interest thereon) that, at any time prior or subsequent to the Closing Date, are imposed or levied upon or assessed against or may be or constitute a Lien upon such Person or such Person's Property, or that arise in respect of the ownership, operation, occupancy, possession, use, non-use, condition, leasing or subleasing of such Person's Property; (ii) all charges, levies, fees, rents or assessments for or in respect of utilities, communications and other services rendered or used on or about such Person's Property; (iii) payments required in lieu of any of the foregoing; but excluding any penalties or fines imposed on the Lessor for violation by it of any banking laws or securities law; and (iv) any and all taxes, recording fees and other charges (including penalties and interest) relating to or arising out of the execution, delivery or recording of any of the Operative Documents for the amounts

evidenced, secured or referred to be paid thereby, including without limitation, documentary stamp taxes, intangible taxes, recording fees and sales and rent taxes.

"Improvements": collectively, the 435,000 square foot warehouse building and existing improvements located on the Site, together with all accessions thereto and replacements thereof, and all fixtures now or hereafter included in or attached to the Site, the building and such improvements and modifications, but excluding the Site.

"Indemnified Party": as defined in Section 31(j)(i) of the Lease.

"Indemnified Risks": as defined in Section 31(j)(i) of the Lease.

"Initial Funding Date": the Closing Date, or such later date on which the conditions precedent set forth in Sections 28(a) and (b) of the Lease have been satisfied.

"Insurance Requirements": all terms of any insurance policy (including, without limitation, casualty and general liability) covering or applicable to the Facility or any part thereof maintained in accordance with Section 14 of the Lease, and all requirements of the issuer of any such policy.

"Investment": any investment in any Person, whether by means of purchase or acquisition of obligations or securities of such Person, capital contribution to such Person, loan or advance to such Person, making of a time deposit with such Person, Guarantee or assumption of any obligation of such Person or otherwise.

"Judgment": any judgment, decree, writ, order, determination, injunction, rule or other requirement of any arbitrator or any court, tribunal or other direction or requirement of court, tribunal or other Governmental Authority.

"Lease": the Lease Agreement to which this Schedule 1(a) is attached (as the same may be amended, modified or supplemented from time to time, between the Lessee and the Lessor.

"Lease Commencement Date": the Closing Date.

"Lease Supplement": with respect to any Equipment other than the Specific Equipment, a Lease Supplement in substantially the form of Exhibit D to the Lease, and containing the information required thereby.

"Lease Term": the period of time commencing on the Lease Commencement Date and ending on the Lease Termination Date.

"Lease Termination Date": the earlier to occur of (i) the Option Date, (ii) the Cancellation Date (iii) the date of termination as a result of a Termination Event and (iv) the Scheduled Lease Termination Date.

"Lessee": as defined in the initial paragraph of the Lease.

"Lessor": as defined in the initial paragraph of the Lease.

"LIBOR Loss Amount": the amount that the Lessor determines in good faith to be its total losses and costs (if any), including any loss of bargain, cost of funding, or, at the election of the Lessor (but without duplication), any loss or cost incurred as a result of its terminating, liquidating, obtaining, or re-establishing any hedge or related trading position entered into by the Lessor in respect of the Lease for any Rental Period. No LIBOR Loss Amount will be due if the Lessor determines that its LIBOR Loss Amount is less than or equal to zero. The Lessor may, but need not, determine the LIBOR Loss Amount by reference to quotations or relevant rates or prices from one or more leading dealers in the relevant markets.

"LIBO Rate": with respect to any Basic Rent for the applicable Rental Period therefor or, during the Basic Term, for any 2 consecutive Rental Periods, at the option of the Lessee, if so elected pursuant to a notice to the Lessor received by the Lessor at least 2 Business Days prior to the first day of the first such Rental Period, the rate per annum determined on the basis of the offered rate for deposits in Dollars of amounts equal or comparable to the amount of such Basic Rent offered for a term comparable to such Rental Period or 2 consecutive Rental Periods, as applicable, which rates appear on Telerate Page 3750 as of 11:00 A.M., London time, 2 Business Days prior to the first day of such Rental Period, provided that (i) if more than one such offered rate appears on Dow Jones Markets, Inc. Page 3750, the "LIBO Rate" will be the arithmetic average of such offered rates; (ii) if no such offered rates appear on such page, the "LIBO Rate" for such Rental Period will be the arithmetic average (rounded upward, if necessary, to the next higher 1/100th of 1%) of rates quoted by not less than two major banks in New York City, selected by the Lessee, at approximately 10:00 A.M., New York City time, 2 Business Days prior to the first day of such Rental Period, for deposits in Dollars offered to leading European banks for a period comparable to such Rental Period or 2 consecutive Rental Periods, as applicable, in an amount comparable to the amount of such Basic Rent.

