

MINUTES OF  
Budget and  
Control Board  
Meeting

November 30, 1979

MINUTES OF BUDGET AND CONTROL BOARD MEETING

NOVEMBER 30, 1979

POLL

Board Secretary William A. McInnis on this date completed a poll of the following Budget and Control Board members on the item of business described below:

Governor Richard W. Riley (through Executive Assistant Clarke)  
Mr. Grady L. Patterson, Jr.  
Mr. Earle E. Morris, Jr.

Senator Rembert C. Dennis and Representative Tom G. Mangum could not be contacted.

ANDERSON COUNTY - INDUSTRIAL REVENUE BOND PETITION - Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board members polled agreed to approve a proposal by Anderson County to issue not exceeding \$3,500,000 Industrial Revenue Bonds on behalf of Yoder Brothers. The project to be financed would finance facilities for rooting carnation and chrysanthemum cuttings and shipping them and would provide employment for approximately 60 persons when completed. The required reviews by the Attorney General's Office and by the State Auditor's Office were completed with satisfactory results prior to the poll.

Information relating to the matter has been retained in these files and is identified as Exhibit 1.

The State of South Carolina

EXHIBIT



NOV 30 1979

NO. 01

STATE BUDGET & CONTROL BOARD

Office of the Attorney General

C. TOLBERT GOOLSBY, JR.  
DEPUTY ATTORNEY GENERAL

WADE HAMPTON OFFICE BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S. C. 29211  
TELEPHONE 803-758-8667

DANIEL R. MCLEOD  
ATTORNEY GENERAL

November 29, 1979

Honorable William T. Putnam  
State Auditor  
Wade Hampton Office Building  
Columbia, South Carolina

Re: \$3,500,000 Anderson County, South  
Carolina First Mortgage Industrial  
Revenue Bonds, Series 1979 (Yoder  
Brothers, Inc. Project)

Dear Mr. Putnam:

Regarding the above-referenced bonds, we have reviewed the Petition and other documents submitted to the State Budget and Control Board pursuant to Act No. 103 of 1967 [55 STAT. 120 (1967)], as amended, and the same appear, in our opinion, to be in order.

Kind personal regards,

A handwritten signature in cursive script, appearing to read "C. Tolbert Goolsby, Jr.".

C. Tolbert Goolsby, Jr.  
Deputy Attorney General

CTGJr/jvh

Enclosures

NOV 30 1979

NO. 01

STATE BUDGET &amp; CONTROL BOARD

Yoder Brothers, Inc. and Subsidiaries  
Financial Statement Review

Re: Anderson County IRB of up to \$3,500,000

1. There is no reason not to approve this issue based on the financial statement review.
2. The financial position of the company appears adequate to support the existing debt and the proposed debt.
3. The auditor's opinions have been qualified, but this is due to a conservative accounting practice that understates assets and net income.

William B. Fulmer  
11-27-79

# EXHIBIT

NOV 30 1979

NO. 01

A RESOLUTION APPROVING THE ISSUANCE BY ANDERSON STATE BUDGET & CONTROL BOARD COUNTY, SOUTH CAROLINA OF NOT EXCEEDING \$3,500,000 PRINCIPAL AMOUNT FIRST MORTGAGE INDUSTRIAL REVENUE BONDS, SERIES 1979 (YODER BROTHERS, INC., PROJECT) PURSUANT TO THE PROVISIONS OF SOUTH CAROLINA CODE ANNOTATED, TITLE 4, CHAPTER 29 (1976)

WHEREAS, the County Council of Anderson County, South Carolina (the "County Board") has heretofore, by submitting a petition (the "Petition"), under and pursuant to the provisions of Section 4-29-140 of South Carolina Code Annotated, Title 4, Chapter 29 (1976) (the "Act"), requested the approval by the State Budget and Control Board of the issuance by Anderson County (the "County") pursuant to the Act of its First Mortgage Industrial Revenue Bonds (as defined in the Act), Series 1979 (Yoder Brothers, Inc., Project), in the aggregate principal amount of not exceeding \$3,500,000 (the "Bonds"); and

WHEREAS, the County proposes to issue the Bonds for the purpose of defraying the costs of acquiring by construction and purchase, certain land and buildings and improvements thereon, and thereon a building or certain other machinery, apparatus, equipment, office facilities and furnishings (the "Project") to be used for an industrial facility, including necessary equipment and machinery, for the purpose of rooting carnation and chrysanthemum cuttings and shipping the rooted cuttings to retail outlets and other customers; and

WHEREAS, the Project is to be leased to Yoder Brothers, Inc. (the "Corporation") at a rental sufficient to pay the principal of and premium, if any, and interest on the Bonds and the costs and expenses related to the issuance of the Bonds; and

WHEREAS, it is proposed that the Bonds will be secured by a pledge of the revenues to be derived from the leasing of the Project, and in addition by a pledge of the Lease of the Project and a first mortgage on the Project; and

WHEREAS, the County has submitted with the Petition (i) drafts of the documents to be entered into by the County in connection with the issuance of the Bonds, for review by the State Budget and Control Board, (ii) an Assistance Agreement by and between the Corporation and the County executed by the Corporation on August 20, 1979, and executed by the County Board, on August 9, 1979, and (iii) a certified copy of a resolution adopted by the County Board on November 20, 1979 and this Board has reviewed and

considered each of said documents in its consideration of said Petition by the County;

NOW, THEREFORE, BE IT RESOLVED, By the State Budget and Control Board of the State of South Carolina, as follows:

Section 1. The Board has made an independent investigation of the matters set forth in the Petition, and on the basis of such investigation it is hereby found, determined and declared:

(a) The facts set forth in the Petition, and in the preamble hereto, are in all respects true and correct;

(b) The Petition filed by the County Board contains all matters required by law and the rules of this Board to be set forth therein, and that in consequence thereof the jurisdiction of this Board has been properly invoked under and pursuant to Section 4-29-140 of the Act; and

(c) The Project subject of the Petition of the County Board is intended to promote the purposes of the Act and is reasonably anticipated to effect such result.

Section 2. In consequence of the foregoing, the proposal of the County to acquire and construct the Project, to lease the Project to the Corporation, to finance the cost thereof and expenses incidental thereto by the issuance of Bonds, as defined in the Act, secured by a pledge of the revenues to be derived from the leasing of the Project, and in addition by a pledge of the Lease of the Project and a first mortgage on the Project, be and the same is hereby in all respects approved.

Section 3. Notice of the action taken by this Board in approving the above described undertaking of the County shall be published in the State which is a newspaper having general circulation in Anderson County.

Section 4. The Notice, required in Section 3 above to be published, shall be in substantially the form set forth in Exhibit "A" of this Resolution.

Section 5. This Resolution shall take effect immediately.

