

AGENDA MATERIALS  
AND SUPPORTING DOCUMENTS  
FOR THE MEETING OF

FEBRUARY 18, 1971

✓ AC Mtl  
by Pall  
2-18-71

A RESOLUTION  
OF THE STATE BUDGET AND CONTROL BOARD OF SOUTH CAROLINA APPROVING  
THE PROJECT TO BE FINANCED THROUGH THE ISSUANCE OF A \$1,500,000  
GREENVILLE COUNTY FIRST MORTGAGE INDUSTRIAL REVENUE NOTE PURSUANT  
TO ACT NO. 103 OF 1967 AS SET FORTH IN SUPPLEMENTAL PETITION OF  
THE GREENVILLE COUNTY COUNCIL.

BE IT RESOLVED that the Supplemental Petition of the  
Greenville County Council dated February 2nd, 1971 setting forth  
modifications in the undertaking by the Greenville County Council  
pursuant to Act No. 103 of 1967 to finance the acquisition, con-  
struction and equipping of certain warehouse facilities in Green-  
ville County to be leased to American Hardware Supply Company  
be, and the same hereby is, accepted and, inasmuch as there has  
been no substantial modification of the undertaking as originally  
proposed in the Petition of the Greenville County Council dated  
July 7th, 1970, which was approved by this Board on July 21, 1970,  
the approval of the State Budget and Control Board to the under-  
taking by Greenville County Council set forth in the said Petition,  
Supplemental Petition and the Lease attached thereto (including  
any additional changes or modifications which do not materially  
affect the undertaking) is reaffirmed, and no further notice  
of such approval need be published.

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

I, P. C. SMITH, Auditor of the State of South Carolina,  
and Secretary to the State Budget and Control Board, DO HEREBY  
CERTIFY:

That the said State Budget and Control Board is composed  
of the following:

His Excellency, Robert E. McNair, Governor of  
South Carolina and Chairman of the Board;

The Honorable Grady Leslie Patterson, Jr.,  
State Treasurer;

The Honorable John Henry Mills, Comptroller  
General of South Carolina;

The Honorable Edgar A. Brown, Chairman of the  
Senate Finance Committee; and

The Honorable Robert James Aycock, Chairman  
of the House Ways and Means Committee.

That due notice of meeting of said Board, called to be  
held at the office of the State Auditor, in the Hampton Office  
Building, at Columbia, South Carolina at \_\_\_\_\_, \_\_\_\_\_. M.,  
\_\_\_\_\_, 1971, was given to all members in writing,  
and at least four (4) days prior to said meeting; that all members  
of said Board were present at said meeting, with the exception of:

That at said meeting, a Resolution, of which the attach-  
ed is a true, correct and verbatim copy, was introduced by \_\_\_\_\_  
\_\_\_\_\_, who moved its adoption; said motion was seconded by \_\_\_\_\_  
\_\_\_\_\_ and upon the vote being taken and



recorded it appeared that the following votes were cast:

FOR MOTION

AGAINST MOTION

The Chairman thereupon declared the Resolution unanimously adopted, and the original thereof has been duly entered in the permanent records of minutes of meeting of said Board, in my custody as its Secretary.

\_\_\_\_\_, 1971.

\_\_\_\_\_  
Secretary



SINKLER GIBBS SIMONS & GUÉRARD, P.A.  
ATTORNEYS & COUNSELLORS AT LAW

TELEPHONE 722-3366  
AREA CODE 803

HUGER SINKLER  
CHARLES H. GIBBS  
ALBERT SIMONS, JR.  
THEODORE B. GUÉRARD  
G. DANA SINKLER  
THOMAS G. BUIST  
RUTH WILLIAMS  
GEORGE C. EVANS

2 PRIOLEAU STREET

CHARLESTON, S. C. 29402

POST OFFICE BOX 340

THOMAS A. HUTCHESON  
ROBERT H. HOOD

February 10th, 1971

Honorable P. C. Smith  
State Auditor  
P. O. Box 11333  
Columbia, South Carolina

Dear Pat:

Re: \$1,500,000 Greenville County, South Carolina,  
First Mortgage Industrial Revenue Note, Series  
1971 (American Hardware Supply Company - Lessee)

We understand that you have received from Ted Riley the Supplemental Petition of Greenville County Council in connection with the captioned Industrial Revenue Bond issue.

In this connection we have prepared and now enclose a proposed Resolution for consideration by the State Budget and Control Board reaffirming the approval previously given for this project. When this has been adopted will you please return 10 certified copies to us.

We also enclose for the State Board's records a draft of the proposed Lease referred to in paragraph 4 of the Supplemental Petition.

Very truly yours,

*Teddy Guérard*

TBG/bhs  
Enclosures

cc: E. P. Riley, Esq.  
County Attorney  
218 Henrietta Street  
Greenville, South Carolina 29601

cc: Harvey F. Sloan, Esq.  
Griggs, Moreland, Blair &  
Anderson  
1707 Henry W. Oliver Bldg.  
Pittsburgh, Pennsylvania 15222

cc: Lawrence T. Zehfuss, Esq.  
American Hardware Supply Co.  
P. O. Box 1549  
Butler, Pennsylvania 16001

1454

**Riley & Riley**  
Attorneys & Counsellors at Law

218 HENRIETTA STREET

MAILING ADDRESS:

P. O. BOX 10084

**Greenville, South Carolina 29603**

TELEPHONE 242-6624

EDWARD P. RILEY  
EDWARD P. RILEY, JR.  
RICHARD W. RILEY

SIMPSONVILLE OFFICE:  
111 E. CURTIS STREET  
SIMPSONVILLE, S. C. 29681  
TELEPHONE 963-4581

February 8, 1971

Honorable P. C. Smith  
State Auditor  
Hampton Office Building  
Columbia, South Carolina

Re: \$1,500,000 Greenville County First  
Mortgage Industrial Revenue Bonds

Dear Pat:

I enclose herewith a Supplemental Petition of Greenville County Council with reference to the above matter. We are forwarding this to you at the request of Hon. Theodore B. Guerard of Charleston.

Best personal regards.

Yours very truly,

  
E. P. Riley

EPR/js

Encl.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

_____	)	
TO THE STATE BUDGET AND CONTROL	)	
	)	<u>SUPPLEMENTAL PETITION</u>
BOARD OF SOUTH CAROLINA	)	
	)	
_____	)	

The Supplemental Petition of the Greenville County Council (the County Board), pursuant to Act No. 103 of the Acts of the General Assembly of the State of South Carolina for the year 1967, respectfully shows:

1. The County Board has heretofore, under date of July 7th, 1970, petitioned the State Budget and Control Board seeking approval of the proposal whereby the County Board would finance, pursuant to Act No. 103 of the Acts of the General Assembly of the State of South Carolina for the year 1967 (the Act), the acquisition, construction and equipping of warehouse facilities on a 20 acre parcel of land located near White House Road and Piedmont Highway, in Greenville County (the Project), to be leased to American Hardware Supply Company, a Pennsylvania corporation (American Hardware).

2. The County Board originally proposed to finance the Project through the issuance of \$1,500,000 Greenville County First Mortgage Industrial Revenue Bonds pursuant to the Act and the said Petition describes the Bonds and the Trust Indenture pursuant to which they were to be issued.

3. The proposed undertaking is now about to be consummated and some of the details of the financing have been modified.



2.

The Bond will be in the form of a Note of the County to Pittsburgh National Bank and will be secured by a Mortgage from the County to the said Bank covering the facilities to be financed as aforesaid, as well as by a pledge of the rentals to be paid under the Lease. Thus, there will be no Trust Indenture as originally proposed. Furthermore, the Note and the Lease described in the said Petition will bear a more current date, probably February 1, 1971, and the Note will bear interest at the rate of approximately  $5\frac{1}{2}\%$  per annum rather than 7% per annum as set forth in the Petition.

4. The other terms and provisions of the proposed financing remains substantially the same and attached hereto for your information is a draft of a proposed Lease between the County Board and American Hardware under which the County Board will lease the Project to American Hardware. The said Lease has been modified from the Lease originally proposed so as to eliminate the reference to a Trust Indenture and to the Trustee.

5. By action heretofore taken on July 21, 1970 the State Budget and Control Board approved the undertaking of the County Board set forth in the original Petition and due notice of such approval was duly published in "The Greenville News" and the Columbia, S. C. "The State" on October 9th, 1970 and no challenge has been made to the validity of the State Board in approving such undertaking of the County Board.

6. While some of the terms of the financing have been modified, the arrangement as originally proposed and advertised as aforesaid remains basically the same and for that reason the County Board does not propose to readvertise any further approval by the State Board of the modifications hereinabove described.

3.

WHEREFORE, the County Board respectfully prays:

That the State Budget and Control Board accept the filing of the Supplemental Petition herewith and make a finding that there has been no substantial modification of the proposal as originally approved and that the State Board approval heretofore given be reaffirmed.

Respectfully submitted,

GREENVILLE COUNTY, SOUTH CAROLINA

BY

*Robert B. Vaughan*

Feb. 2, \_\_\_\_\_, 1971.

Chairman of the Greenville  
County Council

Attest:

Cecil D. Buchanan

Secretary

1458

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GREENVILLE COUNTY, SOUTH CAROLINA

AND

AMERICAN HARDWARE SUPPLY  
COMPANY

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LEASE AGREEMENT

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Dated as of February 1, 1971



THIS LEASE AGREEMENT dated as of February 1, 1971, between Greenville County, a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through the Greenville County Council (the County Board) as the governing body of Greenville County established pursuant to Chapter 39, Title 14, Code of Laws of South Carolina, 1962, as amended, party of the first part, and American Hardware Supply Company, a corporation organized and existing under the laws of the State of Pennsylvania, duly qualified to do business in South Carolina, party of the second part.

W I T N E S S E T H:

In consideration of the respective representations and agreements hereinafter contained, the parties hereto agree as follows (provided, that in the performance of the agreements of the party of the first part herein contained, any obligation it may thereby incur for the payment of money shall not create a pecuniary liability or charge upon its general credit or taxing powers but shall be payable solely out of the proceeds derived from this Agreement, the issuance of the note referred to in Section 2.1 hereof and the insurance proceeds, proceeds from property released in accordance with Sections 6.2 or 11.3 hereof, and condemnation awards as herein provided):

ARTICLE I

DEFINITIONS

SECTION 1.1. Certain terms used in this Lease Agreement are defined herein. When used herein, such terms shall have the meanings given to them by the language employed in this Article I

defining such terms, unless the context clearly indicates otherwise.

SECTION 1.2. The following terms are defined terms under this Lease Agreement:

"Act" means Act No. 103 of the Acts and Joint Resolutions of the General Assembly of South Carolina, enacted at its 1967 regular session, and appearing as Article 2.1, Chapter 8, Title 14, Code of Laws of South Carolina, 1962, 1969 Cumulative Supplement.

"Agreement" or "Lease Agreement" means the within Lease Agreement between the County and the Lessee.

"Authorized County Representative" means the person at the time designated to act in behalf of the County by written certificate furnished to the Lessee and the Mortgagee containing the specimen signature of such person and signed on behalf of the County by the Chairman of the County Board. Such certificate may designate an alternate or alternates.

"Authorized Lessee Representative" means the person at the time designated to act in behalf of the Lessee by written certificate furnished to the County and the Mortgagee containing the specimen signature of such person and signed on behalf of the Lessee by the president or any vice president of the Lessee.

"Building" means those certain buildings and all other facilities forming a part of the Project (including the building now under construction) and not constituting part of the Leased Equipment which are located or are required by Section 4.1(a) hereof to be constructed on the Leased Land, as they may at any time exist, including any air conditioning and heating systems (and any replacements thereof), all of which shall be deemed fixtures.



"Completion Date" means the date of completion of the construction of the Building and the installation therein of the Leased Equipment as that date shall be certified as provided in Section 4.5 hereof.

"Construction Fund" means the Construction Fund created in accordance with the provisions of Section 4.3 hereof.

"Construction Period" means the period between the beginning of construction or the date on which the Note is delivered to the purchaser thereof (whichever is earlier) and the Completion Date.

"County" means Greenville County, South Carolina, a body politic and corporate, and its successors and assigns.

"County Board" means the Greenville County Council, and any successor body.

"Independent Counsel" means an attorney duly admitted to practice law before the highest court of any state and not an employee of either the County or the Lessee.

"Independent Engineer" means an engineer or engineering firm registered and qualified to practice the profession of engineering under the laws of South Carolina and who or which is not a full time employee of either the County or the Lessee.

"Lease Term" means the duration of the leasehold estate in this Agreement as specified in Section 5.1 hereof.

"Leased Equipment" means those items of machinery, equipment and related property required herein to be acquired and installed in the Building or elsewhere on the Leased Land with proceeds from the sale of the Note or the proceeds of any payment by the Lessee pursuant to Section 4.6 hereof and any item of



machinery, equipment and related property acquired and installed therefor and renewals and replacements thereof pursuant to the provisions of Sections 4.1(b), 6.1, 6.2(a), 7.1 and 7.2 hereof and is further defined as all property owned by the County and hereby leased to the Lessee which is not included in the definition of Leased Land or Building, but not including Lessee's own machinery and equipment installed under the provisions of Section 9.7 hereof. Leased Equipment is more particularly described in Exhibit "B" attached hereto which, by this reference thereto, is incorporated herein.