"Lien": with respect to any asset, any mortgage, deed to secure debt, deed of trust, lien, pledge, charge, security interest, security title, preferential arrangement which has the practical effect of constituting a security interest or encumbrance, or encumbrance or servitude of any kind in respect of such asset to secure or assure payment of a Debt or a Guarantee, whether by consensual agreement or by operation of statute or other law, or by any agreement, contingent or otherwise, to provide any of the foregoing. For the purposes of this definition, the Lessee or any Subsidiary shall be deemed to own subject to a Lien any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

"Loss Event": any of the following events in respect of the Facility: (i) the total loss of the Facility or the total loss of use thereof due to theft, disappearance, destruction, damage beyond repair or rendition of the Facility permanently unfit for normal use for any reason whatsoever; (ii) any damage to the Facility which results in an insurance settlement with respect to the Facility on the basis of a total loss; (iii) the permanent condemnation, confiscation or seizure of, or requisition of title to or use of, all or substantially all of the Facility including,

but not limited to, a permanent taking by eminent domain of such scope that the untaken portion of the Facility is insufficient to permit the restoration of the Facility for continued use in the Lessee's business or that causes the remaining portion of the Facility to be incapable of being restored to a condition that would permit the remaining portion of the Facility (without the portion of the Facility taken by eminent domain) to continue to have the capacity and functional ability to perform on a continuing basis (subject to normal interruptions in the ordinary course of business for maintenance, inspection, service, repair and testing) and in commercial operation, the function for which the Facility (as a whole) was designed or a temporary taking of such nature for a period exceeding 180 consecutive days; or (iv) the occurrence of any event or the discovery of any condition in, on, beneath or involving the Facility or any part thereof (including, but not limited to the presence of hazardous substances or the violation of any applicable Environmental Requirement) that would have a material adverse effect on the use, occupancy, possession, condition, value or operation of the Facility or any part thereof, which event or condition requires remediation (A) the cost of which is anticipated, in the opinion of the Lessor, in consultation with an independent environmental engineering firm, to exceed 15% of the Termination Value, and (B) that could not reasonably be expected to be completed substantially in its entirety prior to the date that is 30 days prior to the then-applicable Scheduled Lease Termination Date or is not actually completed substantially in its entirety on or before the date that is 30 days prior to the then-applicable Scheduled Lease Termination Date.

"Margin Stock": "margin stock" as defined in Regulations U.

"Material Adverse Effect": with respect to any event, act, condition or occurrence of whatever nature (including any adverse determination in any litigation, arbitration, or governmental investigation or proceeding), whether singly or in conjunction with any other event or events, act or acts, condition or conditions, occurrence or occurrences, whether or not related, a material adverse change in, or a material adverse effect upon, any of (a) the financial condition, operations, business, or properties of the Guarantor and its Consolidated Subsidiaries taken as a whole, (b) the rights, powers and remedies of the Lessor under the Operative Documents, or the ability of the Lessee (in its capacity as such or in its capacity as Acquisition Agent) or the Guarantor to perform its respective obligations under the Operative Documents to which it is a party, as applicable, (c) the legality, validity or enforceability of any Operative Document, or (d) the use, occupancy, possession, condition, value or operation of the Facility.

"Material Subsidiary": each Subsidiary which has contributed five percent or more of the consolidated revenues of the Guarantor and the Subsidiaries for the Fiscal Year most recently ended.

"Modified Adjusted LIBO Rate": with respect to any Rental Period during the Acquisition Period, a rate per annum equal to the quotient obtained (rounded upwards, if necessary, to the next higher 1/100th of 1%) by dividing (i) the LIBO Rate for such Rental Period, by (ii) 1.00 minus the Eurodollar Reserve Percentage.

"Mortgaged Property": as defined in Section 26 of the Lease.