EXHIBIT A

NOTICE PURSUANT TO THE PROVISIONS  
OF SOUTH CAROLINA CODE ANNOTATED,  
TITLE 4, CHAPTER 29

Notice is hereby given pursuant to the provisions and requirements of Section 4-29-140 of South Carolina Code Annotated, Title 4, Chapter 29 (1976) (the "Act"), that the State Budget and Control Board of South Carolina, pursuant to a Petition filed by the County Council of Anderson County, South Carolina, has given its approval to the following undertaking by Anderson County, South Carolina:

The issuance by Anderson County of its First Mortgage Industrial Revenue Bonds (as defined in the Act), Series 1979 (Yoder Brothers, Inc., Project), in the aggregate principal amount of not exceeding \$3,500,000 (the "Bonds"), to defray the costs of acquiring, by construction and purchase, certain land and buildings and improvements thereon, and certain other machinery, apparatus, equipment, office facilities and furnishings to be used as an industrial facility for the purpose of rooting carnation and chrysanthemum cuttings and shipping the rooted cuttings to retail outlets and other customers (the "Project") to be located in Anderson County. The Project will be leased to Yoder Brothers, Inc., an Ohio corporation, which will unconditionally covenant to pay rentals sufficient to pay the principal of, premium (if any) and interests on the Bonds. The Bonds will be payable solely and exclusively out of revenues to be derived from the leasing or sale of the Project to Yoder Brothers, Inc., and are to be additionally secured by a pledge of the Lease of the Project and a first mortgage on the Project.

In addition Yoder Brothers, Inc. has agreed to pay, as additional rentals, to Anderson County, the school district or school districts, and all other political units wherein the Project is located, in lieu of taxes, such amounts as would result from taxes levied on the Project by Anderson County, said school district or school districts and other political units wherein the Project is now located, as if the Project were owned by Yoder Brothers, Inc., but with appropriate reductions similar to the tax exemptions, if any, which would be afforded to it if it were the owner of the Project.

Notice is further given that any interested party may, within twenty (20) days after the date of the publication of this notice, but not afterwards, challenge the validity of the State Budget and Control Board's

approval of the Project and the issuance of the Bonds by Anderson County to finance the same, by action de novo instituted in the Circuit Court for Anderson County, South Carolina.

STATE BUDGET AND CONTROL BOARD

BY: WILLIAM A. McINNIS, Secretary

Dated: \_\_\_\_\_, 1979.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

I, WILLIAM A. McINNIS, Secretary to the South Carolina State Budget and Control Board, DO HEREBY CERTIFY:

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

His Excellency, Richard W. Riley, Governor and Chairman of the Board;

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

The Honorable Earle E. Morris, Jr., Comptroller General;

The Honorable Rembert C. Dennis, Chairman of the Senate Finance Committee; and

The Honorable Tom G. Mangum, Chairman of the House Ways and Means Committee.

That a poll was conducted by telephone on Friday, November 30, 1979, involving all members with the exception of:

Senator Rembert C. Dennis  
Representative Tom G. Mangum

That during said poll, a Resolution, of which the attached is a true, correct and verbatim copy, was introduced by Mr. Patterson, who moved its adoption; said motion was seconded by Mr. Morris, and upon the vote being taken and recorded it appeared that the following votes were cast:

FOR MOTION

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AGAINST MOTION

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That the Resolution was declared unanimously adopted and the original thereof has been duly entered in the permanent records of minutes of meetings of said Board in my custody as its Secretary. This poll action will be ratified by the Board at its next regular meeting now scheduled to be held on December 11, 1979.

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Secretary

November 30, 1979

RESOLUTION

A RESOLUTION MAKING APPLICATION TO THE STATE BUDGET AND CONTROL BOARD OF SOUTH CAROLINA FOR APPROVAL OF THE ISSUANCE BY ANDERSON COUNTY, SOUTH CAROLINA, OF ITS FIRST MORTGAGE INDUSTRIAL REVENUE NOTE, (YODER BROTHERS, INC., PROJECT) 1979 AS DEFINED IN AND PURSUANT TO THE PROVISIONS OF SOUTH CAROLINA CODE ANNOTATED, TITLE 4, CHAPTER 29 (1976) IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$3,500,000.

WHEREAS, Anderson County, South Carolina (the "County") acting by and through its County Council is authorized and empowered under and pursuant to the provisions of South Carolina Code Annotated, Title 4, Chapter 29 (1976) (the "Act") to acquire and lease properties through which the industrial development of the State of South Carolina will be promoted and trade developed by inducing industrial enterprises to locate in and remain in the State of South Carolina and thus utilize and employ the manpower, agricultural products and natural resources of the State; and

WHEREAS, the County is further authorized by the Act to issue revenue bonds, as defined in the Act to include notes, payable solely from the lease rentals, revenues and receipts from any such project and secured by a pledge of said lease rentals, revenues and receipts and by a mortgage on the land, buildings, improvements, machinery and equipment acquired from the proceeds thereof; and

WHEREAS, the County and Yoder Brother, Inc., an Ohio corporation (the "Tenant"), entered into an Assistance Agreement (the "Assistance Agreement") executed by the Tenant on August 20, 1979, and executed by the County Council on August 9, 1979, pursuant to which and in order to implement the public purposes enumerated in the Act and in furtherance thereof to comply with the undertakings of the County pursuant to the Assistance Agreement, the County proposes to issue not exceeding \$3,500,000 principal amount First Mortgage Industrial Revenue Note (Yoder Brothers, Inc., Project) 1979 (the "1979 Note") under and pursuant to the Act to defray the costs of acquiring by construction and purchase certain land, buildings and improvements thereon, and other machinery, apparatus, equipment, office facilities and furnishings (the "Project") to be located in the County, and, subject to the approval of the State Budget and Control Board of South Carolina, to lease the Project to the Tenant under and pursuant to the terms of a Lease to be entered into between the County and the Tenant; and

WHEREAS, it is now deemed advisable by the County Board to file with the State Budget and Control Board of South Carolina, in compliance with Section 4-29-140 of the Act, the Petition of the County requesting approval of the proposed financing by the State Budget and Control Board;

NOW, THEREFORE, BE IT RESOLVED by the County Council of Anderson County, South Carolina, as follows:

Section 1. It is hereby found, determined and declared as follows:

(a) The Project will constitute a "project" as said term is referred to and defined in Section 4-29-10 of the Act, and the issuance of the Series 1979 Bonds in the principal amount of not exceeding \$3,500,000 to finance the Project will subserve the purposes and in all respects conform to the provisions and requirements of the Act.

(b) Neither the Project, the 1979 Note proposed to be issued by the County to finance the Project, nor any documents or agreements entered into by the County in connection therewith will constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing power.

(c) The issuance of the 1979 Note by the County in the principal amount of \$3,500,000 will be required to defray the cost of the Project.

(d) Inasmuch as the Tenant is a corporation with established credit, the establishment of reserve funds in connection with the retirement of the 1979 Note and the maintenance of the Project is deemed unnecessary.