"Leased Land" means the real property and interests therein and the easements described in Exhibit "A" attached hereto which, by this reference thereto, is incorporated herein.

"Lessee" means (i) party of the second part hereto and its successors and assigns and (ii) any surviving, resulting or transferee corporation as provided in Section 8.3 hereof.

"Licensed Engineer" means an engineer or engineering firm registered and qualified to practice the profession of engineering under the laws of South Carolina.

"Mortgage" means the Mortgage given by the County to Pittsburgh National Bank, as Mortgagee, of even date herewith, pursuant to which the County's interest in this Agreement and the lease rentals, revenues and receipts received by the County from the Project (except payments pursuant to Section 5.5 and Section 8.7 of this Agreement) are pledged and the Project is mortgaged as security for the payment of principal, premium, if any, and interest on the Note.

"Mortgagee" means Pittsburgh National Bank, as holder of the Note and Mortgage of the County, its successors and assigns.

"Net Proceeds", when used with respect to any insurance or condemnation award, means the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all expenses (including attorneys' fees and any other collection expenses) incurred in the collection of such gross proceeds.

"Note" means the \$1,500,000 First Mortgage Industrial Revenue Note, Series 1970 (American Hardware Supply Company - Lessee) of the County, secured by the Mortgage, and the proceeds of which will be used to finance the acquisition, construction and equipping of the Project. The Note shall be substantially in the form of the attached Exhibit "C".

"Permitted Encumbrances" means, as of any particular time, (i) liens for ad valorem taxes not then delinquent, (ii) this Agreement and the Mortgage, (iii) utility, access and other easements and rights of way, flood rights, encroachments and leases that a Licensed Engineer and the Authorized Lessee Representative certify will not interfere with or impair the operations being conducted in the Building (or, if no operations are being conducted therein, the operations for which the Building was designed or last modified) (iv) such minor defects, irregularities, encumbrances, easements, rights of way, and clouds on title as normally exist with respect to properties similar in character to the Project and as do not, in the opinion of an Independent



Counsel acceptable to the Mortgagee and to the Authorized Lessee Representative materially impair the property affected thereby for the purpose for which it was acquired or is held by the County, and (v) mechanic's and materialmen's liens not filed or perfected in the manner prescribed by Chapter 5, Title 45, Code of Laws of South Carolina, 1962, as in effect on the date hereof, or otherwise.

"Project" means the Leased Land, the Building and the Leased Equipment.

SECTION 1.3. The words "hereof", "herein". "hereunder" and other words of similar import refer to this Lease Agreement as a whole.

SECTION 1.4. References to Articles, Sections, and other subdivisions of this Lease Agreement are to the designated Articles, Sections, and other subdivisions of this Lease Agreement as originally executed.

SECTION 1.5. The headings of this Lease Agreement are for convenience only and shall not define or limit the provisions hereof.

## ARTICLE II

### REPRESENTATIONS

SECTION 2.1. REPRESENTATIONS BY THE COUNTY. The County makes the following representations as the basis for the undertakings on its part herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State of South Carolina, and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. The Project constitutes and will constitute a



"project" within the meaning of the Act. By proper action by the County Board and the State Budget and Control Board of South Carolina, the County has been duly authorized to deliver this Agreement.

(b) The County has acquired by deed of the Lessee recorded simultaneously herewith the Leased Land, including the almost completed Building located thereon, and has authorized, and does hereby authorize, the Lessee to complete thereon the Building, to acquire and install the Leased Equipment in the Building or on the Leased Land, to acquire and install all other things deemed necessary in connection with the Project; and the County proposes to lease the Project to the Lessee and to sell the Project to the Lessee at the expiration or earlier termination of the Lease Term, all for the purposes of promoting the industrial development, developing the trade, and utilizing and employing the manpower, agricultural products and natural resources of South Carolina.

(c) Heretofore, the County Board and the Lessee did agree that the County would finance the cost of acquiring the Leased Land and constructing and equipping warehouse facilities thereon through the issuance of industrial revenue bonds pursuant to the Act. The Lessee estimates that such cost will amount to \$1,500,000, consisting of approximately \$60,000 for the Leased Land, approximately \$1,165,000 for the construction of the Building, and approximately \$250,000 for the cost of the

Leased Equipment, and on that basis the County now proposes to issue such bonds in the form of a Note in the aggregate principal amount of \$1,500,000 dated as of February 1, 1971, which will mature and bear interest, and which will be subject to prepayment on the occasions and at such premium as set forth in the attached Exhibit "C" in order to finance the cost of acquiring, constructing and equipping the Project.

SECTION 2.2. REPRESENTATIONS BY THE LESSEE. The Lessee makes the following representations as the basis for the undertaking on its part herein contained:

(a) The Lessee is a corporation duly incorporated under the laws of Pennsylvania, is in good standing under its Charter and the laws of Pennsylvania and of South Carolina, and has power to enter into this Agreement and by proper corporate action has been duly authorized to execute and deliver this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflict with or result in a breach of any of the terms, conditions or provisions of any corporate restriction or any agreement or instrument to which the Lessee is now a party or by which it is bound, or constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever



upon any of the property or assets of the Lessee under the terms of any instrument or agreement.

(c) The acquiring, constructing and equipping of the Project by the County through the issuance of the Note and the leasing by the County of the Project to the Lessee has induced the Lessee to establish warehouse facilities in Greenville County, South Carolina.

(d) The Lessee intends to operate the Project as a warehouse and distribution facility from the Completion Date to the expiration or earlier termination of the Lease Term as provided herein.

(e) Relying upon the agreement of the County to finance the cost of acquiring, constructing and equipping the Project as aforesaid, the Lessee has acquired the Leased Land and proceeded with the construction of the Building.

### ARTICLE III

#### DEMISING CLAUSES

SECTION 3.1. DEMISE OF THE LEASED LAND, BUILDING AND THE LEASED EQUIPMENT. The County demises and leases to the Lessee, and the Lessee leases from the County, the Leased Land, the Building and the Leased Equipment at the rental set forth in Section 5.3 hereof, and in accordance with the provisions of this Agreement.

SECTION 3.2. WARRANTY OF TITLE. The County warrants that it has acquired a good and marketable fee simple title to the Leased Land, free from all encumbrances other than Permitted Encumbrances, and the County will furnish, at the time of the delivery



of the Note, a written opinion of Independent Counsel acceptable to the Mortgagee and to the Authorized Lessee Representative that it has good and marketable fee simple title to the Leased Land, subject to Permitted Encumbrances.

SECTION 3.3. TITLE INSURANCE. At the time of the delivery of the Note, the County will provide a Mortgagee Title Insurance Policy (or an appropriate Binder) upon the Leased Land and Building issued by a Company approved by the Mortgagee insuring the lien of the Mortgage upon the Leased Land and Building, when completed, subject to no encumbrances other than Permitted Encumbrances, in the amount of not less than \$1,200,000, which is the estimated value of the Leased Land and Building. Any Net Proceeds therefrom shall be used to remedy the title defect resulting in the payment thereof or paid to the Mortgagee to be applied against the payments as they become due on the Note.

#### ARTICLE IV

##### COMPLETION OF THE PROJECT; ISSUANCE OF THE NOTE; CONSTRUCTION FUND

SECTION 4.1. AGREEMENT TO CONSTRUCT AND EQUIP THE BUILDING ON THE LEASED LAND. The County has acquired the Leased Land, including the partially completed Building by deed of the Lessee. The Lessee agrees that it will exercise the authorizations given to it by the County as set forth in Section 2.1(b) and:

- (a) It will cause the Building to be completed on the Leased Land wholly within the boundary line thereof which will be utilized as a warehouse and distribution facility and all of which will be constructed in accordance with a general description heretofore furnished to the County by the Lessee.

(b) It will cause to be acquired and installed in the Building or on the Leased Land for use of the Lessee the Leased Equipment, to consist of the machinery, equipment and related property described in the general list thereof in Exhibit "B" attached hereto, and incorporated herein by reference thereto, and such other items of machinery and equipment and any transportation facility and equipment used as an integral part of the Project, which in Lessee's judgment may be necessary for operation of the Project.

The Lessee agrees to complete the construction of the Building and the acquisition and installation of the Leased Equipment as promptly as practicable after receipt of the proceeds derived from the sale of the Note.

SECTION 4.2. AGREEMENT TO ISSUE NOTE; APPLICATION OF NOTE PROCEEDS. In order to provide funds for payment of the costs of the Project, the County agrees that it will by March 31st, 1971, execute and deliver the Note and cause it to be delivered to the Mortgagee and it will thereupon deposit in the Construction Fund the proceeds received from said sale.

SECTION 4.3. ESTABLISHMENT OF CONSTRUCTION FUND; DISBURSEMENTS FROM THE CONSTRUCTION FUND. Not later than the occasion of the delivery of the Note, the County will establish the Construction Fund, in a Bank approved by the Lessee. Withdrawals from the Construction Fund shall be made only upon the joint signatures of the Authorized Lessee Representative and the Authorized County Representative. The moneys in the Construction Fund will



be used for the following purposes (but, subject to the provisions of Section 4.9 hereof, for no other purposes):

(a) The fees for recording the deed whereby the Leased Land is conveyed to the County, this Agreement, the Mortgage and any title curative documents that either the Mortgagee, the Lessee or Independent Counsel may deem desirable to file for record in order to perfect or protect the title of the County to the Leased Land or to perfect or protect the lien and security interest of the Mortgage on the Project; and the fees and expenses in connection with any actions or proceedings that either the Mortgagee, the Lessee or the Independent Counsel may deem desirable to bring in order to perfect or protect the title of the County to the Leased Land or to perfect the lien and security interest of the Mortgage on the Project.

(b) Payment to the Lessee and the County, as the case may be, of such amounts, if any, as shall be necessary to reimburse the Lessee and the County in full for advances and payments made by them or either of them prior to or after the delivery of the Note for expenditures in connection with (i) the acquisition by the County of title to the Leased Land, including the cost of the Leased Land and the preparation of plans and specifications for the Project (including any preliminary study or planning of the Project or any aspect thereof) and (ii) clearing the Leased Land, the construction of the



Building, the acquisition and installation of the Leased Equipment and all construction, acquisition and installation expenses required to provide utility services or other facilities, and all real or personal properties deemed necessary in connection with the Project (including architectural, engineering and supervisory services with respect to any of the foregoing).

(c) Payment of the cost of title insurance, legal, financing and accounting fees and expenses and printing and engraving costs, if any, incurred in connection with the authorization, sale and issuance of the Note, the preparation of this Agreement, the Mortgage and all other documents in connection therewith and in connection with the acquisition of title to the Leased Land and Building.

(d) Payment for labor, services, materials and supplies used or furnished in site improvement and in the construction of the Building, payment for the cost of the acquisition of the Leased Equipment and the installation thereof, payment for the cost of the construction, acquisition and installation of utility services or other facilities, and all real and personal property deemed necessary in connection with the Project and payment for the miscellaneous expenses incidental to any of the foregoing items, including the premium on any surety bond.

(e) Payment of the fees, or out-of-pocket expenses of the Lessee, if any, for architectural, engineering and supervisory services with respect to the Project.

(f) To such extent as they shall not be paid by a contractor for construction with respect to any part of the Project, payment of the premium on all insurance required to be taken out and maintained during the Construction Period under this Agreement, or reimbursement thereof if paid by the Lessee.

(g) Payment of the taxes, assessments and other charges, if any, referred to in Section 6.3 hereof that may become payable during the Construction Period, or reimbursement thereof if paid by the Lessee.

(h) Payment of expenses incurred with approval of the Lessee in seeking to enforce any remedy against any contractor or subcontractor in respect of any default under a contract relating to the Project.

(i) Payment of any other costs and expenses relating to the Project.

(j) All moneys remaining in the Construction Fund after completion of the Building and acquisition and installation of the Leased Equipment and payment in full of the costs thereof, and after payment of all other items provided for in the preceding subsections (a) to (i), inclusive, of this Section, shall be applied to the payments as they become due on the Note, except for amounts retained in the Construction Fund with the approval of the Authorized Lessee Representative and Authorized County Representative for payment of Project costs not then due and payable, any balance remaining of such retained funds after full payment of all such Project costs



to be applied to the payments as they become due on the Note.

It is further agreed that:

(1) On the occasion of each payment from the Construction Fund in accordance with the preceding provisions of this Section, the Authorized Lessee Representative and Authorized County Representative shall file their written certificate with the County Board and Mortgagee establishing: (i) that none of the items for which the payment is being made has formed the basis for any payment theretofore made from the Construction Fund and (ii) that each item for which the payment is being made is or was necessary in connection with the Project, is in conformance with the plans and specifications therefor, and is authorized by this Agreement to be paid.

(2) In the case of any contract providing for the retention of a portion of the contract price, there shall be paid from the Construction Fund only the net amount remaining after deduction of any such portion.

SECTION 4.4. DEPOSITORY BANK MAY RELY ON ORDER OF AUTHORIZED REPRESENTATIVES. The bank in which the Construction Fund shall be deposited may honor withdrawals upon the joint signatures of the Authorized County Representative and Authorized Lessee Representative and shall have no further liability with respect to payments made in accordance with such joint order.