"Net Income" means, as applied to any Person for any period, the aggregate amount of net income of such Person, after taxes, for such period, as determined in accordance with GAAP. P BK 9a PG 283

"Net Worth": at any time shareholders' equity on a consolidated basis determined in accordance with GAAP.

"Non-Recourse Amount": at any time an amount equal to means at any time an amount equal to 11.9% of the aggregate original Facility Cost for the Facility, as such amount may be modified pursuant to Section 3(b) of the Lease as a result of an Approved Appraisal.

"Operative Documents": collectively, the Lease, the Agency Agreement, the Guaranty and any and all other agreements or instruments now or hereafter executed and delivered, or required to be executed and delivered, by the Lessor or the Lessee in connection with the Lease or the Agency Agreement, or by the Guarantor in connection with the Guaranty as such agreements or instruments may be amended, supplemented, renewed, extended, increased or otherwise modified from time to time.

"Operating Earnings": consolidated earnings of the Guarantor and the Consolidated Subsidiaries before income taxes, interest expense and general corporate expenses, determined in accordance with generally accepted accounting principles and practices applied in a consistent manner, except that unrealized appreciation in the value of investment in, and undistributed earnings of, Subsidiaries not consolidated will not be included.

"Operating Lease": the Lease Agreement dated October 11, 2001 between the Seller, as lessor, and the Lessee, as lessee, pertaining to the Site and the Improvements.

"Option Date": as defined in Section 15(c) of the Lease.

"Other Transaction Expenses": as defined in Section 15(f)(i)(1) of the Lease.

"Party": as defined in Section 31(k) of the Lease.

"PBGC": the Pension Benefit Guaranty Corporation or any successor thereto.

"Permit": any approval, consent, waiver, exemption, variance, franchise, order, permit, authorization, right or license of or from any Governmental Authority or other Person.

"Permitted Insurers": insurers with ratings of A or better and Class VIII or better according to Best's Insurance Reports, or other insurers acceptable to the Lessor.

"Permitted Liens": (i) with respect to any Property other than the Lease or the Facility, any of the Liens permitted by the terms of Section 30(p) of the Lease, and (ii) with respect to the Facility or any part thereof, any of the following:

(a) rights reserved to or vested in any Governmental Authority by the terms of any right, power, franchise, grant, license, permit or provision of law affecting the Facility to (1) terminate, or take any other action which has the effect of modifying, such right, power, franchise, grant, license, permit or provision of law, provided that such termination or other action, when taken, shall not have resulted in a Loss Event and shall not have had, in the reasonable opinion of the Lessee, a Material Adverse Effect, or (2) purchase, condemn, appropriate or recapture, or designate a purchaser of, the Facility;

(b) any Liens thereon for Impositions or Taxes and any Liens of mechanics, materialmen and laborers for work or services performed or materials furnished or arising in the ordinary course of the Lessee's business which (1) are not overdue, or (2) are being contested in good faith in the manner described in Section 13 of the Lease;

(c) Liens of mechanics, materialmen and laborers for work or services performed or materials furnished (1) existing during the Acquisition Period and (2) in an aggregate amount not to exceed \$250,000 at any time;

(d) rights reserved to or vested in any Governmental Authority to control or regulate the use of such Property or to use the Facility in any manner;

(e) in the case of the Site, encumbrances, easements, and other similar rights, other than Liens of any kind to secure or assure payment of a Debt or a Guarantee, existing on the Closing Date the existence or exercise of which do not, in the reasonable opinion of the Lessee, have a Material Adverse Effect;

(f) any Liens created in favor of the Lessor under this Lease or any of the other Operative Documents and any financing statements filed in connection therewith; and

(g) other Liens, other than Liens of any kind to secure or assure payment of a Debt or a Guarantee, incidental to the conduct of its business or the ownership of its property, and which do not in the aggregate materially detract from the value of its property or assets or materially impair the use thereof in the operation of its business.

"Permitted Use": with respect to the Facility, the occupation and use of the Site and the Improvements as a warehouse building in compliance with all applicable Governmental Requirements and Insurance Requirements.

"Person": an individual, a corporation, a limited liability company, a partnership, an unincorporated association, a trust or any other entity or organization, including, but not limited to, a government or political subdivision or other Governmental Authority.