(e) The Project will be leased by the County to the Tenant upon terms which will require the Tenant, at its own expense, to maintain the Project in good repair and to carry all proper insurance with respect thereto, and will require the Tenant to make the payments in lieu of taxes referred to in Section 4-29-60 of the Act.

(f) The Project will consist of the items described on Exhibits A and B to the Lease and Mortgage submitted with the Petition.

(g) A reasonable estimate of the cost of the Project including necessary expenses incident thereto is \$3,500,000.

(h) In addition to the employment provided for those engaged in the construction of the Project, it is anticipated that after the Project has been completed and the industrial facility placed in operation, the industrial

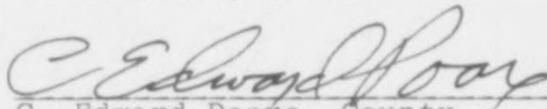
facility will provide additional permanent employment for approximately 60 people from the County and areas adjacent thereto with a resulting alleviation of unemployment, and a substantial increase in payrolls and other public benefits incident to the conducting of industrial operations.

Section 2. There be and is hereby authorized and directed the submission on behalf of the County, of a Petition by this County Council requesting the approval of the proposed financing by the State Budget and Control Board of South Carolina pursuant to the provisions of Section 4-29-140 of the Act, said Petition, which constitutes and is hereby made a part of this authorizing resolution, to be in substantially the form attached hereto as Exhibit A.

Section 3. That the County Supervisor as Chairman of the County Council be and is hereby authorized and directed to execute said Petition in the name and on behalf of the County; and the Clerk be and is hereby authorized and directed to affix the seal of the County to said Petition and to attest the same and thereafter to submit an executed copy of this resolution, to the State Budget and Control Board, in Columbia, South Carolina.

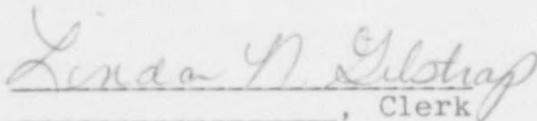
Section 4. All orders and resolutions and parts thereof in conflict herewith are to the extent of such conflict hereby repealed, and this resolution shall take effect and be in full force from and after its passage and approval.

Passed and approved November 20, 1979.



C. Edward Poore, County  
Supervisor and Chairman, County  
Council of Anderson County,  
South Carolina

ATTEST:



, Clerk  
County Council of Anderson  
County, South Carolina

STATE OF SOUTH CAROLINA )  
COUNTY OF ANDERSON )

----- )  
TO THE STATE BUDGET AND CONTROL )  
BOARD OF SOUTH CAROLINA )  
----- )

P E T I T I O N

This Petition of Anderson County, South Carolina (the "County"), pursuant to South Carolina Code Annotated, Title 4, Chapter 29 (1976) (the "Act"), and specifically Section 4-29-140 thereof, respectfully shows:

1. The County Council of Anderson County (the "County Council") is the governing body of the County and as such is the "County Board" of the County referred to in the Act.

2. The Act, among other things, empowers the County, subject to obtaining the approval of the State Budget and Control Board, pursuant to Section 4-29-140 of the Act: (i) To acquire, and, in connection with such acquisition, to enlarge, improve and expand, whether by construction, purchase, gift or lease, one or more projects which shall be located within the County; (ii) to lease to others any or all of its projects for such rentals and upon such terms and conditions as the county board may deem advisable and as shall not conflict with the provisions of this chapter; and (iii) to issue revenue bonds, as defined in the Act to include notes, for the purpose of defraying the cost of acquiring, by construction and purchase, and in connection with any such acquisition, to enlarge, improve and expand any project, and to secure the payment of such bonds all as in the Act provided.

3. The County has agreed to assist Yoder Brothers, Inc., an Ohio corporation, qualified to do business as a foreign corporation in South Carolina (the "Tenant") by issuing its revenue bonds for the purpose of defraying the cost of acquiring certain facilities more fully described in Exhibits A and B to the Lease and Mortgage Loan Agreement attached hereto, located in the County (the "Project").

4. The County has been advised by the Tenant that the estimated cost of the Project will be \$3,500,000 and it has requested the County to execute and deliver its First Mortgage Industrial Revenue Note, (Yoder Brothers, Inc., Project) 1979 (the "1979 Note") in the principal amount of not exceeding \$3,500,000 to defray such costs.

5. Pursuant to Section 4-29-60 of the Act, the County Council has made the requisite findings that: (i) the Project will subserve the purposes of the Act; (ii) the Project will give rise to no pecuniary liability of the County or a charge against its general credit or taxing power; (iii) the principal amount of the 1979 Note required to finance the Project is expected to be \$3,500,000; (iv) the amount necessary in each year to pay the principal of and the interest on the 1979 Note proposed to be issued to finance the Project will be made a part of the proceedings of the County with respect to the 1979 Note; (v) the County does not deem it necessary to establish any reserve funds in connection with the retirement of the proposed note and the maintenance of the Project; and (vi) the terms under which the Project is to be leased provide that the Tenant shall maintain the Project and carry all proper insurance with respect thereto.

6. Pursuant to Section 4-29-140 of the Act, the County sets forth the following information:

(a) The Project, described in detail on Exhibits A and B to the Lease and Mortgage Loan Agreement submitted herewith, consists of land, buildings, improvements thereon and certain other machinery, apparatus, equipment, office facilities and furnishings to be used for rooting carnations and chrysanthemum cuttings. It is anticipated that, upon completion, the Project will provide directly 60 additional full time jobs in the County and that the Project will provide stimulation to the economy of the County and areas adjacent thereto by increased payrolls, capital investment and tax revenues.

(b) It is estimated that the cost of the Project, including the items of cost authorized in the Act, will be \$3,500,000.

(c) Copies of the Lease and the Mortgage Loan Agreement are being submitted herewith. The following summary of terms and the basis for payments in lieu of interest is in no wise intended to affect or alter the actual terms of the documents themselves:

(i) The proposed Lease between the Tenant and the County provides in general:

(A) Proceeds derived from the placement of the 1979 Note, except accrued interest paid by the lender will be used and applied by the County upon request of the Tenant solely for the payment of the costs (as that term is defined in the Act) incident to the acquisition, by construction and purchase, of the Project).

(B) Under the terms of the Lease, the Tenant obligates itself: to effect the completion of the Project if the proceeds derived from the sale of the Bonds prove insufficient therefor without diminution of any payments to the County required by the Lease; to pay rental in the amount necessary to meet the payments of principal, interest and premium, if any, on the 1979 Note as the same become due; to pay the cost of maintaining and insuring the Project to the extent and in the manner provided in the Lease; and to make payments to the County, school district or districts, and other political subdivisions in lieu of taxes as more fully described below.

(C) The Lease contains no provision imposing any pecuniary liability upon the County or which would create a charge upon its general credit or taxing powers.