SECTION 4.5. ESTABLISHMENT OF COMPLETION DATE. The Completion Date shall be evidenced to the Mortgagee and to the County Board by a certificate prepared by the Lessee and signed by the Authorized Lessee Representative stating that, except for amounts retained in the Construction Fund for Project costs not then due and payable as provided in Section 4.3 (j), (i) the Building has been completed in accordance with the specifications therefor and all labor, services, materials and supplies used in such construction have been paid for, (ii) all other facilities necessary in connection with the Project have been constructed, acquired and installed in accordance with the specifications therefor and all costs and expenses incurred in connection therewith have been paid and (iii) the Leased Equipment has been installed to his satisfaction, the Leased Equipment so installed is suitable and sufficient for the efficient operation of the Project for the purposes specified in Section 4.1(a) hereof and all costs and expenses incurred in the acquisition and installation of the Leased Equipment have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being.

SECTION 4.6. LESSEE REQUIRED TO PAY PROJECT COSTS IN EVENT CONSTRUCTION FUND INSUFFICIENT. In the event the moneys in the Construction Fund available for payment of the costs of the Project should not be sufficient to pay the costs thereof in full, the Lessee agrees to complete the Project and to pay all that portion of the costs of the Project as may be in excess of the moneys available therefor in the Construction Fund. The County

does not make any warranty, either express or implied, that the moneys which will be paid into the Construction Fund and which, under the provisions of this Agreement, will be available for payment of the costs of the Project, will be sufficient to pay all the costs which will be incurred in that connection. The Lessee agrees that if after exhaustion of the moneys in the Construction Fund the Lessee should pay any portion of the said costs of the Project pursuant to the provisions of this Section, it shall not be entitled to any reimbursement therefor from the County or from the Mortgagee, nor shall it be entitled to any diminution of the rents payable under Section 5.3 hereof. The obligation of the Lessee to complete the Project shall survive any termination of this Agreement, subject to the force majeure provisions of the concluding paragraph of Section 10.1.

SECTION 4.7. AUTHORIZED LESSEE AND COUNTY REPRESENTATIVES AND SUCCESSORS. The Lessee and the County Board, respectively, will designate, in the manner prescribed in Section 1.2, the Authorized Lessee Representative and the Authorized County Representative. In the event that any person so designated hereunder and his alternate or alternates, if any, should become unavailable or unable to take any action or make any certificate provided for or required in this Agreement, a successor shall be appointed in the same manner.

SECTION 4.8. ENFORCEMENT OF REMEDIES AGAINST CONTRACTORS AND SUBCONTRACTORS AND THEIR SURETIES. Lessee covenants that it will take such action and institute such proceedings as shall be



necessary to cause and require all contractors and material suppliers to complete their contracts diligently in accordance with the terms of said contracts, including, without limitation, the correcting of any defective work, with all expenses incurred by Lessee in connection with the performance of its obligations under this Section 4.8 to be considered part of the Project costs referred to in Section 4.3(i) and County agrees that the Lessee may, from time to time, in its own name, or in the name of the County, take such action as may be necessary or advisable, as determined by Lessee, to insure the construction of the Project in accordance with the terms of such construction contracts, and the installation of machinery and equipment in accordance with any applicable contract pertaining thereto, to insure the peaceable and quiet enjoyment of the Project for the Lease Term, and to insure the performance by the County of all covenants and obligations of the County under this Agreement, with all costs and expenses incurred by Lessee in connection therewith to be considered as part of the Project costs referred to in Section 4.3(i). Any amount recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing prior to the Completion Date, less legal expenses incurred in order to collect the same, shall be paid into the Construction Fund and after the Completion Date shall be applied to the payments as they become due on the Note.

SECTION 4.9. INVESTMENT OF CONSTRUCTION FUND MONEYS PERMITTED. Any moneys held as a part of the Construction Fund shall at the written request of the Authorized Lessee Representative



be invested or reinvested in (i) obligations of the United States and agencies thereof or unconditionally guaranteed as to principal and interest by the United States or any such agencies; (ii) general obligations of the State of South Carolina or any of its political units; (iii) Savings and Loan Associations to the extent that the same are secured by the Federal Savings & Loan Corporation; (iv) certificates of deposit where such certificates of deposit are collaterally secured by securities of the type described in (i) and (ii) above held by a third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest.

#### ARTICLE V

##### EFFECTIVE DATE OF THIS AGREEMENT; DURATION OF LEASE TERM; RENTAL PROVISIONS; PAYMENTS IN LIEU OF TAXES; UNCONDITIONAL OBLIGATION OF LESSEE

SECTION 5.1. EFFECTIVE DATE OF THIS AGREEMENT; DURATION OF LEASE TERM. This Agreement shall become effective upon its delivery, and the leasehold estate created in this Agreement shall then begin, and, subject to the provisions of this agreement (including particularly Articles X and XI and Section 12.2 hereof), shall expire February 1, 1976.

SECTION 5.2. DELIVERY AND ACCEPTANCE OF POSSESSION. The County agrees to deliver to the Lessee sole and exclusive possession of the Leased Land, together with the partially completed Building thereupon, upon execution and delivery of this Agreement and Lessee thereupon and thereafter shall have sole and exclusive possession of the Project during the Lease Term (subject to the right of the County and the Mortgagee to enter thereon for inspection purposes and to the other provisions of Section 8.2 hereof).

SECTION 5.3. RENTS AND OTHER AMOUNTS PAYABLE. At least seven days before August 1, 1971, and at least seven days before each February 1 and August 1 thereafter until the principal of and interest on the Note shall have been fully paid, the Lessee shall pay to the Mortgagee as rent for the Project (i) if such date is August 1, a sum equal to the amount payable on such date as interest upon the Note, and (ii) if such date is February 1, a sum equal to the amount payable on such date as principal and interest upon the Note.

In any event each rental payment under this Section shall be sufficient to pay the total amount of interest and principal (whether at maturity or by prepayment as provided in the Note and Mortgage) payable on the next succeeding semi-annual payment date, and if at any payment date the rental payment is insufficient to make required payments of principal (whether at maturity or by prepayment as provided in the Note and Mortgage) and interest on such date the Lessee will forthwith pay any such deficiency; provided that any amount at any time held for application to the payments as they become due on the Note in accordance with the provisions hereof shall be credited against the next rental payment to the extent such amount is in excess of the amount required for payments of the Note theretofore due; and provided further, that if the amount held by the Mortgagee for application as aforesaid should be sufficient to pay at the times required the principal of, premium, if any, and interest on the Note then remaining unpaid, the Lessee shall not be obligated to make any further rental payments under the foregoing provisions of this Section.



In the event the Lessee should fail to make any of the payments required in this Section 5.3 the item or installment so in default shall continue as an obligation of the Lessee until the amount in default shall have been fully paid, and the Lessee agrees to pay the same with interest thereon at the rate of 8% per annum until fully paid. The provisions of this Section shall be subject to the provisions of Section 9.6 hereof.

SECTION 5.4. PLACE OF RENTAL PAYMENTS. The rent provided for in Section 5.3 hereof shall be paid directly to the Mortgagee for the account of the County and will be applied against the Note.

SECTION 5.5. PAYMENTS IN LIEU OF TAXES. It is recognized that under the provisions of the Act when any project is leased by a county pursuant to the Act the lessee thereof shall be required to make payments to the county, school district or school districts, and other political units wherein the project shall be located in lieu of taxes, in such amounts as would result from taxes levied on the project by such county, school district or school districts, and other political unit or units, if the project were owned by the lessee, but with appropriate reductions, similar to the tax exemptions, if any, which would be afforded to the lessee if it were the owner of the Project. For the sole purpose of enabling the Lessee to comply with the aforesaid obligation, it is agreed that the County in cooperation with the Lessee (i) shall cause the Project to be valued as if privately owned as aforesaid for purposes of the said taxes by the State Tax Commission of South Carolina or such other appropriate officer or officers as may from time to time be charged with responsibility for making such valuations; (ii) shall cause to be



appropriately applied to the valuation or valuations so determined the respective rate or rates of such taxes, that would be applicable to the Project if so privately owned; (iii) shall cause the respective appropriate officer or officers charged with the duty of levying and collecting such taxes to submit to the Lessee, when the respective levies are made for purposes of such taxes upon property privately owned as aforesaid, a statement specifying the amount and due date or dates of such taxes which the county, school district and other political units having taxing powers would receive if such property were so privately owned; and the Lessee shall file any accounts or tax returns required with the appropriate officer or officers. The Lessee shall pay to the aforesaid taxing authorities when due all such payments in lieu of taxes with respect to the Project required by the Act to be paid to the aforesaid taxing authorities, subject in each case to the Lessee's right to obtain exemptions (and discounts) if any, therefrom which would be afforded to a private owner of the Project and to seek to obtain a refund of any such payments made, and subject further to the Lessee's right to contest or appeal in good faith any such payment in the manner provided by law. The Lessee's obligation to make such additional payments shall continue only so long as and to the extent the Lessee is required by law to pay the aforesaid amounts in lieu of taxes. Once having paid the amounts required by this Section 5.5 to be paid by it in lieu of taxes, the Lessee shall not be required to pay any such taxes for which a payment in lieu thereof has been made to the State or to any city, county, town, school district or other political unit, any other statute to the contrary notwithstanding. In the event

the Lessee shall fail to make any of the payments required by this Section 5.5 the amount or amounts so in default shall continue as an obligation of the Lessee until fully paid and the Lessee agrees to pay the same with interest thereon at seven per centum (7%) per annum until fully paid.

SECTION 5.6. OBLIGATIONS OF LESSEE HEREUNDER UNCONDITIONAL. Subject to the provisions of Section 9.6 hereof, the obligations of the Lessee to make the payments required in Section 5.3 and 5.5 hereof and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional and until such time as the principal, premium, if any, and interest on the Note shall have been duly paid or provision for the payment thereof shall have been made in accordance therewith, the Lessee (i) will not suspend or discontinue any payments provided for in Section 5.3 hereof, (ii) will perform and observe all of its other agreements contained in this Agreement, and (iii) except as provided in Section 11.1 hereof will not terminate the Lease Term for any cause including, without limiting the generality of the foregoing, failure of the Lessee to complete the Project, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of South Carolina or any political subdivision of either thereof or any failure of the County to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement. Nothing contained in this Section shall be construed to release the County from the performance of



any of the agreements on its part herein contained, and in the event the County should fail to perform any such agreement on its part, the Lessee may institute such action against the County as the Lessee may deem necessary to compel performance so long as such action does not abrogate the Lessee's obligations contained in the first sentence of this Section 5.6. The Lessee may, however, at its own cost and expense and in its own name or in the name of the County, prosecute or defend any action or proceeding or take any other action involving third persons which the Lessee deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder, and in such event the County hereby agrees to cooperate fully with the Lessee and to take all action necessary to effect the substitution of the Lessee for the County in any such action or proceeding if the Lessee shall so request.

#### ARTICLE VI

##### MAINTENANCE, TAXES AND INSURANCE

SECTION 6.1. MAINTENANCE AND MODIFICATIONS OF PROJECT BY LESSEE. The Lessee agrees that during the Lease Term it will at its own expense (i) keep the Project in as reasonably safe condition as its operations shall permit and (ii) keep the Building and Leased Equipment and all other improvements forming a part of the Project in good repair and in good operating condition, making from time to time all necessary repairs thereto and renewals and replacements thereof. Subject to the provisions of Section 8.8, the Lessee may, also at its own expense, make from time to time any additions, modifications or improvements to the Project it may deem desirable for its business purposes that do not adversely



affect the use of the Project for the purpose for which it is intended. Subject to the provisions of Section 9.7 hereof, such additions, modification and improvements so made by the Lessee shall be on the Leased Land and become a part of the Project. The Lessee will not permit any mechanics' or other liens to be established or remain against the Project for labor or materials furnished in connection with any additions, modifications, improvements, repairs, renewals or replacements so made by it; provided, that if the Lessee shall first notify the Mortgagee of its intention so to do, the Lessee may in good faith contest any mechanics' or other liens filed or established against the Project, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless the Mortgagee shall notify the Lessee, that, in the opinion of an Independent Counsel, by nonpayment of any such items the lien of the Mortgage as to any part of the Project will be materially endangered or the Project or any part thereof will be subject to loss or forfeiture, in which event the Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items. The County shall cooperate fully with the Lessee in any such contest.