"Plan": at any time an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and is either (i) maintained by a member of the Controlled Group for employees of any member of the Controlled Group or (ii) maintained pursuant to a collective bargaining agreement or any other arrangement under which more than one employer makes contributions and to which a member

of the Controlled Group is then making or accruing an obligation to make contributions or has within the preceding 5 plan years made contributions.

"Pre-Lease Agency Agreement": the Acquisition and Agency Agreement regarding Specific Equipment dated as of September 21, 2001 between the Lessee, as Company and Acquisition Agent and the Lessor.

"Prime Rate": that rate of interest so denominated and set by Wachovia Bank from time to time as an interest rate basis for borrowings. The Prime Rate is but one of several interest rate bases used by Wachovia Bank, and is set by Wachovia Bank as a general reference rate of interest, taking into account such factors as Wachovia Bank may deem appropriate, it being understood that many of Wachovia Bank's commercial or other loans are priced in relation to such rate, that it is not necessarily the lowest or best rate actually charged to any customer and that Wachovia Bank may make various commercial or other loans at rates of interest having no relationship to such rate.

"Property": any kind of property or asset, whether real, personal or mixed, or tangible or intangible, and any interest therein.

"Purchase Closing Date": as defined in Section 15(e) of the Lease.

"Recourse Amount": at any time the excess of (i) the Unrecovered Facility Cost over (ii) the Non-Recourse Amount.

"Redeemable Preferred Stock": of any Person means any preferred stock issued by such Person which is at any time prior to the Scheduled Lease Termination Date either (i) mandatorily redeemable (by sinking fund or similar payments or otherwise) or (ii) redeemable at the option of the holder thereof.

"Regulation A" Regulation A of the Board of Governors of the Federal Reserve System, as in effect from time to time, together with all official rulings and interpretations issued thereunder.

"Regulation D": Regulation D of the Board of Governors of the Federal Reserve System, as in effect from time to time, together with all official rulings and interpretations issued thereunder.

"Regulation T": Regulation T of the Board of Governors of the Federal Reserve System, as in effect from time to time, together with all official rulings and interpretations issued thereunder.

"Regulation U": Regulation U of the Board of Governors of the Federal Reserve System, as in effect from time to time, together with all official rulings and interpretations issued thereunder.

"Regulation X": Regulation X of the Board of Governors of the Federal Reserve System, as in effect from time to time, together with all official rulings and interpretations issued thereunder.

"Related Contract": any agreement, contract, bill of sale, receipt or Vendor's warranty relating to or for the purchase, acquisition, design, engineering, testing, manufacture, renovation, assembly, construction or installation of the Facility or any part thereof or the provision of enhancements and improvements to the Facility, or otherwise in connection with the acquisition, ownership, use, operation or sale or other disposition of the Facility, made, entered into or received by the Acquisition Agent on behalf of the Lessor pursuant to the Agency Agreement with or from one or more Vendors or other Persons, including, without limitation, all contracts, bills of sale, receipts and Vendor's warranties.

"Rent": Basic Rent, Supplemental Rent and the Final Rent Payment, collectively.

"Rental Period": (i) with respect to Basic Rent during the Acquisition Period, the period commencing on the Lease Commencement Date and ending on the first Rent Payment Date occurring after the Lease Commencement Date and, thereafter, each subsequent period commencing on each Rent Payment Date and ending on the next Rent Payment Date, or on the last day of the Acquisition Period, whichever is first, and (ii) with respect to Basic Rent during the Basic Term, the period beginning on the last day of the Acquisition Period and ending on the first Rent Payment Date occurring after the last day of the Acquisition Period and, thereafter, each subsequent period commencing on each Rent Payment Date and ending on the next Rent Payment Date or on the Lease Termination Date.

"Rent Payment Date": (i) with respect to Basic Rent during the Acquisition Period, the date which is 1 month after the Lease Commencement Date and, thereafter, the date which is 1 month after the immediately preceding Rent Payment Date, or the last day of the Acquisition Period, whichever is first, and (ii) with respect to Basic Rent during the Basic Term, each March 31st, June 30th, September 30th and December 31st of each year, commencing on the first such date occurring after the last day of the Acquisition Period, and the Lease Termination Date.

"Restoration Account": the interest bearing account maintained with the Lessor pursuant to Section 14(c) of the Lease and styled the "Restoration Account".