(ii) The proposed Mortgage Loan Agreement (the "Mortgage") between the County and a lender, as Lender (the "Lender"), provides in general:

(A) An irrevocable pledge and assignment for the benefit of the holder of the 1979 Note of the County's right, title and interest in and to the Project, the Lease and all payments, receipts and revenues which the County has a right to receive under the Lease or any other lease or the sale of the Project (except payments and rights to payments of certain payments in lieu of taxes, indemnification payments and administration expenses), and all the moneys and securities in funds created under the Mortgage.

(B) The terms of the 1979 Note, the provisions for exchange and transfer of the 1979 Note, the redemption provisions, the means of disbursement and investment of the proceeds thereof, provisions for issuance of additional parity notes, default provisions and remedies therefor and various other matters relating to the 1979 Note.

(C) The execution of the Mortgage imposes no pecuniary liability on the County and does not create a charge upon the general credit or taxing power of the County.

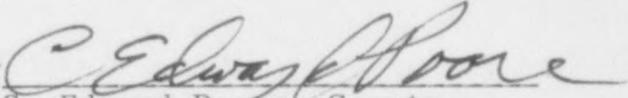
(iii) In the Lease, the Tenant has agreed to make payments in lieu of taxes as required by the Act. The Lease specifies that the Tenant and the County shall cooperate in having the Project appraised for such purposes and in making payments to the taxing authorities of the County and any

school district or districts and other political units wherein the Project is located.

Upon the basis of the foregoing, the County respectfully prays that the State Budget and Control Board (i) accept the filing of this Petition and the documents submitted herewith, (ii) make such investigation as it deems advisable, (iii) if it finds that the Project is intended to promote the purposes of the Act and may be reasonably anticipated to effect such result, that it approve the Project and the proposed financing of the cost thereof by the County through the issuance of the 1979 Note pursuant to the Act (including changes in any details of the said financing as finally consummated which do not materially affect the undertaking of the County), and (iv) give published notice of its approval in the manner set forth in Section 4-29-140 of the Act.

Respectfully submitted,

ANDERSON COUNTY, SOUTH CAROLINA

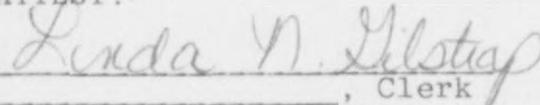
By 

C. Edward Poore, County  
Supervisor and Chairman  
Anderson County Council

Dated: November 20, 1979.

(SEAL)

ATTEST:

  
\_\_\_\_\_, Clerk

Anderson County Council  
Anderson County, South Carolina

EXHIBIT

NOV 30 1979

NO. 01

STATE BUDGET & CONTROL BOARD

1.03

YODER BROTHERS, INC.

TO

MELLON BANK, N.A.

GUARANTY

DATED AS OF DECEMBER 1, 1979

## GUARANTY

This Guaranty Agreement, dated as of December 1, 1979, by and between Yoder Brothers, Inc., an Ohio corporation (the "Tenant") and Mellon Bank, N.A. (herein together with any successor under a Mortgage Loan Agreement dated as of December 1, 1979, between Anderson County, South Carolina, and Mellon Bank, N.A., called the "Lender").

### WITNESSETH:

WHEREAS Anderson County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina (the "County"), has agreed to provide certain industrial facilities (the "Project") and to lease the Project to the Tenant, under a Lease dated as of December 1, 1979 (the "Lease"); and

WHEREAS the County intends to defray the cost of acquisition, by construction and purchase, of the Project by the issuance of its \$3,500,000 First Mortgage Industrial Revenue Note (Yoder Brothers, Inc. Project) 1979 (the "1979 Note"), pursuant to a Mortgage Loan Agreement (the "Mortgage") by and between the County and the Lender dated as of December 1, 1979; and

WHEREAS the Tenant specifically approves the terms and conditions of the Lease and the Mortgage; and

WHEREAS the Tenant desires the County to issue the 1979 Note and is willing to enter into this Guaranty in order to enhance the marketability of the 1979 Note and thereby achieve interest cost and other savings to the Tenant and as an inducement to the purchase of the 1979 Note by all who shall at any time become holders thereof;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the Tenant does hereby covenant and agree with the Lender as follows:

### ARTICLE I

#### REPRESENTATIONS AND WARRANTIES OF THE TENANT

Section 1.1. The Tenant hereby represents and warrants that it is a corporation duly incorporated and in good standing under the laws of the State of Ohio, has full power and authority to enter into and perform this Guaranty, has duly authorized the execution and delivery of this Guaranty by proper corporate action and that such execution and delivery and compliance with the terms hereof will not contravene nor constitute a default under its Articles of

Incorporation or Bylaws or any indenture, mortgage, deed of trust, loan agreement or any other agreement or instrument to which it or any of its subsidiaries, is a party or by which it or any of its subsidiaries is bound or to which the property or assets of it or any of its subsidiaries is subject or any existing law, rule, regulation, judgment, order or decree to which the Tenant or any of its subsidiaries is subject.

## ARTICLE II

### COVENANTS AND AGREEMENTS

Section 2.1. Guarantee of Payment. (a) The Tenant hereby irrevocably and unconditionally guarantees to the Lender and the holders from time to time of the 1979 Note (i) the full and prompt payment of the principal of the 1979 Note when and as the same shall become due, whether at the stated maturity thereof, by acceleration or call for prepayment or otherwise; (ii) the full and prompt payment of the premium, if any, on the 1979 Note, as and when the same shall become due, (iii) the full and prompt payment of any interest on the 1979 Note when and as the same shall become due; and (iv) the full and prompt payment of any other sum due and payable by the County pursuant to the terms of the 1979 Note or the Mortgage. The Tenant hereby irrevocably and unconditionally agrees that upon any default by the County in the payment, when due, of the principal of, premium, if any, or interest on the 1979 Note or of any sum payable by the County under the 1979 Note or the Mortgage, The Tenant will promptly pay the same.

(b) All payments by the Tenant shall be paid in lawful money of the United States of America.

(c) Each and every default in payment of the principal of, premium, if any, or interest on the 1979 Note or any other sum due under the 1979 Note or the Mortgage shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder by the Lender as each cause of action arises.

(d) The Tenant shall pay to the Lender all reasonable costs and expenses (including legal fees) incurred by the Lender in the protection of any of its rights or in the pursuit of any of its remedies in respect of the Mortgage, the 1979 Note or this Guaranty.

(e) The Tenant hereby covenants and agrees that, in the event of a Determination of Taxability as provided in Section \_\_\_ of the Mortgage, it will pay with respect to any Note or portion thereof which has been prepaid prior thereto

and with respect to which the lien created by the Mortgage has been discharged, and to the registered holder thereof as of the date of such Determination of Taxability, the difference between (a) the prepayment price which would have been payable with respect to such Note or portion thereof, including interest at the alternative rate of interest elected by the Tenant under Section \_\_\_ of the Mortgage, if such Note or portion thereof had not been so previously prepaid and (b) the principal payments (including prepayments), premiums, if any, and interest previously paid with respect to such Note or portion thereof.