SECTION 6.2. REMOVAL OF LEASED EQUIPMENT. The County shall not be under any obligation to renew, repair or replace any inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary Leased Equipment. If no event of default under this Agreement shall have happened and be continuing, in any instance where the Lessee in its discretion determines that any items of Leased Equipment have become inadequate, obsolete, worn out, unsuitable,

undesirable or unnecessary, the Lessee may, subject to the provisions of Section 8.8, remove such items of Leased Equipment from the Building and the Leased Land and (on behalf of the County) sell, trade in, exchange or otherwise dispose of them (as a whole or in part) without any responsibility or accountability to the County or the Mortgagee therefor, provided that the Lessee shall either:

(a) Substitute (either by direct payment of the costs thereof or by advancing to the County the funds necessary therefor) and install anywhere in the Building or on the Leased Land other machinery, equipment or related property having equal or greater utility (but not necessarily having the same function) in the operation of the Building for the purpose for which it is intended, all of which substituted machinery, equipment or related property shall be free of all liens and encumbrances (other than Permitted Encumbrances) but shall become a part of the Leased Equipment; or

(b) Not make any such substitution and installation, provided (i) that in the case of the sale of any such Leased Equipment to anyone other than itself or in the case of the scrapping thereof, the Lessee shall pay to the Mortgagee, to be applied against the Note, the proceeds from such sale or the scrap value thereof, as the case may be, (ii) that in the case of the trade-in of such Leased Equipment for other machinery, equipment or related property not to be installed in the Building or on the



Leased Land, the Lessee shall pay to the Mortgagee, to be applied against the Note, the amount of the credit received by it in such trade-in and (iii) that in the case of the sale of any such Leased Equipment to the Lessee or in the case of any other disposition thereof the Lessee shall pay to the Mortgagee, to be applied against the Note, an amount equal to the original cost thereof less depreciation at rates calculated in accordance with generally accepted accounting practice.

The removal from the Project of any portion of the Leased Equipment pursuant to the provisions of this Section shall not entitle the Lessee to any abatement or diminution of the rents payable under Section 5.3 hereof.

The Lessee shall promptly report to the Mortgagee each such removal, substitution, sale and other disposition and shall pay to the Mortgagee such amounts as are required by the provisions of the preceding subsection (b) of this Section to be paid to the Mortgagee promptly after the sale, trade-in or other disposition requiring such payment; provided, that no such report and payment need be made until the amount to be so paid on account of all such sales, trade-ins or other disposition not previously reported aggregates at least \$50,000. The Lessee shall not remove, or permit the removal of, any of the Leased Equipment from the Leased Land except in accordance with the provisions of this Section.

SECTION 6.3. TAXES, OTHER GOVERNMENTAL CHARGES AND UTILITY CHARGES. The County and the Lessee acknowledge (i) that pursuant to Section 13 of the Act, no part of the Project owned



by the County will be subject to taxation in South Carolina, (ii) that under present law the income and profits (if any) of the County from the Project are not subject to either Federal or South Carolina taxation, (iii) that under present law there is no tax imposed upon leasehold estates in South Carolina, and (iv) that these factors, among others, have induced the Lessee to enter into this Agreement.

However, the Lessee will pay, as the same become due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project or any machinery, equipment or other property installed or brought by the Lessee therein or thereon (including, without limiting the generality of the foregoing, any taxes levied upon or with respect to the lease rentals, revenues or receipts of the County from the Project which, if not paid, will become a lien on the Project prior to or on a parity with the lien of the Mortgage or a charge on the revenues and receipts therefrom prior to or on a parity with the charge thereon and the pledge or assignment thereof to be created and made in the Mortgage, and including all ad valorem taxes lawfully assessed upon the leasehold estate hereby granted and conveyed to the Lessee in the Leased Land, Building and Leased Equipment), all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project and all assessments and charges lawfully made by any governmental body for public improvements that may be secured by lien on the Project; provided, that with respect to special

assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Lessee shall be obligated to pay only such installments as they become due.

If the Lessee shall first notify the Mortgagee of its intention so to do, the Lessee may, at its expense and in its own name and behalf or in the name and behalf of the County, in good faith contest any such taxes, assessments and other charges, and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Mortgagee shall notify the Lessee that, in the opinion of Independent Counsel, by nonpayment of any such items the lien or security interest of the Mortgage will be materially endangered or the Project or any part thereof will be subject to loss or forfeiture, in which event such taxes, assessments or charges shall be paid promptly. The County will cooperate fully with the Lessee in any such contest. In the event that the Lessee shall fail to pay any of the foregoing items required by this Section to be paid by the Lessee, the County or the Mortgagee may (but shall be under no obligation to) pay the same and any amounts so advanced therefor by the County or the Mortgagee shall become an additional obligation of the Lessee to the one making the advancement, which amounts, together with interest thereon at the rate of 7% per annum from the date thereof, the Lessee agrees to pay.

SECTION 6.4. INSURANCE REQUIRED. (a) Lessee shall, at Lessee's sole cost and expense at all times during the Lease



Term, keep the Project insured against loss or damage in accordance with the customary insurance practices of Lessee, but in all events to the following extent:

(i) Against the perils of fire and the hazards ordinarily included under standard extended coverage endorsements in amounts necessary to prevent the application of the co-insurance provisions of the applicable policies but not less than the lesser of 80% of the full insurable value thereof within the terms of applicable policies or an amount equal to the principal amount of the Note outstanding from time to time.

(ii) Against war risks when a state of war or national or public emergency exists and such insurance is obtainable from a department or agency of the United States Government, upon reasonable terms, in the full amount necessary to prevent the application of the co-insurance provisions of the applicable policies but not less than 80% of the then full insurable value, or, if such amounts be not obtainable, then in the highest amount which can be so obtained.

(iii) If there are boilers or pressure vessels, from boiler or pressure vessel explosion in an amount customarily carried in the case of similar industrial operations.

The term "full insurable value" means such value as shall be determined from time to time at the request of the County, Lessee or Mortgagee (but not more frequently than once in every twenty-four (24) months) by one of the insurers selected by Lessee.



(b) At all times during the Lease Term, Lessee shall at no cost or expense to the County, maintain or cause to be maintained:

(i) General public liability insurance (including Workmen's Compensation insurance in amounts usually carried by similar operations) against claims for bodily injury or death occurring upon, in or about the Project, with such insurance (other than Workmen's Compensation Insurance) to afford protection to the limits of not less than \$100,000 in respect to bodily injury or death to any one person and to the limit of not less than \$300,000 in respect of any one accident; and

(ii) Property damage insurance against claims for damage to property occurring upon, in or about the Project with such insurance to afford protection to the limit of not less than \$100,000 in respect of damage to the property of any one owner.

(c) The insurance required by this Section 6.4, except the said war risk insurance, shall be maintained in full force and effect at all times during the Lease Term of this Agreement, except that such insurance required by Section 6.4(a) need not be placed in force and effect until the completion of the construction of the Building, provided that builder's risk insurance is in effect at least to the extent contemplated by Section 6.4(a) and provided further that in no event shall the insurance required by Section 6.4(a) be placed into force and effect later than the expiration

of the builder's risk insurance carried pursuant to the provisions of any contracts entered into with contractors, with the end in view of having full insurance coverage at all times.

(d) Copies or certificates of the insurance required by this Section, each bearing notations evidencing payment of the premiums or other evidence of payment satisfactory to the Mortgagee, shall be delivered by Lessee to the Mortgagee. And, in the case of expiring policies throughout the term, copies or certificates of any new or renewal policies, each bearing notations evidencing payment of the premiums or other evidence of payment satisfactory to the Mortgagee, shall be delivered by Lessee to the Mortgagee.

(e) Policies of insurance provided for in Section 6.4(a) and any builder's risk insurance referred to in Section 6.4(c) shall name the County and the Lessee as insureds as their respective interests may appear, provided, however, that the Mortgagee shall also be named as a party insured pursuant to a standard mortgagee clause as its interests may appear, and provided further that while any amount remains unpaid on the Note, all such insurance proceeds shall be payable as provided in Section 7.1 hereof.

(f) All insurance required by this Section 6.4 shall be effected with responsible insurance companies selected by the Lessee. Lessee shall cause appropriate provisions to be inserted in each insurance policy making each policy noncancellable without at least ten (10) days prior written notice to the County, Lessee and Mortgagee. Also, it is agreed that no claim shall be made and no suit or action at law or in equity shall be brought by the County or by anyone claiming by, through or under the County,



against Lessee for any damage to the Project covered by the insurance provided for by this Section 6.4, however caused, but nothing in this sub-section (f) shall diminish Lessee's obligation to repair or rebuild as provided in Section 7.1. The Lessee shall have the sole right and responsibility to adjust any loss with the insurer involved and to conduct any negotiations in connection therewith, provided that so long as any amount remains outstanding and unpaid on the Note no settlement of any claim shall be effected without the written consent of the Mortgagee.

SECTION 6.5. APPLICATION OF NET PROCEEDS OF INSURANCE.

The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.4(a) hereof shall be received by the Lessee and shall then be paid and applied as provided in Section 7.1 hereof and the Net Proceeds of Insurance carried pursuant to the provisions of Section 6.4(b) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

SECTION 6.6. ADVANCES BY THE COUNTY OR THE MORTGAGEE. In the event the Lessee shall fail to maintain the full insurance coverage required by this Agreement or shall fail to keep the Project in as reasonably safe condition as its operations will permit, or shall fail to keep the Building and the Leased Equipment in good repair and good operating condition, the County or the Mortgagee may (but shall be under no obligation to) take out the required policies of insurance and pay the premiums on the same or make the required repairs, renewals and replacements; and all amounts so advanced therefor by the County or the Mortgagee shall



become an additional obligation of the Lessee to the one making the advancement, which amounts, together with interest thereon at the rate of 7% per annum from the date thereof, the Lessee agrees to pay.

ARTICLE VII

DAMAGE, DESTRUCTION AND CONDEMNATION

SECTION 7.1. DAMAGE AND DESTRUCTION. (a) Unless the Building or the Leased Equipment shall be damaged to the extent prescribed by, and the Lessee shall elect to exercise its option to purchase pursuant to, the provisions of Section 11.2(a) hereof, if prior to full payment of the Note the Project is damaged by fire or other casualty to such extent that the claim for loss under the insurance policies required to be carried pursuant to Section 6.4(a) hereof resulting from such destruction or damage is not greater than \$25,000 the Lessee (i) will promptly repair, rebuild or restore the property damaged or destroyed to substantially the same condition thereof as existed prior to the event causing such damage or destruction with such changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Lessee and as will not adversely affect the use of the Project for the purpose for which it is intended, and (ii) shall apply for such purpose so much as may be necessary of any Net Proceeds of insurance resulting from such claims for losses. All Net Proceeds of insurance resulting from such claims for losses not in excess of \$25,000 shall be paid to the Lessee, subject to provisions of Section 7.1(e) hereof.

(b) Unless the Building or the Leased Equipment shall be destroyed or damaged to the extent prescribed by, and the Lessee

shall elect to exercise its option to purchase pursuant to, the provisions of Section 11.2(a) hereof, if prior to full payment of the Note the Project is destroyed or is damaged (in whole or in part) by fire or other casualty to such extent that the claim for loss under the insurance policies required to be carried pursuant to Section 6.4(a) hereof resulting from such destruction or damage is in excess of \$25,000, the Lessee shall promptly give written notice thereof to the Mortgagee. All Net Proceeds of insurance received by the Lessee resulting from such claims for losses in excess of \$25,000 shall be paid to and held by the Mortgagee in a separate trust account, whereupon (i) the Lessee will proceed promptly to repair, rebuild or restore the property damaged or destroyed to substantially the same condition thereof as existed prior to the event causing such damage or destruction with such changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Lessee and as will not adversely affect the use of the Project for the purpose for which it is intended, and (ii) the Mortgagee will apply so much as may be necessary of the Net Proceeds of such insurance to payment of the costs of such repair, rebuilding or restoration, either on completion thereof or as the work progresses.

(c) In the event said Net Proceeds are not sufficient to pay in full the costs of such repair, rebuilding or restoration, the Lessee will nonetheless complete said work and will pay that portion of the costs thereof in excess of the amount of said Net Proceeds.



(d) The Lessee shall not, by reason of the payment of such excess costs (whether by direct payment thereof or advances to the County or Mortgagee therefor), be entitled to any reimbursement from the County, or the holder of the Note, or any abatement or diminution of the rents payable under Section 5.3 hereof.

(e) Any balance of such Net Proceeds remaining after payment of all the costs of such repair, rebuilding or restoration shall be paid to the Mortgagee to be applied against the payments as they come due on the Note. If the Note has been fully paid all Net Proceeds will be paid to the Lessee.

SECTION 7.2. CONDEMNATION. Unless title to, or temporary use of, all or substantially all of the Project shall have been taken by condemnation and the Lessee shall elect to exercise its option to purchase pursuant to the provisions of Section 11.2(b) hereof, in the event that title to, or the temporary use of, the Project or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, the Lessee shall be obligated to continue to make the rental payments specified in Section 5.3 hereof. The County, the Lessee and the Mortgagee shall cause the Net Proceeds received by them or any of them from any award made in such eminent domain proceedings, to be paid to and held by the Mortgagee in a separate trust account, to be applied in one or more of the following ways as shall be directed in writing by the Lessee:

(a) To the restoration by the Lessee of the Project to substantially the same condition thereof as existed prior to the exercise of the said power of eminent domain.

(b) To the acquisition, by construction or otherwise, in the name of the County of improvements consisting of a building or buildings, facilities, machinery, equipment or other properties suitable for the Lessee's operations at the Project (which improvements shall be deemed a part of the Project and available for use and occupancy by the Lessee without the payment of any rent other than as herein provided to the same extent as if such other improvements were specifically described herein and demised hereby); provided, that such improvements shall be acquired by the County subject to no liens or encumbrances, other than Permitted Encumbrances.