"Restricted Payment": (i) any dividend or other distribution on any shares of the Lessee's Capital Stock (except dividends payable solely in shares of its Capital Stock) or (ii) any payment on account of the purchase, redemption, retirement or acquisition of (a) any shares of the Lessee's Capital Stock (except shares acquired upon the conversion thereof into other shares of its Capital Stock) or (b) any option, warrant or other right to acquire shares of the Lessee's Capital Stock.

"Secured Amount": as defined in Section 26 of the Lease.

"Scheduled Amount": as defined in Section 4(a) of the Lease.

"Scheduled Lease Termination Date": the date that is 5 years after the last day of the Acquisition Period, or such later date to which it may be extended subject and pursuant to the provisions of Section 2(b) of the Lease.

"Seller": Industrial Developments International, Inc., a Delaware corporation.

"Specific Equipment": the Specific Equipment, as defined in the Pre-Lease Agency Agreement, which is more particularly described in Schedule 1(b) to the Lease.

"Specific Equipment Purchase Price": the "Purchase Price", as defined in the Pre-Lease Agency Agreement.

"Site": as defined in the Recitals to the Lease.

"Sublessee": as defined in Section 21(c) of the Lease.

"Subsidiary": any corporation or other entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by the Guarantor.

"Supplemental Rent": as defined in Section 3(d) of the Lease.

"Support Expenses": as defined in Section 3.2(l) of the Agency Agreement.

"Survey": a current ALTA-ACSM as-built survey of the Site and any existing improvements from a registered surveyor in form and substance satisfactory to the Lessor, and containing such certifications as the Lessor may request.

"Taxes": as defined in Section 4(f) of the Lease.

"Termination Event": as defined in Section 15(a) of the Lease.

"Termination Value": at any time of determination, an amount equal to the sum of (i) the excess of (a) the aggregate Facility Cost over (b) the sum of all Scheduled Amounts and any prepayments of Facility Cost theretofore made to the Lessor plus (ii) all accrued, unpaid fees, Basic Rent and Supplemental Rent, plus (iii) without duplication, all unpaid Impositions payable in connection with the purchase of the Facility pursuant to Section 14(d) of the Lease or pursuant to any provision of Section 15 of the Lease, plus, (iv) all other amounts owing by the Lessee under the Operative Documents, including the LIBOR Loss Amount, if applicable, pursuant to Section 27(e) of the Lease.

"Third Party": any Person other than (i) the Lessor, (ii) the Lessee, (iii) the Guarantor or (iv) any Affiliate of either of them.

"Total Capitalization": at any time the sum of Debt and Net Worth.

"Trustee": as defined on the cover page of the Lease.

"Unrecovered Facility Cost": at any time the sum of the aggregate original Facility Cost, less (i) the aggregate amount of all Scheduled Amounts and (ii) the aggregate amount of payments of Facility Cost (whether by virtue of any voluntary pre-payment by the Lessee, payment of the Final Rent Payment, exercise of rights, powers and remedies or otherwise), in each case received by the Lessor.

"UCC": the Uniform Commercial Code as enacted in the State of Mississippi and any other jurisdiction whose laws may be mandatorily applicable.

"Vendor": any designer, supplier, manufacturer or installer of, or provider of Property or services with respect to, the Facility or any Property included therein or any part thereof.

"WCII": as defined in the initial paragraph of the Lease.

"Wachovia Bank": Wachovia Bank, N.A., a national banking association, in its individual capacity, and its successors.

"Wholly Owned Subsidiary": any Subsidiary all of the shares of capital stock or other ownership interests of which (except directors' qualifying shares) are at the time directly or indirectly owned by the Guarantor.

## SCHEDULE 1(b)

## Description of Specific Equipment

<u>Quantity</u>	<u>Description</u>
2,016	276" X 42" Steel King Uprights
19,150	102" X 4" Steel King Beams
336	132" X 4" Str Beams
19,088	42" Pallet Supports
10,000	42" X 50" Wire Decks
1,632	102" Pallet Stops
48	132" Pallet Stops
1,728	8" Row Spacers
576	10" Row Spacers
576	22" Row Spacers

## SCHEDULE 14

P. BK 92 PG 290

## Insurance Requirements

The Lessee will provide, or cause to be provided, insurance in accordance with the terms of this Schedule, which insurance shall be placed and maintained with Permitted Insurers.