Section 2.2. Obligations Unconditional. The obligations of the Tenant under this Guaranty shall be absolute and unconditional and remain in full force and effect until the entire principal of, premium, if any, and interest on the 1979 Note shall have been paid or provided for. Such obligations shall not be affected, modified or impaired by any statement of facts or the happening from time to time of any event, including, without limitation, any of the following, whether or not with notice to or the consent of the Tenant:

(a) the invalidity, irregularity, illegality or unenforceability of, or any defect in, (i) the Lease or the Mortgage, (ii) the 1979 Note, or (iii) any collateral security for any thereof;

(b) any present or future law or order of any government (de jure or de facto) or of any agency thereof purporting to reduce, amend or otherwise affect the 1979 Note or any other obligation of the County or any other obligor or to vary any terms of payment;

(c) any claim of immunity on behalf of the County or any other obligor or with respect to any property of the County or any other obligor;

(d) the happening of any event permitted by Article IX of the Lease;

(e) the waiver, compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of (i) the County under the Lease, the 1979 Note or the Mortgage (except by payment in full of the 1979 Note), or (ii) the Tenant under the Lease or under this Guaranty (except by payment in full of all obligations hereunder);

(f) the failure to give notice to the Tenant of the occurrence of an Event of Default under the Mortgage, the Lease, the 1979 Note or this Guaranty;

(g) the transfer, assignment or mortgaging, or the purported or attempted transfer, assignment or mortgaging, of all or any part of the interest of the County or the Tenant in the Project, or any failure of or defect in the title with respect to the County's or the Tenant's interest in the Project, or the termination of the Lease;

(h) the release, sale, exchange, surrender or other change in any security for payment of the 1979 Note;

(i) the extension of the time for payment of any principal of, premium, if any, or interest on the 1979 Note or any part thereof owing or payable on such 1979 Note or under this Guaranty or of the time for performance of any other obligations, covenants or agreements under or arising out of the Lease, the 1979 Note, the Mortgage or this Guaranty or the extension or the renewal of any thereof;

(j) the modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Lease, the 1979 Note or the Mortgage;

(k) the taking or the omission of any of the actions referred to in the Lease, the 1979 Note, the Mortgage or this Guaranty;

(l) any failure, omission or delay on the part of the County, the Lender or any other person to enforce, assert or exercise any right, power or remedy conferred on the County, the Lender or such other person in this Guaranty, the Lease, the 1979 Note or the Mortgage;

(m) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment of, or other similar proceedings affecting either the Tenant or the County or any of the assets of either of them or any allegation or contest of the validity of the Lease, the 1979 Note, the Mortgage or this Guaranty, or the disaffirmance or attempted disaffirmance of the Lease, the 1979 Note, the Mortgage or this Guaranty, in any such proceedings;

(n) to the extent permitted by law, any event or action that would, in the absence of this paragraph, result in the release or discharge of the Tenant from the performance or observance of any obligation, covenant or agreement contained in this Guaranty;

(o) the default or failure of the Tenant fully to perform any of its obligations set forth in this Guaranty;

(p) any other circumstances which might otherwise constitute a legal or equitable discharge or defense of a surety or a guarantor.

Section 2.3. Waivers by Tenant. (a) The Tenant hereby waives with respect to the 1979 Note, the indebtedness evidenced thereby, and this Guaranty: diligence; presentment; demand of payment; filing of claims with a court in the event of bankruptcy of the County or any other person liable in respect of the 1979 Note; any right to require a proceeding first against the County or any other person; protest; notice of dishonor or nonpayment of any such liabilities and any other notice and all demands whatsoever. The Tenant hereby waives notice from the Lender, the County and the holders at any time or from time to time of the 1979 Note (i) of the issuance of the 1979 Note and (ii) of acceptance of, or notice and proof of reliance on, the benefits of this Guaranty.

(b) the obligations of the Tenant hereunder shall not be discharged except by full payment of the 1979 Note, any applicable premium and interest thereon.

Section 2.4. Other Security. The Lender may pursue its rights and remedies under this Guaranty notwithstanding (i) any other guaranty of or security for the 1979 Note or the obligations or liabilities of the County under the Mortgage, and (ii) any action taken or omitted to be taken by the Lender or any other person to enforce any of the rights or remedies under such guaranty or with respect to any other security.

Section 2.5. No Set-Off by Tenant. No set off, counterclaim, reduction or diminution of any obligation, or any defense of any kind or nature (other than performance by the Tenant of its obligations hereunder) which the Tenant has or may have with respect to a claim under this Guaranty, shall be available hereunder to the Tenant against the Lender.

Section 2.6. Notice and Service of Process. (a) The Tenant shall be subject to service of process in the State of South Carolina so long as any part of the 1979 Note is outstanding. In addition, the Tenant hereby designates and appoints, without power of revocation, the Secretary of State of the State of South Carolina as the agent of the Tenant upon whom may be served all process, pleadings, notices or other papers which may be served upon the Tenant as a result of any of its obligations under this Guaranty.

The Tenant hereby further agrees that the litigation of any claim arising hereunder or dispute involving the terms hereof shall be tried in courts of general jurisdiction in the State of South Carolina and waives any claim of improper venue or inconvenient forum with respect to any such litigation.

(b) Any notice, process, pleading or other papers served upon the agent appointed in subsection (a) of this Section 2.6 shall, at the same time, be sent by certified mail to the Tenant at such address as is specified in or pursuant to Section 5.4 of this Guaranty.

### ARTICLE III

#### DEFAULT AND REMEDIES

Section 3.1. Events of Default. Either or both of the following occurrences shall constitute an Event of Default hereunder:

(a) The failure to pay immediately upon demand by the Lender the principal of, premium, if any, and interest on the 1979 Note as and when the same shall become due and remain unpaid.

(b) The failure to cure within thirty (30) days after notice by the Lender any other default or the breach of any other agreement or covenant on the part of the Tenant contained herein.

Section 3.2. Enforcement. The Lender shall have the right, power and authority to do all things it deems necessary or advisable to enforce the provisions of this Note and, in the event of a default in payment of the principal of the 1979 Note when and as the same shall become due, whether at the stated maturity thereof, by acceleration, call for prepayment or otherwise, premium, if any, or in the event of a default in the payment of any interest on the 1979 Note when and as the same shall become due, or in the event of a default in payment of any other sum due hereunder as and when the same shall become due, the Lender may institute or appear in such appropriate judicial proceedings as the Lender shall deem most effectual to protect and enforce any of its rights whether for the specific enforcement of any covenant or agreement in this Guaranty or the Mortgage or in aid of the exercise of any power granted herein or therein, or to enforce any other proper remedy. Without limiting the generality of the foregoing, in the event of a default in payment of the principal of, premium, if any, or interest on the 1979 Note when due, or in the event of a default in payment of any

other sum due hereunder as and when the same shall become due, the Lender may institute a judicial proceeding for the collection of the sums so due and unpaid, and may prosecute such proceeding to judgment or final decree and may enforce the same against the Tenant and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Tenant, wherever situated.