(c) To payment of the Note, provided that the Lessee shall furnish to the County and the Mortgagee a certificate of an Independent Engineer acceptable to the County and the Mortgagee stating (i) that the property forming a part of the Project that was taken by such condemnation proceedings is not essential to the Lessee's use or occupancy of the Project, or (ii) that the Project has been restored to a condition substantially equivalent to its condition prior to the taking by such condemnation proceedings or (iii) that improvements have been acquired which are suitable for the Lessee's operations at the Project as contemplated by the foregoing subsection (b) of this Section.



Unless the Lessee shall have elected to exercise its option to purchase pursuant to the provisions of Section 11.2(b) hereof within ninety days from the date of entry of a final order in any eminent domain proceedings granting condemnation, the Lessee shall direct the County and the Mortgagee in writing as to which of the ways specified in this Section the Lessee elects to have the condemnation award applied.

Any balance of the Net Proceeds of the award in such eminent domain proceedings shall be paid to the Mortgagee to be applied against the payments as they become due on the Note. If the Note has been fully paid all Net Proceeds shall be paid to the Lessee.

The County shall cooperate fully with the Lessee in the handling and conduct of any prospective or pending condemnation proceeding with respect to the Project or any part thereof and shall, to the extent it may lawfully do so, permit the Lessee to litigate in any such proceeding in the name and behalf of the County. In no event shall the County voluntarily settle, or consent to the settlement of, any prospective or pending condemnation proceeding with respect to the Project or any part thereof without the written consent of the Lessee.

SECTION 7.3. CONDEMNATION OF LESSEE-OWNED PROPERTY. The Lessee shall also be entitled to the Net Proceeds of any condemnation award or portion thereof for damage to or taking of its own property not included in the Project (except for damages for the value of its leasehold estate under this Agreement which shall be disposed of pursuant to Section 7.2 hereof).

ARTICLE VIII

SPECIAL COVENANTS

SECTION 8.1. NO WARRANTY OF CONDITION OR SUITABILITY BY THE COUNTY. The County makes no warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Lessee's purposes or needs.

SECTION 8.2. COUNTY'S AND MORTGAGEE'S RIGHT OF ACCESS TO THE PROJECT. The Lessee agrees that the County, the Mortgagee and the duly authorized agents of each of them shall have the right at all reasonable times to enter upon the Leased Land and to examine and inspect the Project. The Lessee further agrees that the County, the Mortgagee and their or either of their duly authorized agents shall have such rights of access to the Project as may be reasonably necessary for the proper maintenance of the Project in the event of failure by the Lessee to perform its obligations under Section 6.1 hereof.

SECTION 8.3. LESSEE TO MAINTAIN ITS CORPORATE EXISTENCE; CONDITIONS UNDER WHICH EXCEPTIONS PERMITTED. The Lessee agrees that during the Lease Term it will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets and will not consolidate with or merge into another corporation or permit one or more other corporations to consolidate with or merge into it; provided, that the Lessee may, without violating the agreement contained in this Section, consolidate with or merge into another corporation, or permit one or more other corporations to consolidate with or merge into it, or sell or otherwise transfer to another corporation all or substantially all



of its assets as an entirety and thereafter dissolve, provided the surviving, resulting or transferee corporation, as the case may be, assumes in writing all of the obligations of the Lessee under this Agreement.

SECTION 8.4. QUALIFICATION IN SOUTH CAROLINA. The Lessee warrants that it is and throughout the Lease Term it will continue to be duly qualified to do business in South Carolina.

SECTION 8.5. RELEASE OF CERTAIN LAND. In addition to the rights granted by Section 11.3 hereof, the parties hereto reserve the right at any time and from time to time to amend this Agreement for the purpose of effecting the release of and removal from this Agreement and the leasehold estate created hereby (i) of any unimproved part of the Leased Land (on which neither the Building nor any Leased Equipment is situated) on which the County then proposes to construct improvements for lease to the Lessee or any subsidiary or affiliated corporation thereof under another and different lease agreement or (ii) any part (or interest in such part) of the Leased Land with respect to which the County proposes to grant an easement or convey fee title to a railroad, public utility or public body in order that railroad, utility services or roads may be provided for the Project; provided, that if at the time any such amendment is made any amount is outstanding and unpaid upon the Note there shall be deposited with the Mortgagee the following:

(a) A copy of said amendment as executed.

(b) A resolution of the County Board (i) stating that the County is not in default under any of the provisions of the

Mortgage and the Lessee is not to the knowledge of the County in default under any of the provisions of this Agreement, (ii) giving an adequate legal description of that portion (together with the interest in such portion) of the Leased Land to be released, (iii) stating the purpose for which the County desires the release, (iv) stating that the said improvements which will be so constructed will be such as will promote the continued industrial development of South Carolina and (v) requesting such release.

(c) A resolution of the board of directors of the Lessee approving such amendment and stating that the Lessee is not in default under any of the provisions of this Agreement.

(d) A copy of any agreement wherein the County agrees to construct improvements on the portion of the Leased Land so requested to be released and to lease the same; or a copy of the instrument granting the easement or conveying the title to a railroad, public utility or public body.

(e) A certificate of an Independent Engineer who is acceptable to the Mortgagee, dated not more than sixty days prior to the date of the release and stating that, in the opinion of the person signing such certificate, (i) the portion of the Leased Land so proposed to be released is necessary or desirable in order to obtain railroad, utility services or roads to benefit the Project or is not otherwise needed for the operation of the Project for the purposes for which it is intended, and (ii) the release so proposed to be made will not impair the usefulness of the Project for the purpose for which it is intended and will not destroy the means of ingress thereto and egress therefrom.



If all of the conditions of this Section 8.5 are met the Mortgagee shall release any such property from the lien of the Mortgage.

No release effected under the provisions of this Section shall entitle the Lessee to any abatement or diminution of the rents payable under Section 5.3 hereof.

SECTION 8.6. GRANTING OF EASEMENTS. If no event of default under this Agreement shall have happened and be continuing, the Lessee may at any time or times grant easements, licenses, rights of way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any property included in the Project, free from the lien of the Mortgage, or the Lessee may release existing easements, licenses, rights of way and other rights or privileges with or without consideration, and the County agrees that it shall execute and deliver and will cause and direct the Mortgagee to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right of way or other right or privilege upon receipt of: (i) a copy of the instrument of grant or release (ii) a written application signed by the president or a vice president of the Lessee requesting such instrument; and (iii) a certificate executed by the president or a vice president of the Lessee stating (1) that such grant or release is not detrimental to the proper conduct of the business of the Lessee, and (2) that such grant or release will not impair the effective use or interfere with the operation of the Project and will not weaken, diminish or impair the security intended to be

given by or under the Mortgage. No grant or release effected under the provisions of this Section shall entitle the Lessee to any abatement or diminution of the rents payable under Section 5.3 hereof.

SECTION 8.7. INDEMNIFICATION COVENANTS. (a) Lessee shall and agrees to indemnify and save the County and the Mortgagee harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on the Project during the Lease Term and against and from all claims arising during the Lease Term from (i) any condition of the Project, (ii) any breach or default on the part of Lessee in the performance of any of its obligations under this Agreement, (iii) any act or negligence of Lessee or of any of its agents, contractors, servants, employees or licensees, or (iv) any act or negligence of any assignee or sublessee of Lessee, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of Lessee. Lessee shall indemnify and save the County and the Mortgagee harmless from any and all costs and expenses incurred in or in connection with any such claim arising as aforesaid, or in connection with any action or proceeding brought thereon, and upon notice from the County, or the Mortgagee, Lessee shall defend them or either of them in any such action or proceeding.

(b) Notwithstanding the fact that it is the intention of the parties that the County shall not incur pecuniary liability by reason of the terms of this Agreement, or the undertakings required of the County hereunder, by reason of the issuance of the Note,



by reason of the execution of the Mortgage, by reason of the performance of any act required of it by this Agreement, or by reason of the performance of any act requested of it by the Lessee, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if the County should incur any such pecuniary liability, then in such event the Lessee shall indemnify and hold harmless the County against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice from the County, the Lessee shall defend the County in any such action or proceeding.

SECTION 8.8. COVENANTS OF LESSEE WITH RESPECT TO CAPITAL EXPENDITURES. The County is issuing the Note pursuant to an election made by the County at the request of the Lessee under Section 103 (c) (6) (D) of the Internal Revenue Code of 1954. In order to insure that interest on the Note will not become subject to Federal Income Taxes as a result of a violation of the capital expenditures limitation prescribed in said Section 103 (c) (6) (D), the Lessee covenants with the County, the Mortgagee, and with each of the future holders of the Note as follows:

(1) That all rights and privileges granted to the Lessee hereunder shall be exercised in such manner that the covenants made by this Section 8.8 shall be observed, and if any conflict between Section 8.8 and any other provision of this Agreement shall arise, then in such case, Section 8.8 shall control;

(2) That there will be no occurrence of any circumstance set forth in Section 103(c)(6)(D), (E) and (F) of the Internal Revenue Code of 1954 which might cause interest on the Note to lose its tax exempt status;

(3) That within 30 days after (i) July 1, 1971, and (ii) the 1st day of each January and July thereafter to and including July 1, 1974, the Lessee will furnish to the Mortgagee a certificate of independent certified public accountants together with an opinion of an Independent Counsel acceptable to the Mortgagee stating that during the period beginning February 1, 1968, to such January 1 and July 1, as the case may be (or in the case of the July 1, 1974 certificate, to the 3rd anniversary of the date of the delivery of the Note), capital expenditures (including the \$1,500,000 principal amount of the Note) in excess of the greater of (a) \$5,000,000, or (b) the capital expenditures limitation prescribed by said Section 103(c)(6)(D) if hereafter amended so as to increase the limitation, have not been paid or incurred with respect to "facilities" described in Section 103(c)(6)(E) of the Internal Revenue Code of 1954, in Greenville County, South Carolina, of which the Lessee or a related person as defined in Section 103(c)(6)(C) of the Internal Revenue Code of 1954 is the principal user; and

(4) That it will comply with the governing regulations from time to time applicable to Section 103 of the Internal Revenue Code of 1954 to the extent that compliance therewith is necessary in order that interest on the Note shall remain exempt.



ARTICLE IX

ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING;  
REDEMPTION; RENT PREPAYMENT AND ABATEMENT

SECTION 9.1. ASSIGNMENT AND SUBLEASING. This Agreement may be assigned, and the Project may be subleased as a whole or in part, by the Lessee without the necessity of obtaining the consent of either the County or the Mortgagee, subject, however, to each of the following conditions:

(a) No assignment (other than pursuant to Section 8.3 hereof) or subleasing shall relieve the Lessee from primary liability for any of its obligations hereunder, and in the event of any such assignment or subleasing the Lessee shall continue to remain primarily liable for payment of the rents specified in Section 5.3 hereof and for performance and observance of the other agreements on its part herein provided to be performed and observed by it.

(b) The assignee or sublessee shall assume the obligations of the Lessee hereunder to the extent of the interest assigned or subleased.

(c) The Lessee shall, within thirty days after the delivery thereof, furnish or cause to be furnished to the County and to the Mortgagee a true and complete copy of each such assignment or sublease, as the case may be.

SECTION 9.2. MORTGAGE OF PROJECT BY COUNTY. The County shall mortgage the Project by the Mortgage, and assign its interest in and pledge any moneys receivable under this Agreement pursuant to the Mortgage, to the Mortgagee as security for payment of

the Note, but each such conveyance, assignment or pledge shall be subject and subordinate to this Agreement.

SECTION 9.3. RESTRICTIONS ON SALE OF PROJECT BY COUNTY.

The County agrees that, except as set forth in Section 9.2 hereof or other provisions of this Agreement or the Mortgage, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project during the Lease Term.

SECTION 9.4. PREPAYMENT OF NOTE. The County, at the prior written request at any time of the Lessee and if the same is then subject to prepayment, shall forthwith take all steps that may be necessary under the applicable prepayment provisions of the Note to effect prepayment of all or part of the Note, as may be specified by the Lessee on the earliest prepayment date on which such prepayment may be made under such applicable provisions.

SECTION 9.5. PREPAYMENT OF RENTS. There is expressly reserved to the Lessee the right, and the Lessee is authorized and permitted, at any time it may choose, to prepay all or any part of the rents payable under Section 5.3 hereof, and the County agrees that the Mortgagee may accept such prepayment of rents when the same are tendered by the Lessee. All rents so prepaid shall be credited on the rental payments specified in Section 5.3 hereof, in the order of their due dates.

SECTION 9.6. LESSEE ENTITLED TO CERTAIN RENT ABATEMENTS IF NOTE PAID PRIOR TO MATURITY. If at any time the aggregate rental payments held by the Mortgagee shall be sufficient to retire the Note in accordance with the provisions of the Note, and to pay all fees and charges of the Mortgagee due or to become due through the date on which the Note is retired, under circumstances not



resulting in termination of the Lease Term, and if the Lessee is not at the time otherwise in default hereunder, the Lessee shall be entitled to use and occupy the Project from the date on which such aggregate moneys are in the hands of the Mortgagee to and including November 1, 1975 with no obligation to make the rental payments specified in Section 5.3 hereof during that interval (but otherwise on the terms and conditions hereof).