(a) Insurance Coverages and Limits. At all times subsequent to the Lease Commencement Date, the Lessee shall provide, or cause to be provided, the following property and liability coverages with respect to the Facility:

(i) all-risk property coverage, with limits of coverage at least equal to the replacement cost (which limits shall be not less than \$11,000,000.00 for the Facility), which insurance coverage may, at the Lessee's option, be included under any "blanket" policy maintained by Lessee so long as such "blanket" policy provides for all-risk property coverage with respect to the Facility and any other Property covered thereby, with limits of coverage at least equal to the aggregate replacement cost of the Facility (provided, however, that such insurance, in either case, shall provide for replacement cost coverage, provided that the insured property is replaced, and, provided further, that the insurance shall not have the effect of causing the Lessee or any of its Affiliates to be deemed a co-insurer), with respect to the Lessee and any Affiliate of the Lessee providing services with respect to the Facility, or if the Lessee elects to effect the coverage required by this Paragraph under a "blanket" policy, the Lessee and its Affiliates insured thereby, such insurance to include, coverage for (x) floods, windstorms, hurricanes, tornadoes, earthquakes, collapse and other perils (including debris removal and cleanup) and such insurance to cover equipment separated from the Facility, transit of equipment and consumables to and from the Site, labor claims, in each case with respect to the Facility, and such insurance to include coverage for all other risks and occurrences customarily included under all-risk policies available with respect to Property similar in installation, location and operation to the Facility (or the Facility and all other Property insured thereby if all are covered under a "blanket" policy), and (y) "boiler and machinery" property damage insurance on a comprehensive basis with respect to damage to the machinery, plants, equipment or similar apparatus (including production machinery) included in the Facility (or the Facility and all other Property insured thereby if all are covered under a "blanket" policy), from risks and in amounts normally insured against under machinery policies.

(ii) (1) statutory workers' compensation and occupational disease insurance in accordance with applicable state and federal law, and employer's liability insurance with primary and excess coverage limits of not less than \$1,000,000.00;

(2) commercial general liability insurance covering operations of the Lessee, contractual liability coverage, cross-liabilities coverage, and other coverage for hazards customarily insured with respect to Property similar in construction, location, occupancy and operation to the Facility, with limits

complying with the underlying requirements of the excess liability policy described in Paragraph (a)(ii)(3);

(3) excess commercial liability insurance in excess of the liability policies described in Paragraphs (a)(ii)(1) and (2) to bring to limits of not less than \$5,000,000.00 for each occurrence and in the aggregate per year with respect to the Lessee and its Affiliates.

(iii) Lessee shall be responsible for deductible amounts.

(b) Insurance Endorsements. Any insurance carried in accordance herewith shall, except as hereinafter permitted, provide or be endorsed to provide that:

(i) the Lessor, as its interests may appear, shall be included as additional insured or named as loss payee but only with respects coverages required by Paragraphs (a)(i), with the understanding that any obligation imposed upon the insured (including, without limitation, the liability to pay premiums) under any policy required by this Schedule shall be the obligation of the Lessee and its Affiliates) and not that of the Lessor;

(ii) except with respect to the coverage required by Paragraphs (a)(i) and (a)(ii), there shall be a cross-liability and severability of interest provision providing that to the extent the policy is written to cover more than one insured, all terms, conditions, insuring agreements and endorsements, with the exception of limits of liability and deductibles shall operate in the same manner as if there were a separate policy covering each insured;

(iii) such insurance required by Paragraph (a)(i) shall be primary without right of contribution of any other insurance carried by or on behalf of the Lessor with respect to its interests in the Facility; and

(iv) if such insurance is cancelled for any reason whatsoever (including, without limitation, nonpayment of premium) or any material change is made in the coverage that affects the interests of the Lessor, such cancellation or change shall not be effective as to the Lessor for 10 days for nonpayment of premiums and otherwise for 45 days, in both cases after receipt by the Lessor (at the address provided pursuant to Section 22 of the Lease) of written notice sent by mail from such insurer of such cancellation or change.

(c) Adjustment of Property Losses. After the occurrence and during the continuation of an Event of Default or after the occurrence of any other Cancellation Event or a Termination Event, the loss, if any, under any property insurance covering the Facility required to be carried by this Schedule shall be adjusted with the insurance companies or otherwise collected, including, without limitation, the filing of appropriate proceedings, by the Lessee in consultation with the Lessor.