Section 3.3. Remedies Cumulative. No remedy conferred upon or reserved to the Lender herein 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 Guaranty or now or hereafter existing at law or in equity.

Section 3.4. Defaults. Each and every default in payment of the principal of, premium, if any, or interest on the 1979 Note or breach of any other covenant herein contained shall give rise to a separate cause of action hereunder and separate suits may be brought hereunder as each cause of action arises. In the event of such a default, the Lender shall have the right to proceed first and directly against the Tenant under this Guaranty without proceeding against any other person or exhausting any other remedies which it may have and without resorting to any other security held by the County or the Lender.

Section 3.5. Recovery of Costs. The Tenant agrees to pay all costs, expenses and fees, including all reasonable attorneys' fees, which may be incurred by the Lender in enforcing or attempting to enforce this Guaranty or protecting the rights of the Lender hereunder following any default on the part of the Guarantors hereunder, whether the same shall be enforced by suit or otherwise.

Section 3.6. No Waiver. No delay or omission to exercise any right or power accruing upon any default, omission or failure of performance hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

#### ARTICLE IV

##### INTERPRETATION OF THIS GUARANTY

Section 4.1. Terms Defined. Terms used in this Guaranty shall have the meanings ascribed to them in the Lease, the Mortgage, or as defined in the body hereof unless the context clearly indicates otherwise.

Section 4.2. Governing Law. This Guaranty shall

be governed by and construed in accordance with the laws of the State of South Carolina.

ARTICLE V

MISCELLANEOUS

Section 5.1. Obligations Arise on Sale of the 1979 Note. The obligations of the Tenant hereunder shall arise absolutely and unconditionally when the 1979 Note shall have been issued, sold and delivered by the County.

Section 5.2. Survival. All warranties, representations and covenants made by the Tenant herein shall be deemed to have been relied upon by the Lender and the holders from time to time of the 1979 Note and shall survive the delivery to the Lender of this Guaranty regardless of any investigation made by the Lender or the holders from time to time of the 1979 Note or on their behalf.

Section 5.3. Successors and Assigns. This Guaranty shall inure to the benefit of and be binding upon the successors and assigns of each of the parties. The provisions of this Guaranty are intended to be for the benefit of all holders, from time to time, of the 1979 Note.

Section 5.4. Notices. All communications under this Guaranty shall be in writing and shall be deemed given when delivered and, if delivered by mail, shall be mailed by registered or certified first class mail, postage prepaid, and addressed as follows:

To the Tenant:

Yoder Brothers, Inc.

To the Lender:

Mellon Bank, N.A.

To the County:

Anderson County Council

A duplicate copy of each communication hereunder by either the Tenant or the Lender shall also be given to the County.

Section 5.5. Entire Understanding; Counterparts.

This Guaranty constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and may be executed simultaneously in several counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

Section 5.6. Amendments.

No amendment, change, modification, alteration or termination of this Guaranty shall be made except upon the written consent of the Guarantors and the Lender.

Section 5.7. Partial Invalidity.

The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Guaranty shall not affect the validity or enforceability of the remaining portions of this Guaranty or any part thereof.

IN WITNESS WHEREOF, the Tenant has caused this Guaranty to be duly executed and delivered December \_\_, 1979, but dated for convenience of reference as of December 1, 1979.

YODER BROTHERS, INC.

(SEAL)

ATTEST:

\_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

MELLON BANK, N.A., as Lender

By \_\_\_\_\_  
Its \_\_\_\_\_

(SEAL)

ATTEST:

\_\_\_\_\_  
Its \_\_\_\_\_

EXHIBIT

NOV 30 1979 NO. 01

STATE BUDGET & CONTROL BOARD

1.01

LEASE

BY AND BETWEEN

ANDERSON COUNTY, SOUTH CAROLINA

and

YODER BROTHERS, INC.

Dated as of December 1, 1979

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PROBATES

LEASE

This Lease made and entered into as of the first day of December, 1979, by and between Anderson County, South Carolina (hereinafter referred to as the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, and Yoder Brothers, Inc., a corporation duly organized and existing under the laws of the State of Ohio (hereinafter referred to as the "Tenant").

WITNESSETH:

WHEREAS, Title 4, Chapter 29, Code of Laws of South Carolina, 1976 (hereinafter referred to as the "Act"), empowers the several counties of the State of South Carolina to acquire, enlarge, improve and expand one or more Projects (as defined in the Act), to lease any or all of their Projects in furtherance of the purposes of the Act, and to issue their revenue bonds (defined in the Act to include "revenues notes") secured by a pledge of the revenues derived from Projects to defray the cost of acquiring, enlarging, improving or expanding such Projects by construction and purchase; and

WHEREAS, as inducement for the Tenant to locate and remain in the County, the County has agreed to issue its revenue notes for the purpose of defraying the cost of acquiring certain land, building and equipment constituting an industrial facility on land in the County and to lease the Project (as hereinafter defined, including said additions) to the Tenant in accordance with the terms and conditions hereinafter set forth; and

WHEREAS, the County by due corporate action has authorized the issuance of Three Million Five Hundred Thousand Dollars (\$3,500,000) aggregate principal amount of its First Mortgage Industrial Revenue Note (Yoder Brothers, Inc. Project) 1979 (hereinafter referred to as the "Note"), pursuant to the Act in order to defray the costs of acquiring the Project and to enter into this Lease with the Tenant on the terms and conditions herein set forth;

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the County and the Tenant agree as follows (provided that in the performance of the agreements of the County herein contained, any obligation it may thereby incur for the payment of money shall not create a pecuniary liability or a charge upon its general credit or taxing powers but shall be a limited obligation of the County payable solely out of the proceeds derived by it from this Lease, the sale of the Note

and any insurance proceeds, proceeds from released property  
and condemnation awards as provided herein and in the Act):

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions. In addition to the words and terms elsewhere defined in this Lease, the following words and terms as used herein and in the preambles hereto shall have the following meanings unless the context or use indicates another or different meaning or intent:

"Act" shall mean Title 4, Chapter 29, Code of Laws of South Carolina, 1976, and all future acts supplemental thereto or amendatory thereof.

"Additional Note" or "Additional Notes" shall mean any Note, some of the Notes, or all of the Notes issued pursuant to Section 2.03 of the Mortgage from time to time outstanding.

"Authorized County Representative" shall mean the person at the time designated to act in behalf of the County by written certificate furnished to the Tenant and the Lender containing the specimen signature of such person and signed on behalf of the County by the Chairman of the County Council. Such certificate may designate an alternate or alternates.