SECTION 9.7. INSTALLATION OF LESSEE'S OWN MACHINERY AND EQUIPMENT. Subject to the provisions of Section 8.8, the Lessee may from time to time, in its sole discretion and at its own expense, install machinery, equipment and other personal property in the Building or on the Leased Land and which may be attached or affixed to the Building or the Leased Land. All such machinery, equipment and other personal property shall remain the sole property of the Lessee and the Lessee may remove the same from the Building or the Leased Land at any time, in its sole discretion and at its own expense; provided, that any damage to the Project resulting from any such removal shall be repaired by the Lessee at the expense of the Lessee. The Lessee may create any mortgage, encumbrance, lien or charge on any such machinery, equipment and other personal property provided that the same will not diminish or impair the security intended to be given by or under the Mortgage. Neither the County nor the Mortgagee shall have any interest in or landlord's lien on any such machinery, equipment or personal property so installed pursuant to this Section 9.7 and all such machinery, equipment and personal property shall be and remain identified as the property of the Lessee by appropriate tags or other markings.

SECTION 9.8. REFERENCE TO NOTE INEFFECTIVE AFTER NOTE PAID. Upon payment in full of the Note and all fees and charges of the Mortgagee, all references in this Agreement to the Note and the Mortgagee shall be ineffective and the Mortgagee shall thereafter have no rights hereunder, saving and excepting those provided in Section 12.2 and those that shall have theretofore vested.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

SECTION 10.1. EVENTS OF DEFAULT DEFINED. The following shall be "events of default" under this Agreement and the terms "event of default" or "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure by the Lessee to pay the rents required to be paid under Section 5.3 of this Agreement at the time specified therein and continuing for a period of five days after notice by telegram, or if telegraphic service is not available then after notice by mail given to the Lessee by either the Mortgagee or the County that the payment referred to in such notice has not been received.

(b) Violation of any of the covenants set forth in Section 8.8(2) and Section 8.8(4) hereof and failure of the Lessee to fulfill its obligation to purchase the Project as provided in Section 12.2 hereof.

(c) Failure by the Lessee to observe and perform any covenant, condition or agreement (other than as referred to in subsections (a) and (b) of this Section) in this Agreement on the part of the Lessee to be observed or performed, for a period of thirty days after written notice, specifying such failure and requesting that it be



remedied, given to the Lessee by the County or the Mortgagee, unless the County and the Mortgagee shall agree in writing to an extension of such time prior to its expiration; provided in the case of a default specified in this subsection (c) of Section 10.1, if such default be such that it cannot be corrected within the said 30-day period, it shall not constitute an event of default if corrective action is instituted by the Lessee within said 30-day period and diligently pursued until the default is corrected.

(d) The dissolution or liquidation of the Lessee or the filing by the Lessee of a voluntary petition in bankruptcy, or failure by the Lessee promptly to lift any execution, garnishment or attachment of such consequence as will impair the ability of the Lessee to carry on its operations at the Project, or the commission by the Lessee of any act of bankruptcy, or adjudication of the Lessee as a bankrupt, or assignment by the Lessee for the benefit of its creditors, or the entry by the Lessee into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Lessee in any proceeding for its reorganization instituted under the provisions of the general bankruptcy act, as amended, or under any similar act in any domestic or foreign jurisdiction, which may now be in effect or hereafter enacted. The term "dissolution or liquidation of the Lessee", as used in this

subsection, shall not be construed to include the cessation of the corporate existence of the Lessee resulting either from a merger or consolidation of the Lessee into or with another corporation or a dissolution or liquidation of the Lessee following a transfer of all or substantially all of its assets as an entirety, provided, that the conditions permitting such actions contained in Section 8.3 hereof shall have been met.

The foregoing provisions of this Section are subject to the following limitations: If by reason of force majeure the Lessee is unable in whole or in part to carry out the agreements of the Lessee on its part herein contained (other than the obligations on the part of the Lessee contained in Article V and Section 6.3, 6.4, 8.7, 8.8 and 12.2 hereof to which this paragraph shall have no application), the Lessee shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of South Carolina or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricanes' storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control



of the Lessee, it being agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Lessee, and the Lessee shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the Lessee unfavorable to the Lessee.

SECTION 10.2. REMEDIES ON DEFAULT. Whenever any event of default referred to in Section 10.1 shall have happened and be subsisting, the County may take any one or more of the following remedial steps:

(a) The County or the Mortgagee may, at its option, declare all installments of rent payable under Section 5.3 hereof for the remainder of the Lease Term to be immediately due and payable, whereupon the same shall become immediately due and payable.

(b) The County, with the prior written consent of the Mortgagee, may re-enter and take possession of the Project without terminating this Agreement, and sublease the Project for the account of the Lessee, holding the Lessee liable for the difference in the rent and other amounts payable by such sublessee in such subleasing and the rents and other amounts payable by the Lessee hereunder; provided, that in the case of an event of default referred to in Section 10.1(a) hereof, the County shall not be entitled to take such action until the sixth day after the giving of notice as prescribed in Section 10.1 (a).

(c) The County, with the prior written consent of the Mortgagee, may terminate the Lease Term, exclude the Lessee from possession of the Project and use its best efforts to lease the Project to another for the account of the Lessee, holding the Lessee liable for all rent and other amounts payable by the Lessee hereunder; provided, that in the case of an event of default referred to in Section 10.1(a) hereof, the County shall not be entitled to take such action until the sixth day after the giving of notice as prescribed in Section 10.1(a).

(d) In the event any amount shall at the time be outstanding and unpaid on the Note, the County may have access to and inspect, examine and make copies of the books and records and any and all accounts, similar data and income tax and other tax returns of the Lessee.

(e) The County may take whatever action at law or in equity may appear necessary or desirable to collect the rent and other amounts due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Agreement.

Any amounts collected pursuant to action taken under this Section shall be paid to the Mortgagee and applied to payments on the Note as they come due or, if the Note has been fully paid, to the Lessee.

No action taken pursuant to this Section (including re-possession of the Project or termination of the Lease Term) shall relieve the Lessee from the Lessee's obligations pursuant to



Section 5.3, Section 10.2(a) and Section 12.2 hereof, all of which shall survive any such action, and the County may take whatever action at law or in equity as may appear necessary and desirable to collect the rent and other amounts then due and thereafter to become due and/or to enforce the performance and observance of any obligation, agreement or covenant of the Lessee hereunder, including the Lessee's obligation to purchase the Project under Section 12.2 hereof.

SECTION 10.3. NO REMEDY EXCLUSIVE. No remedy herein conferred upon or reserved to the County is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the County to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. Such rights and remedies as are given the County hereunder shall also extend to the Mortgagee and the Mortgagee shall be deemed a third party beneficiary of all covenants and agreements herein contained.

SECTION 10.4. AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES. In the event the Lessee should default under any of the provisions of this Agreement and the County or the Mortgagee should

employ attorneys or incur other expenses for the collection of rent or the enforcement of performance or observance of any obligation or agreement on the part of the Lessee herein contained, the Lessee agrees that it will on demand therefor pay to the County or the Mortgagee the reasonable fee of such attorneys and such other expenses so incurred by the County or the Mortgagee.

SECTION 10.5. NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.

In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE XI

OPTIONS IN FAVOR OF LESSEE

SECTION 11.1. OPTIONS TO TERMINATE. The Lessee shall have, and is hereby granted, the following options to terminate the Lease Term and its obligations as Lessee hereunder:

(a) At any time prior to full payment of the Note, the Lessee may terminate this Agreement by paying to the Mortgagee an amount which will be sufficient to pay and retire the Note in accordance with its provisions (including, without limiting the generality of the foregoing, principal, interest to prepayment date and fees and expenses, if any, of the Mortgagee).

(b) At any time after full payment of the Note and of any and all sums then due to the County under this Agreement, the Lessee may terminate the Lease Term by giving the County notice in writing of such termination and such termination shall forthwith become effective.



SECTION 11.2. OPTION TO PURCHASE PROJECT PRIOR TO PAYMENT OF THE NOTE. The Lessee shall have, and is hereby granted the option to purchase the Project prior to the full payment of the Note if any of the following shall have occurred:

(a) The Building or the Leased Equipment shall have been damaged or destroyed (i) to such extent that it cannot be reasonably restored within a period of four months to the condition thereof immediately preceding such damage or destruction, or (ii) to such extent that the Lessee is thereby prevented from carrying on its normal operations at the Project for a period of four months, or (iii) to such extent that the cost of restoration thereof would exceed by \$50,000 the Net Proceeds of insurance carried thereon pursuant to the requirements of Section 6.4(a) hereof, plus the deductible amounts for which the Lessee is self-insured with respect to the Building.

(b) Title to, or the temporary use of, all or substantially all the Project shall have been taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority (including such a taking or takings as results in the Lessee being thereby prevented from carrying on its normal operation of the Project for a period of four months).

(c) As a result of any changes in the Constitution of South Carolina or the Constitution of the United

States of America or of legislative or administrative action (whether state or federal) or by final decree, judgment or order of any court or administrative body (whether state or federal) entered after the contest thereof by the Lessee in good faith, this Agreement shall have become void or unenforceable or impossible of performance in accordance with the intent and purposes of the parties as expressed in this Agreement, or unreasonable burdens or excessive liabilities shall have been imposed on the County or the Lessee in respect to the Project including without limitation federal, state or other ad valorem, property, income or other taxes not being imposed on the date of this Agreement.

To exercise such option, the Lessee shall, within ninety days following the event authorizing the exercise of such option, give written notice to the County and to the Mortgagee, if the Note shall then be unpaid, and shall specify therein the date of closing such purchase, which date shall be not less than forty-five days nor more than ninety days from the date such notice is mailed. The purchase price payable by the Lessee in the event of its exercise of the option granted in this Section shall be the sum of the following:

- (1) An amount of money which, when added to the amount then held by the Mortgagee, will be sufficient to pay and retire the Note, including without limitation, principal and all interest to accrue to the date of payment, plus



(2) An amount of money equal to the Mortgagee's fees and expenses under the Mortgage accrued and to accrue until such final payment of the Note, plus

(3) The sum of one dollar, and any and all other sums then due to the County under this Agreement, for the Leased Land, Building and Leased Equipment.

In the event of the exercise of the option granted in this Section any Net Proceeds of insurance or condemnation shall be paid to the Lessee simultaneously with the conveyance prescribed by Section 11.4.

SECTION 11.3. OPTION TO PURCHASE UNIMPROVED LAND. If no event of default under this Agreement shall have happened and be continuing, the Lessee shall have, and is hereby granted, the option to purchase any part of the Leased Land on which neither the Building nor any Leased Equipment is located, but upon which transportation or utility facilities may be located, at any time and from time to time at and for a purchase price equal to \$ 3,000.00 per acre provided that it furnishes the County with the following:

(a) A notice in writing containing (i) an adequate legal description of that portion of the Leased Land with respect to which such option is to be exercised, (ii) a statement that the Lessee intends to exercise its option to purchase such portion of the Leased Land on a date stated, which shall not be less than forty-five nor more than ninety days from the date of such notice and (iii) a statement that the use to which the Lessee intends to

devote such portion of the Leased Land will promote the continued industrial development of South Carolina.

(b) A certificate of an Independent Engineer who is acceptable to the Mortgagee, dated not more than ninety days prior to the date of the purchase and stating that, in the opinion of the person signing such certificate, (i) the portion of the Leased Land with respect to which the option is exercised is not needed for the operation of the Project for the purposes hereinabove stated, and (ii) the purchase will not impair the usefulness of the Building for the purpose for which it is intended, and will not destroy the means of ingress thereto and egress therefrom.

(c) An amount of money equal to the purchase price computed as provided in this Section.

The County agrees that upon receipt of the notice, certificate and money required in this Section to be furnished to it by the Lessee, the County will promptly deliver such money to the Mortgagee to be applied against the Note, and secure from the Mortgagee a release from the lien of the Mortgage of such portion of the Leased Land with respect to which the Lessee shall have exercised the option granted to it in this Section. In the event the Lessee shall exercise the option granted to it under this Section the Lessee shall not be entitled to any abatement or diminution of the rents payable under Section 5.3 hereof, and if such option relates to Leased Land on which transportation or utility facilities are located, the County shall retain an easement to use such transportation or utility facilities to the extent necessary for the efficient operation of the Project.



SECTION 11.4. CONVEYANCE ON EXERCISE OF OPTION TO PURCHASE. At the closing of the purchase pursuant to the exercise of any option to purchase granted herein, the County will upon receipt of the purchase price deliver to the Lessee the following:

(a) If necessary, a release from the Mortgagee of the property with respect to which the option was exercised from all security instruments.

(b) Documents conveying to the Lessee a good and marketable title to the property being purchased, as such property then exists, subject to the following: (i) those liens and encumbrances (if any) to which title to said property was subject when conveyed to the County; (ii) those liens and encumbrances created by the Lessee or to the creation or suffering of which the Lessee consented; (iii) those liens and encumbrances resulting from the failure of the Lessee to perform or observe any of the agreements on its part contained in this Agreement; (iv) Permitted Encumbrances other than the Mortgage and this Agreement; and (v) if the option is exercised pursuant to the provisions of Section 11.2(b) hereof, the rights and title of the condemning authority.