(d) Upon request, the Lessee will furnish the Lessor evidence of such insurance relating to the Facility.

(e) Additional Insurance by the Lessor or the Lessee. Nothing in this Schedule shall prohibit the Lessor or the Lessee, as their respective interests may appear, from maintaining for their own account, at the expense of the Person purchasing such insurance, additional insurance on or with respect to the Facility, or any part thereof, with coverage exceeding that otherwise required under this Schedule, unless such insurance would conflict with or limit the insurance otherwise required under this Schedule.

Schedule 29(l)

P BK 92 PG 293

## Environmental Matters

Fluorescent Lamps: mercury (miniscule quantity of mercury-vapor contained within glass-tube envelope)

Mercury Vapor Lamps: mercury (miniscule quantity of mercury-vapor contained within a fused-silica arc-tube which in turn is contained within a glass outer bulb)

Metal Halide Lamps: miniscule quantity of amalgam of various metal halides and mercury for halogen- vapor contained within a fused-silica arc-tube which in turn is contained within a glass outer bulb

High Pressure Sodium Lamps: miniscule quantity of sodium and mercury amalgam for sodium/mercury vapor contained within a polycrystalline-alumina arc-tube which in turn is contained within a glass outer bulb

Forklift Batteries: lead and sulfuric acid

Batteries which are part of stored lighting products

- Sealed Lead Calcium Batteries: lead
- Sealed Nickel Cadmium Batteries: nickel and cadmium

Underground improvements such as sewer lines and other utilities are and have been located on the Site.

Matters disclosed in the Environmental Risk Evaluation dated October 5, 2001 prepared by National Assessment Corporation.

## SCHEDULE 29(r)

P BK 92 PG 294

## Subsidiaries

**Subsidiary Hierarchy Report**

11/1/2001

**\*Cooper Industries, Inc.**

Subsidiary	Owned by Parent
Alpha Lighting, Inc. (Delaware)	100%
Arrow-Hart, S.A. de C.V. * (Mexico)	14%
BZ Holdings Inc. (Delaware)	100%
Bussmann, S.A. de C.V. * (Mexico)	99%
CBE Services, Inc. (Delaware)	100%
CEAG Crouse-Hinds Asia Pacific Pte. Ltd. (Singapore)	100%
CEAG Norge AS (Norway)	100%
CEAG Nortem, S.A. (Spain)	100%
CI Finance Inc. (Delaware)	100%
CI Leasing Company (Delaware)	100%
Carlton Santee Corp. (California)	100%
Collins Associates Ltd.	100%

(British Virgin Islands)

Componentes de Iluminacion, S.A. de C.V. * (Mexico)	90%
Cooper (U.K.) Limited (Delaware)	100%
Cooper Asia, Inc. * (Delaware)	100%
Cooper B-Line, Inc. (Delaware)	100%
Cooper Brands, Inc. (Delaware)	100%
Cooper Electrical Products Mexico, Inc. (Delaware)	100%
Cooper Elektrische Ausrustungen GmbH * (Germany)	90%
Cooper European Finance, Inc. * (Delaware)	89%
Cooper Finance Ltd. (Bermuda)	100%
Cooper Finance, Inc. (Delaware)	100%
Cooper Industries (Canada) Inc. * (Ontario)	99%
Cooper Industries (U.K.) Limited (United Kingdom)	100%
Cooper Industries Australia Pty Limited (Australia)	100%
Cooper Industries Finance B.V. (Netherlands)	100%

Cooper Industries Foreign Sales Company, Limited (Barbados)	100%
Cooper Industries GmbH (Germany)	100%
Cooper Industries International Company (Delaware)	100%
Cooper Industries, Inc. (Delaware)	100%
Cooper Industries, Ltd. (Bermuda)	100%
Cooper International Company (Delaware)	100%
Cooper International Finance, Inc. * (Delaware)	80%
Cooper Italia S.p.A. * (Italy)	48%
Cooper Lighting Internacional, S. de R.L. de C.V. * (Mexico)	90%
Cooper Lighting de Mexico, S.A. de C.V. * (Mexico)	98%
Cooper Power Systems, S. de R.L. de C.V. * (Mexico)	89%
Cooper Power Tools de Mexico, S.A. de C.V. * (Mexico)	99%
Cooper Power Tools, Inc. (Delaware)	100%
Cooper Securities, Inc. (Texas)	100%
Cooper Technologies Company	100%