"Authorized Tenant Representative" shall mean the person at the time designated to act in behalf of the Tenant by written certificate furnished to the County and the Lender containing the specimen signature of such person and signed on behalf of the Tenant by its President, any Vice President or Treasurer or Assistant Treasurer. Such certificate may designate an alternate or alternates.

"Completion Date" shall mean the date on which the acquisition by construction and purchase of the Project is completed as certified in accordance with Section 4.04 of the Lease.

"Construction Fund" shall mean the fund created and established under the terms of Section 3.01 of the Mortgage.

"Cost of the Project" shall mean and be deemed to include (a) obligations incurred for land, labor and materials and other expenses to contractors, builders and materialmen in connection with the acquisition, construction and installation of the Project; (b) the costs of contract bonds and of insurance of all kinds that may be required or necessary during the course of construction of the Project which are not paid by the contractor or contractors or

otherwise provided for; (c) the expenses for test borings, surveys, test and pilot operations, estimates, plans and specifications and preliminary investigations therefor, and for supervising construction, as well as for the performance of all other duties required by or reasonably necessary for the acquisition, construction and installation of the Project; (d) legal, accounting, financial and printing expenses, fees and all other expenses incurred in connection with the issuance of the Series 1979 Note; (e) all other costs required to be paid under the terms of any contract or contracts for the acquisition, construction and installation of the Project; and (f) any sums required to reimburse the Tenant for advances made by it for any of the above items, or for any other work done by it for any of the above items, or which are properly chargeable to a capital account with respect to the Project or would be so chargeable with or but for a proper election by the Tenant; provided, however, that nothing contained herein shall be construed as including in this definition any costs related to the Project incurred prior to October 2, 1979.

"County" shall mean Anderson County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina and its successors and assigns.

"Default" shall mean an event or condition the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default as defined in Section 11.01 hereof.

"Depository" shall mean Mellon Bank, N.A., its successors and assigns under the Mortgage.

"Facilities" shall mean (i) all buildings and appurtenances now or hereafter located on the Leased Land, including the building and appurtenances which are presently under construction or are to be constructed on the Leased Land as they may at any time exist, including any air conditioning and heating systems (which shall be deemed fixtures); and (ii) the items described in Exhibit B attached hereto together with all other machinery, equipment, other fixtures or personal property (a) the acquisition of which was financed in whole or in part from the proceeds of the Series 1979 Note, or (b) which is installed in the foregoing buildings or on the Leased Land in substitution or replacement of machinery, equipment, fixtures or personal property described in the immediately preceding clause (a), or which was installed in the foregoing buildings or on the Leased Land in substitution or replacement of other such substitutions or replacements.

"Guaranty" shall mean the Guaranty between the Tenant and the Lender, dated as of December 1, 1979, including any amendments thereof as therein permitted.

"Independent Architect" or "Independent Engineer" shall mean an architect or firm of architects or a registered engineer, firm of engineers or engineering corporation being in fact independent, having no substantial financial interest in the Tenant and not being an employee of either the Tenant or the County.

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

"IRC" shall mean the Internal Revenue Code of 1954 as amended, and the regulations proposed or promulgated thereunder by the Department of the Treasury as such code and regulations apply to any particular Series of the Notes.

"Lease" shall mean this agreement as originally executed and from time to time supplemented as permitted herein.

"Leased Land" shall mean the real property described in Exhibit A attached hereto.

"Lender" shall mean Mellon Bank, N.A., its successors and assigns under the Mortgage.

"Mortgage" shall mean the Mortgage Loan Agreement between the County and the Lender, dated as of December 1, 1979, including any mortgages supplemental thereto or amendatory thereof as therein permitted.

"1979 Note" shall mean the Note authorized and issued under the terms of Section 2.01 of the Mortgage.

"Notes" shall mean the First Mortgage Industrial Revenue Notes (Yoder Brothers, Inc. Project) of all series issued and Outstanding under the Mortgage.

"Outstanding" whether such word commences with an upper case or a lower case letter, shall mean when used with reference to any Note and as of any particular time, all the Notes executed and delivered by the County under the Mortgage except: Notes theretofore cancelled by the County, delivered to the County for cancellation or subject to cancellation by it.

"Payment Date" shall mean any date on which the

principal of any Note shall become due whether by maturity, prepayment, acceleration or purchase.

"Permitted Encumbrances" shall mean as of any particular time, (i) liens for ad valorem taxes and special assessments not then delinquent, (ii) this Lease and the Mortgage, (iii) utility, access and other easements and rights of way, flood rights, leases, subleases, restrictions and exceptions that an architect, engineer or surveyor acceptable to the Lender, and an Authorized Tenant Representative each certify will not interfere with or impair the operations being conducted at the Project (or, if no operations are being conducted therein, the operations for which the Project 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, materially impair the property affected thereby for the purposes for which it was acquired or is held by the County, (v) mechanic's and materialman's liens not filed or perfected in the manner prescribed by law in effect on the date hereof or otherwise, and (vi) any mortgage, lease or security interest with respect to machinery and equipment not constituting part of the Facilities to be used or installed at the Project.

"Plans and Specifications" shall mean the plans and specifications prepared for additions to the project to be financed with proceeds from the 1979 Note and on file at the Project, as the same may be implemented and detailed from time to time and as the same may be revised from time to time prior to the Completion Date in accordance with the terms hereof.

"Project" shall mean the Leased Land and the Facilities.

"Series" or "Series of Notes" shall mean all of the Notes executed and delivered upon original issuance in a simultaneous transaction, and any Notes thereafter executed and delivered in lieu of or in substitution for such Notes, pursuant to the provisions of the Mortgage, regardless of variations in maturity, interest rate or other provisions.

"Tenant" shall mean (i) Yoder Brothers, Inc., an Ohio corporation, and its successors and assigns, and (ii) any surviving, resulting or transferee corporation of any of them as provided in Section 9.08 hereof.

"Term" shall mean the duration of the leasehold estate as set forth in Section 5.01 hereof.

SECTION 1.02. References to Lease. The words "hereof," "herein," "hereunder" and other words of similar import refer to this Lease as a whole.

ARTICLE II

REPRESENTATIONS AND COVENANTS

SECTION 2.01. Representations by County. The County makes the following representations and covenants 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 Lease 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 Council and the State Budget and Control Board, the County has been duly authorized to execute and deliver this Lease, the Mortgage and any and all agreements collateral thereto.

(b) The County is acquiring the Leased Land, proposes to construct or acquire thereon the Facilities and proposes to lease the Project to the Tenant and to sell the Project to the Tenant at the expiration or sooner termination of the Term of the Lease, if the Tenant shall elect to purchase the same, all for the purpose 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 and the Tenant did agree that the County would finance all or a portion of the cost to be incurred by the County or the Tenant in acquiring by construction and purchase the Project. The Tenant has determined that the Cost of the Project, including expenses incident thereto, is at least equal to \$3,500,000 and on that basis the County, in order to defray the Cost of the Project, now proposes to issue the 1979 Note in the aggregate principal amount of \$3,500,000 which will be dated, mature and bear interest as set forth in the Mortgage and which will be subject to prepayment on the occasions and at the prepayment prices set forth in the Mortgage.