SECTION 11.5. RELATIVE POSITION OF OPTIONS AND MORTGAGE . The options respectively granted to the Lessee in this Article except under Section 11.3 hereof shall be and remain prior and superior to the Mortgage and may be exercised whether or not the Lessee is in default hereunder, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option.

ARTICLE XII

ADDITIONAL OBLIGATION OF LESSEE AND COUNTY

SECTION 12.1. OBLIGATION TO PURCHASE PROJECT. The Lessee hereby agrees to purchase, and the County hereby agrees to sell, the Project for one dollar, and any and all sums then due to the County under this Agreement, at the expiration or sooner termination of the Lease Term following the payment of the Note. At the closing of the foregoing purchase, the County will deliver to the Lessee the documents referred to in Section 11.4 hereof. The right to purchase granted in this Section shall be and remain prior and superior to the Mortgage and may be exercised whether or not the Lessee is in default hereunder provided that no such default will result in nonfulfillment of any condition to this right.

SECTION 12.2. LESSEE'S OBLIGATION TO PURCHASE PROJECT UNDER CERTAIN CIRCUMSTANCES. Should, by reason of any actual or claimed violation of any covenant set forth in Section 8.8(2) or Section 8.8(4) (whether through act of the Lessee or circumstances not under the Lessee's control or otherwise) the Internal Revenue Service of the United States Treasury Department determines that interest on the Note is subject to Federal Income Tax by reason of a violation (actual or claimed) of the capital expenditure limitation prescribed in Section 103(c)(6)(D) of the Internal Revenue Code of 1954, the Lessee agrees to purchase, in full discharge of all liability hereunder, the Project within thirty days after such determination at a purchase price equal to the principal amount of



the Note then outstanding plus accrued interest to the date of payment and a prepayment premium computed in the manner prescribed in Section 12.4, plus any expenses of prepayment and the Mortgagee's fees and charges. The obligation of the Lessee under this Section 12.2 shall survive any termination of the Lease Term or this Agreement. At the closing of the foregoing purchase the County shall deliver to the Lessee the documents referred to in Section 11.4. Such purchase price shall be applied, together with other available moneys held by the Mortgagee, to the prepayment of the Note on the earliest possible date, whether or not such date is an interest payment date, and to the payment of any premium required by Section 12.4 on account of any payments theretofore made on the Note.

PROVIDED, that nothing herein contained is intended to create any obligation upon the Lessee as a result of interest on the Note becoming taxable by virtue of the provisions of Section 103(c)(7) of the Internal Revenue Code of 1954.

SECTION 12.3. OBLIGATION OF LESSEE FURTHER DEFINED. The parties recognize that the Note is being issued as a tax free obligation by virtue of an election made under Section 103(c)(6)(D) of the Internal Revenue Code of 1954, and that circumstances (not now contemplated or anticipated) may hereafter result in the determination by the Internal Revenue Service (which may be disputed) that interest on the Note is no longer tax free. It is the intention of the parties hereto that the Lessee, in such event,

shall provide Mortgagee on the occasion as of which interest on the Note becomes (or is determined by the Internal Revenue Service to be) taxable, with the relief prescribed in Sections 12.2 and 12.4 hereof, without regard to the final outcome of any such dispute, and such determination by the Internal Revenue Service shall be conclusive for the purposes of Section 12.2 even though it might be thereafter determined by Court order, ruling or otherwise that interest on the Note was, in fact, not subject to Federal Income Taxes.

SECTION 12.4. COMPUTATION OF ADDITIONAL PREPAYMENT PREMIUM. In the event the Lessee is required to purchase the Project by virtue of the provisions of Section 12.2, the prepayment premium payable shall be computed on the principal amount of the Note outstanding on the occasion as of which interest on the Note becomes taxable as follows: a prepayment premium determined by multiplying one-third ( $1/3$ ) of the annual interest on the Note by the number of 180 days periods, or fraction thereof, between the occasion as of which interest on the Note is (or is determined by the Internal Revenue Service to be) taxable and the date of prepayment or the earlier payment date of any principal amount which shall have theretofore been paid (whether at maturity or by prepayment) subsequent to the occasion as of which interest on the Note is (or is determined by the Internal Revenue Service to be) taxable. On the occasion of the purchase of the Project pursuant to the requirements of Section 12.2 the purchase price paid by Lessee shall include the premium above prescribed so that the



Mortgagee shall receive a premium on the principal balance remaining unpaid and on each principal payment theretofore made subsequent to the occasion as of which interest on the Note became (or was determined by the Internal Revenue Service to have become) taxable, computed according to the provisions of this Section 12.4.

ARTICLE XIII

MISCELLANEOUS

SECTION 13.1. QUIET ENJOYMENT. The County agrees so long as the Lessee shall fully and punctually pay all of the rents and other amounts provided to be paid hereunder by the Lessee, and shall fully and punctually perform all of its other covenants and agreements hereunder, that the Lessee shall peaceably and quietly have, hold and enjoy the Project during the Lease Term.

SECTION 13.2. SURRENDER OF PROJECT. Except as otherwise expressly provided in this Agreement, at the expiration or sooner termination of the Lease Term, the Lessee agrees to surrender possession of the Project peaceably and promptly to the County in as good condition as at the commencement of the Lease Term, loss by fire or other casualty covered by insurance and ordinary wear, tear and obsolescence only excepted.

SECTION 13.3. NOTICES. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, or given when dispatched by a telegram when telegraphic notice is permitted by express provisions of this Agreement,

addressed as follows: if to the County, to the Greenville County Council, Greenville County Courthouse, Greenville, South Carolina; if to the Lessee, at P. O. Box 1510, Butler, Pennsylvania 16001 Attention: President; if to the Mortgagee, at Pittsburgh National Bank, Pittsburgh, Pennsylvania 15230, Attention: H. A. Vogt, Asst. Vice-President The County, the Lessee and the Mortgagee may, by notice given to all parties to this Agreement and the Mortgage, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

SECTION 13.4. RECORDING AND FILING. (a) This Agreement as originally executed shall be recorded prior to the recordation of the Indenture. It shall be recorded and indexed as a miscellaneous conveyance and as a security agreement in the office of the Register of Mesne Conveyance for Greenville County, South Carolina, or in such other office as may at the time be provided by law as the proper place for the recordation thereof. The security interest of the County created herein as the personal property, equipment and fixtures and the assignment of such security interest to the Mortgagee shall be perfected by the filing of financing statements which fully comply with the South Carolina Uniform Commercial Code -- Secured Transactions in the office of the Secretary of State of South Carolina, in the City of Columbia, South Carolina and in the office of the Register of Mesne Conveyance of Greenville County. The parties further agree that all necessary continuation statements shall be filed within the time prescribed by the South Carolina Uniform Commercial Code -- Secured Transactions in order to continue the security interests created by this Agreement, to



the end that the rights of the Mortgagee in the Project (and in the assignment to the Mortgagee of the rents payable under this Lease Agreement) shall be fully preserved as against creditors of, or purchasers for value from, the County or the Lessee.

(b) The deed conveying the Leased Land to the County, this Agreement, its assignment to the Mortgagee, and the Mortgage may be recorded prior to the delivery of the Note. If subsequent to such recording the Note shall not be delivered on or before February 28, 1971, or such later date as the Lessee may agree upon in writing, then the said deed, this Agreement, its assignment to the Mortgagee, and the Mortgage shall be of no force and effect and in such event the County and the Lessee do hereby mutually release and discharge each other from any and all claims of any character which either may have against the other by reason of or arising from a failure to deliver the Note. And the County shall transfer and reconvey to the Lessee or its designee all properties conveyed to the County by the deed and for the same consideration paid to the County by the Lessee. Both parties shall execute such further instruments as may be necessary to fully implement the provisions of this subsection (b) of Section 13.4.

#### SECTION 13.5. OTHER INSTRUMENTS.

(a) The Lessee covenants to deliver to the County and the Mortgagee within sixty days after July 1, 1971, after each July 1 thereafter until the Completion Date, after the Completion Date and after each July 1 following the Completion Date, a description of the Leased Equipment and Building, if any, constituting a part of the Project, on such July 1, or Completion

Date, as appropriate, and not adequately described in the granting clauses of the Mortgage as then supplemented, and in the demising clauses of this Agreement as then amended. Such description shall be sufficiently detailed so as to enable counsel to render the opinion referred to in clause (4) of the next succeeding sentence. Within 30 days after delivery of such description the Lessee covenants that it will:

(1) prepare a supplement to the Mortgage and an amendment to this Agreement, each containing a description of the Leased Equipment and Building not adequately described in the granting clauses of the Indenture, as then supplemented, and in the demising clauses of this Agreement, as then amended;

(2) deliver the supplement to the Mortgage to the Mortgagee and the County and the supplement to this Agreement to the County, for execution;

(3) deliver the fully executed supplement to the Mortgage and the fully executed supplement to this Agreement to the Mortgagee for recording and filing or re-recording or re-filing in all places required by the opinion of Counsel referred to in sub-section (a) (4) of this Section 13.5; and

(4) deliver to the Mortgagee a written opinion of counsel (who may be counsel for the County or the Lessee) addressed to the Mortgagee that the description of the Mortgaged Property (being the property described under paragraphs I, II, III, IV and V of the Mortgage) contained in the granting clauses of the Mortgage, as



supplemented, and the description of the Project contained in the demising clauses of this Agreement, as supplemented, are adequate for all purposes thereof and hereof and in the opinion given with respect to the Completion Date that such descriptions include descriptions of the entire Project; that the Mortgage, as supplemented, constitutes a valid first mortgage lien on, and security interest in, the interest of the County in the said Mortgaged Property, subject only to Permitted Encumbrances other than the Mortgage; that the Mortgage, as supplemented, this Agreement, as supplemented, and all financing statements, continuation statements, notices and other instruments required by applicable law have been recorded or filed or re-recorded or re-filed in such manner and in such places required by law in order to fully preserve and protect the rights of the Mortgagee in the Project (and in the assignment to the Mortgagee of the rents payable under this Agreement) as against creditors of, or purchasers for value from, the County or the Lessee.

(b) The Lessee, the County and the Mortgagee shall execute and deliver all instruments and shall furnish all information and evidence deemed necessary or advisable by such counsel in order to enable him to render the opinion referred to in sub-section (a) (4) of this Section 13.5. The Mortgagee shall file and record and re-record or cause to be filed and recorded and re-recorded all

instruments required to be filed and recorded and re-recorded pursuant to the opinion of such counsel and shall continue or cause to be continued the liens of such instruments for so long as the Note shall be outstanding, except as otherwise in this Agreement required.

SECTION 13.6. BINDING EFFECT. This Agreement shall inure to the benefit of and shall be binding upon the County, the Lessee and their respective successors and assigns, subject, however, to the limitation contained in Sections 8.3, 9.1, 9.2 and 9.3 hereof.

SECTION 13.7. SEVERABILITY. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 13.8. AMOUNTS HELD BY THE MORTGAGEE. It is agreed by the parties hereto that any amounts held by the Mortgagee upon expiration or sooner termination of the Lease Term, as provided in this Agreement, after payment in full of the Note and the fees, charges and expenses of the County and of the Mortgagee in accordance with the Mortgage and the provisions of this Agreement shall belong to and be paid to the Lessee by the Mortgagee as overpayment of rents.

SECTION 13.9. AMENDMENTS, CHANGES AND MODIFICATIONS. This Agreement may not be amended, changed, modified, altered or terminated without in each instance the prior written consent of the Mortgagee.

SECTION 13.10. NET LEASE. This Agreement shall be deemed and construed to be a "net lease", and the Lessee shall pay absolutely net during the Lease Term the rent and all other payments



required hereunder, free of any deductions, without abatement, diminutions or set-off other than those herein expressly provided.

SECTION 13.11. EXECUTION OF COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 13.12. LAW GOVERNING CONSTRUCTION OF AGREEMENT. This Agreement is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

IN WITNESS WHEREOF, Greenville County, South Carolina, has executed this Lease Agreement by causing its name to be hereunto subscribed by the Chairman of the Greenville County Council and the official seal of said County to be impressed hereon and attested by the Secretary of said County Council; and American Hardware Supply Company has executed this Lease Agreement by causing its corporate name to be hereunto subscribed by its President and its corporate seal to be impressed hereon and attested by its Secretary, all being done as of the day and year first above written.

GREENVILLE COUNTY, SOUTH CAROLINA

( SEAL )

By \_\_\_\_\_  
Chairman of the Greenville  
County Council

Attest:

\_\_\_\_\_  
Secretary of the Greenville  
County Council

Signed, Sealed and Delivered  
in the presence of:

\_\_\_\_\_  
\_\_\_\_\_

AMERICAN HARDWARE SUPPLY COMPANY

( SEAL )

By \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

Signed, Sealed and Delivered  
in the presence of :

\_\_\_\_\_  
\_\_\_\_\_



STATE OF SOUTH CAROLINA,

COUNTY OF GREENVILLE.

PERSONALLY appeared before me \_\_\_\_\_  
who being duly sworn says that he saw the seal of the Greenville  
County affixed to the foregoing Lease Agreement, and that  
he also saw \_\_\_\_\_, as Chairman, and  
\_\_\_\_\_, as Secretary of the Greenville  
County Council, sign and attest the same, and that he with  
\_\_\_\_\_ witnessed the execution and de-  
livery thereof as the act and deed of the said Greenville County.