(Delaware)	
Cooper Tools Manufacturing, S. de R.L. de C.V. *	99%
(Mexico)	
Cooper Tools Mexico, Inc.	100%
(Delaware)	
Cooper Tools S.A. *	%
(France)	
Cooper Tools de Mexico, S. de R.L. de C.V. *	90%
(Mexico)	
Cooper Tools, Inc.	100%
(Delaware)	
Cooper Western Hemisphere Company	100%
(Delaware)	
Coopind Inc.	100%
(Delaware)	
Crouse-Hinds Domex, S.A. de C.V. *	100%
(Mexico)	
Crouse-Hinds de Venezuela, C.A.	100%
(Venezuela)	
Empresa Andina de Herramientas, S.A. *	49%
(Colombia)	
Erem S.A.	100%
(Switzerland)	
Gardner-Denver International, C.A.	100%
(Venezuela)	
Iluminacion Cooper de las Californias, S.A. de C.V.	99%
*	
(Mexico)	
Lufkin Europa B.V.	100%
(Netherlands)	

McGraw-Edison Company (Delaware)	100%
Nicholson Mexicana, S.A. de C.V. * (Mexico)	99%
The Cooper Group, Inc. (Delaware)	100%
Transmould Limited * (Ireland)	99%
WPC Corporation, Inc. (Delaware)	100%

\*Multiple Parents

## EXHIBIT A

P BK 92 PG 299

## Description of Site

All that tract or parcel of land lying and being in the NE Quarter of Section 24, Township 1 South, Range 8 West, City of Southaven, DeSoto County, Mississippi and being more particularly described as follows.

Commencing at a point being the recognized and accepted northeast corner of Section 24, Township 1 South, Range 8 West, Chickasaw Cession; thence South 00 Degrees 09 Minutes 32 Seconds West with the centerline of Airways Boulevard a distance of 859.49 feet to a point; thence South 89 Degrees 57 Minutes 51 Seconds West a distance of 53.00 feet to the True Point of Beginning; thence South 00 Degrees 09 Minutes 32 Seconds West with the west line of Airways Boulevard a distance of 675.48 feet to a point of curvature; thence southwesterly along a curve to the right having a radius of 35.00 feet a distance of 55.00 feet (chord = South 45 Degrees 10 Minutes 40 Seconds West 49.51 feet, Delta = 90 Degrees 02 Minutes 16 Seconds) to a point in the north line of Airport Industrial Drive (68 foot right-of-way); thence North 89 Degrees 48 Minutes 13 Seconds West with the north line of Airport Industrial Drive a distance of 1101.15 feet to a point of curvature; thence northwesterly along a curve to the right having a radius of 566.00 feet and with the north line of Airport Industrial Drive a distance of 187.38 feet (chord = North 80 Degrees 19 Minutes 09 Seconds West 186.53 feet, Delta = 18 Degrees 58 Minutes 06 Seconds) to a point of compound curve; thence northwesterly along a curve to the right having a radius of 35.00 feet with the north line of Airport Industrial Drive a distance of 43.39 feet (chord = North 35 Degrees 19 Minutes 08 Seconds West 40.67 feet, Delta = 71 Degrees 01 Minutes 55 Seconds) to a point in the east line of Marketplace Drive (68 foot right-of-way); thence North 00 Degrees 11 Minutes 49 Seconds East with the east line of Marketplace Drive a distance of 521.38 feet to an angle point in the east line of Marketplace Drive; thence North 00 Degrees 27 Minutes 34 Seconds West with the east line of Marketplace Drive a distance of 124.65 feet to a point in the south line of Parcel 1, The Market, First Revision as recorded in Plat Book 30, Page 24; thence South 89 Degrees 49 Minutes 53 Seconds East along the south line of Parcel 1, The Market, First Revision and the Davis Property as described in Book 332 Page 722 a distance of 1344.73 feet to the point of beginning and containing 21.84 acres of land more or less.

This being the same property described on that certain survey prepared by Davis Engineering Co., Joe S. Wiseman, Mississippi Registered PLS No. 02818, dated October 24, 2001 and last revised November 14, 2001.