SWORN to before me this

\_\_\_\_ day of \_\_\_\_\_, 1971.

\_\_\_\_\_(L.S.)  
Notary Public for South Carolina

My Commission Expires \_\_\_\_\_.

STATE OF PENNSYLVANIA,

COUNTY OF \_\_\_\_\_.

PERSONALLY appeared before me \_\_\_\_\_  
who being duly sworn says that he saw the corporate seal of  
American Hardware Supply Company affixed to the foregoing  
Lease Agreement, and that he also saw \_\_\_\_\_,  
as President and \_\_\_\_\_, as Secretary of  
American Hardware Supply Company, Inc. sign and attest the same,  
and that he with \_\_\_\_\_ witnessed the  
execution and delivery thereof as the act and deed of the said  
American Hardware Supply Company, a Pennsylvania corpora-  
tion.

SWORN to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 1971.

\_\_\_\_\_(L.S.)  
Notary Public for State of Pennsylvania

My Commission Expires \_\_\_\_\_.



EXHIBIT A

DESCRIPTION OF LEASED LAND  
ATTACHED TO LEASE AGREEMENT BETWEEN GREENVILLE COUNTY,  
SOUTH CAROLINA AND AMERICAN HARDWARE SUPPLY COMPANY,  
DATED AS OF FEBRUARY 1, 1971.

All that piece, parcel or tract of land, containing 20.07 acres, more or less, situate, lying and being on the Southern side of an unnamed street and at the Southern terminus of South Burty Road near the City of Greenville, County of Greenville, State of South Carolina, the following metes and bounds:

BEGINNING at an iron pin on the Southern side of an unnamed street at the Northeastern corner of the premises herein described and at the joint corner of said premises and Tract F, and running thence with the line of Tract F, S. 0-42 W. 350 feet to an iron pin; thence continuing with the line of Tract F, S. 89-19 E. 200 feet to an iron pin; thence S. 0-42 W. 871.5 feet to an iron pin; thence S. 78-05 W. 341.7 feet to an iron pin; thence S. 77-17 W. 401.5 feet to an iron pin; thence N. 0-42 E. 1,389.1 feet to an iron pin on the Southern side of an unnamed street; thence with thw Southern side of said unnamed street S. 89-19 E. 524 feet to the point of beginning.

TOGETHER WITH easements for street purposes and utilities as shown on said plat, said easements being shown on the plat referred to hereinabove as South Burty Road and a 50 foot street, and extending (1) from the Northwestern corner of Tract F in a westerly direction to South Carolina Highway #20 and (2) from the northerly boundary of the easement first referred to hereinabove in a northerly direction to Lenhardt Road.

TOGETHER WITH an easement for a railroad siding as shown on said plat, said easement springing from the Donaldson spur of the Southern Railroad (being a 70 foot right of way), and running in a Westerly direction and then curving in a southerly direction to the Northwestern corner of the premises herein conveyed.

AN easement for the purpose of constructing, installing and maintaining pipes for a storm drainage line to discharge water into the stream that constitutes the rear property line of the lot designated as No. 118 in the subdivision known as Cutler Ridge.

EXHIBIT B

DESCRIPTION OF LEASED EQUIPMENT

ATTACHED TO LEASE AGREEMENT BETWEEN GREENVILLE COUNTY,  
SOUTH CAROLINA, AND AMERICAN HARDWARE SUPPLY COMPANY,  
DATED AS OF FEBRUARY 1, 1971.

<u>Quantity</u>	<u>Item</u>	<u>Cost</u>
700	#MQ 3060 IRB Trucks	\$37,520.00
500	36" x 48" Pallets	1,627.40
11,000	36" x 34" Cargotainer	
	Rack Decks	39,600.00
900	24" x 34" Cargotainer	
	Rack Decks	2,250.00
800	60" x 38" Cargotainer	
	Rack Decks	6,400.00
1	Clarke + B32A Automatic	
	Scrubber/brushes	2,455.88
1,500	2 Bu. Hampers	20,628.00
4	Frommelt Rail Shelters	2,540.00
18	#701 Mechanical Dockboards/	
	Panic Stops	20,779.71
1 Lot	Industrial Shelving con-	
	sisting of:	56,707.52
	1410 Bin Uprights	
	1150 Pr. Shelf Supports	
	6800 Class 2 Shelves	
	60 Backs	
	27,300 Shelf Brackets	
	300 Tie Clips	
	11,700 Label Holders	
	1220 Closed Bases	
	431 Pr. Sway Braces	
	8500 - 8" Shelf Divider	
	2400 - 12" Shelf Divider	
	1200 - 16" Shelf Divider	
	950 - 20" Shelf Divider	
	800 - 24" Shelf Divider	
300	60 x 60 Pallet Frames	5,676.30
800	48 x 36 Pallet Frames	13,101.60
1 Lot	Decking consisting of:	67,941.50
	1350 - 36" Upright Frames	
	190 - 24" Upright Frames	
	110 - 60" Upright Frames	
	7000 - 108" x 5" Beams	
	36 - 72" x 3" Beams	
	380 - 156" x 5" Beams	



EXHIBIT "C"

UNITED STATES OF AMERICA  
STATE OF SOUTH CAROLINA  
GREENVILLE COUNTY

FIRST MORTGAGE INDUSTRIAL REVENUE NOTE, SERIES 1970  
(AMERICAN HARDWARE SUPPLY COMPANY - LESSEE)

\$ 1,500,000

KNOW ALL MEN BY THESE PRESENTS that Greenville County, a body politic and corporate, and a political subdivision of the State of South Carolina (hereinafter called the "County"), for value received promises to pay, but only from the source and as hereinafter provided, to the order of Pittsburgh National Bank, at its principal office in the City of Pittsburgh, State of Pennsylvania, the sum of One Million Five Hundred Thousand Dollars (\$1,500,000) in installments as follows: On the first day of February, 1971 the sum of \$260,000; on the first day of February, 1972 the sum of \$280,000; on the first day of February, 1973 the sum of \$300,000; on the first day of February, 1974 the sum of \$320,000; and on the first day of February, 1975 the sum of \$340,000, together with interest at the rate of Five and One-half Per centum (5½%) per annum computable and payable semi-annually on the principal balance from time to time outstanding on each February 1 and August 1 hereafter, commencing August 1, 1971.

This Note is issued for the purpose of acquiring new warehouse and distribution facilities and leasing the same to American Hardware Supply Company, a Pennsylvania corporation (hereinafter referred to as the "Lessee") (the land, buildings, equipment and machinery comprising such facilities being hereinafter called the "Project") and paying necessary expenses incidental thereto so as to thereby promote industry and develop trade in South Carolina. This Note is secured by a Mortgage (hereinafter called the "Mortgage"), dated as of February 1, 1971,

duly executed and delivered by the County to Pittsburgh National Bank, as Mortgagee (hereinafter called the "Mortgagee"). The Project has been leased to the Lessee under and pursuant to a Lease Agreement between the County and the Lessee dated as of February 1, 1971 (herein referred to as the "Lease Agreement"). Under the Lease Agreement the Lessee must pay to the County such rentals as will be fully sufficient to pay the principal of, premium, if any, and interest on the Note as the same become due and, under the Lease Agreement it is the obligation of the Lessee to pay the cost of maintaining the Project in good repair and to keep it properly insured. Copies of the Mortgage and the Lease Agreement are recorded in the office of the Register of Mesne Conveyances for Greenville County, South Carolina, and reference is made to the Mortgage and the Lease Agreement for a description of the security, the provisions, among others, with respect to the nature and extent of the security, the charging and collection of rentals for the Project, the rights and remedies of the holder of this Note, the rights, duties and obligations of the County, the Lessee, and the Mortgagee, and the terms upon which this Note is issued and secured.

This Note may be prepaid, without premium, on any interest payment date, in whole or in part in multiples of \$1,000, provided that written notice of the amount of prepayment be given to the holder of this Note at least thirty (30) days prior to the prepayment date and, provided further, that in the event of the mandatory purchase of the Project by the Lessee pursuant to Section 12.2 of the Lease Agreement, the Note shall be prepaid on the earliest possible date after notice as aforesaid, whether or not such date is an interest payment date, by the payment of the principal balance outstanding, accrued interest to the date of prepayment, and a prepayment premium determined by multiplying



one-third of the annual interest on the principal balance outstanding by the number of 180-day periods, or fraction thereof, between the occasion as of which interest on the Note is (or is determined by the Internal Revenue Service to be) taxable and the date of prepayment. If it shall occur that any principal of the Note shall have been paid or retired subsequent to the occasion as of which interest on the Note became taxable, but prior to the prepayment of the Note from the purchase price derived from the mandatory purchase of the Project by the Lessee pursuant to Section 12.2 of the Lease Agreement, then in such event the holder of the Note on the occasion of its prepayment shall be entitled to receive from the purchase price to be paid by the Lessee pursuant to Section 12.2 of the Lease Agreement a premium on account of each such principal payment computed as aforesaid to the date such payment was made.

This Note is issued pursuant to the authorization of and for the purposes prescribed by Act No. 103 of the Acts and Joint Resolutions enacted at the 1967 Session of the General Assembly of the State of South Carolina, approved by the Governor of South Carolina on March 21, 1967, and pursuant to resolutions duly adopted by the Greenville County Council and with the approval of the State Budget and Control Board of South Carolina. This Note, both principal and interest, is a limited obligation of the County and is payable solely out of the lease rentals, revenues and receipts (excluding amounts paid by the Lessee pursuant to Section 5.5 or 8.7 of the Lease Agreement) derived from the leasing or sale of the Project, which has been financed through the issuance of the Note and leased to the Lessee.

This Note and the principal, interest, and premium, if any, payable hereunder are not and shall never constitute an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation and shall never constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

Pursuant to the Lease Agreement, rental payments sufficient for the prompt payment when due of the principal of, premium, if any, and interest on the Note are to be paid to the Mortgagee for the account of the County and have been pledged for that purpose, and in addition the Project has been subjected to the lien of the Mortgage to secure payment of such principal, interest and premium.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Mortgage and the issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law; and that the issuance of this Note, together with all other obligations of the County, does not exceed or violate any constitutional or statutory limitation.

IN WITNESS WHEREOF, Greenville County, South Carolina, has caused this Note to be executed by the Chairman of the Greenville County Council, by his manual signature, and its corporate seal to be impressed hereon, and attested by the Secretary of the Greenville County Council, by his manual



5.

signature, all as of the 1st day of February, 1971.

GREENVILLE COUNTY, SOUTH CAROLINA

(SEAL)

BY \_\_\_\_\_  
Chairman of the Greenville County  
Council

Attest:

\_\_\_\_\_  
Secretary of the Greenville  
County Council

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

KNOW ALL MEN BY THESE PRESENTS that GREENVILLE COUNTY, a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through the Greenville County Council, in consideration of the sum of One Dollar (\$1.00) to it in hand paid at and before the sealing of these presents, the receipt of which is hereby acknowledged, has assigned, transferred and set over unto PITTSBURGH NATIONAL BANK, its successors and assigns, as security for the payment of \$1,500,000 Greenville County First Mortgage Industrial Revenue Note, Series of 1970 (American Hardware Supply Company - Lessee), dated as of February 1, 1971.

ALL of the right, title and interest of said Greenville County in and to the foregoing Lease Agreement, dated as of February 1, 1971, between said Greenville County, as Lessor and American Hardware Supply Company, as Lessee.

This Assignment is made pursuant to and subject to all the terms and conditions of a certain Mortgage of Greenville County to the said Pittsburgh National Bank, dated as of February 1, 1971, the terms of which are incorporated by this reference as fully as if the same were set forth at length herein, said Mortgage being intended to be duly recorded immediately subsequent to the recording of said Lease Agreement, and this Assignment.

IN WITNESS WHEREOF, Greenville County, South Carolina, has executed this Assignment by causing its name to be hereunto subscribed by the Chairman of the Greenville County Council and



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the official seal of said County to be impressed hereon and  
attested by the Secretary of said County Council, all being done  
as of the 1st day of February, A. D. 1971.

GREENVILLE COUNTY, SOUTH CAROLINA

( SEAL )

By \_\_\_\_\_  
Chairman of the Greenville  
County Council

Attest:

\_\_\_\_\_  
Secretary of the Greenville  
County Council

Signed, Sealed and Delivered  
in the presence of:

\_\_\_\_\_  
\_\_\_\_\_

STATE OF SOUTH CAROLINA,  
COUNTY OF GREENVILLE.

PERSONALLY appeared before me \_\_\_\_\_  
who being duly sworn says that he saw the corporate seal of the  
GREENVILLE COUNTY affixed to the foregoing Assignment of  
Lease, and that he also saw \_\_\_\_\_, as  
Chairman, and \_\_\_\_\_, as Secretary of the  
Greenville County Council sign and attest the same, and that he  
with \_\_\_\_\_ witnessed the execution thereof  
as the act and deed of said GREENVILLE COUNTY, South Carolina.

SWORN to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 1971.

\_\_\_\_\_(L.S.)  
Notary Public for South Carolina

My Commission Expires \_\_\_\_\_.



E N D