(d) Concurrently with the delivery hereof the County will execute and deliver the Mortgage to the Lender.

(e) All of the Notes will be issued under the Mortgage and will mature, bear interest, be subject to prepayment and have the other terms and provisions set

forth in the Mortgage, pursuant to which the County's interest in this Lease and the revenues and receipts derived by the County from the leasing or sale of the Project will be pledged, and the Project will be mortgaged, to the Lender as security for payment of the principal of, premium, if any, and interest on the Notes.

(f) The County will not, without the written consent of the Tenant, effect a prepayment of the Notes pursuant to the provisions of Section 2.01(c)(iv) of the Mortgage.

SECTION 2.02. Representations and Warranties by Tenant. The Tenant makes the following representations and warranties as the basis for undertakings on its part herein contained:

(a) The Tenant is a corporation duly incorporated, validly existing, and in good standing, under the laws of the State of Ohio, has power to enter into this Lease and by proper corporate action has been duly authorized to execute and deliver this Lease.

(b) Neither the execution and delivery of this Lease, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Lease, will result in a breach of any of the terms, conditions or provisions of any corporate restriction or any agreement or instrument to which the Tenant is now a party or by which it is bound, or will 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 Tenant under the terms of any instrument or agreement, other than as may be created or permitted by this Lease and the Mortgage.

(c) The Tenant intends to operate the Project for the purpose of rooting chrysanthemum cuttings and for such other purposes permitted under the Act as the Tenant may deem appropriate.

(d) The acquisition by construction and purchase of the Project by the County in part through the issuance of the 1979 Note and the leasing of the Project to the Tenant has induced the Tenant to locate in the County and the State of South Carolina.

(e) The Project consists, and will at all times consist of land and/or property which is, or would be

either with or but for a proper election by the Tenant, subject to the allowance for depreciation provided in IRC Section 167 and all expenditures for the Cost of the Project (including financing costs) will be chargeable to the Project's capital account for federal income tax purposes, or would be so chargeable either with a proper election or but for a proper election by the Tenant.

(f) The Tenant will not use any of the funds provided by the County hereunder in such manner as to impair the exemption of interest on the Series 1979 Note from federal income taxation nor will it take or omit to take any action so as to impair such exemption.

(g) The construction and the acquisition of that portion of the Project to be financed with proceeds from the 1979 Note began after August 20, 1979.

(h) The 1979 Note is being issued in the amount estimated by the Tenant to be required to pay the Cost of the Project and the Tenant expects that all such proceeds will be used for such purposes.

ARTICLE III

DEMISING CLAUSE AND TITLE INSURANCE

SECTION 3.01. Demise of the Project. The County demises and leases to the Tenant, and the Tenant leases from the County, the Project for the Term and at the rental set forth in Sections 5.02 and 5.03 hereof in accordance with the provisions of this Lease.

SECTION 3.02. Title Insurance. Not later than the time of the delivery of the 1979 Note, the Tenant will provide a mortgagee title insurance policy (or an appropriate binder) on all real property included in the Project issued by a company approved by the Lender insuring the priority of the lien of the Mortgage upon the Project, subject to no encumbrances other than Permitted Encumbrances, in an amount not less than \$3,500,000. The net proceeds of such insurance shall be used to remedy any title defect resulting in the payment thereof or to the extent not required to remedy such defect or in lieu thereof used to effect the prepayment of installments of principal on the Notes in accordance with the terms of the Mortgage.

ARTICLE IV

ACQUISITION BY CONSTRUCTION AND PURCHASE OF THE PROJECT;  
MODIFICATION, IMPROVEMENT AND ADDITIONS TO PROJECT;  
ADDITIONAL NOTES;

SECTION 4.01. Acquisition of the Project by Construction and Purchase. The Tenant hereby agrees, subject to and in accordance with the provisions of Section 8.01 hereof, to acquire in the name of the County by construction and purchase the Project or to cause the Project to be acquired by construction and purchase in accordance with the Plans and Specifications and to acquire by construction and purchase all other things deemed necessary by the Tenant in connection with the Project. The Tenant agrees to maintain such records in connection with the acquisition by construction and purchase of the Facilities as to permit ready identification thereof. The Tenant further agrees to use its best efforts to cause such acquisition to be completed as promptly as practicable consistent with the provisions of Section 8.01 hereof. Title to the Project shall be and remain in the name of the County throughout the Term of this Lease.

SECTION 4.02. Issuance of the Notes. In order to provide funds for payment of the Cost of the Project, the County, as soon as practicable after the execution of this Lease, shall issue the 1979 Note and deliver the proceeds thereof to the Depository for deposit in the Construction Fund.

The County has, in Section 3.03 of the Mortgage, authorized and directed the Depository to make payments to or at the direction of the Tenant from the Construction Fund to pay the Cost of the Project, upon receipt by the Depository of requisitions (upon which both the County and the Depository shall rely and shall be protected in relying) signed by an Authorized Tenant Representative and meeting the requirements set forth in Section 3.03 of the Mortgage.

Upon written request from the Tenant to the County to issue Additional Notes to complete payment of the Cost of the Project, or for any other purpose permitted by Section 2.03 of the Mortgage, accompanied by a certificate of the Lender approving such request, the County shall issue such Notes in one or more Series for such purposes in accordance with the provisions of the Mortgage; provided, however, that the failure of the Lender to approve or the County to issue Additional Notes shall not release the Tenant from any of its obligations under this Lease, regardless of the reason for such failure.

SECTION 4.03. Revision of Plans and Specifications. The Tenant may revise the Plans and Specifications at any time and from time to time prior to the Completion Date, provided that in the case of any change that would render inaccurate the description of the Facilities contained in Exhibit B to this Lease, there shall be delivered to the Lender (i) a revised Exhibit B conforming the description of the Facilities with the revision in the Plans and Specifications, the accuracy of which shall have been certified by an Authorized Tenant Representative, and (ii) an opinion of nationally recognized bond counsel stating that the Facilities described in the revised Exhibit B will constitute a "Project" within the meaning of the Act and that the expenditure of moneys in the Construction Fund to pay for the Cost of the Project described therein will not cause the interest on any Notes then outstanding issued hereunder as "tax exempt" to be includable in the gross income of the holders (except any holder who is a substantial user or related person within the meaning of IRC Section 103(b)(8)) of such Notes for federal income tax purposes.

SECTION 4.04. Completion Date. When the acquisition of the Project by construction and purchase are substantially completed and the Project has been placed in service, the Tenant shall so notify the Lender by a certificate of an Authorized Tenant Representative certifying the Completion Date and stating that the acquisition of the Project has been completed in accordance with the Plans and Specifications and that payment of the Cost of the Project or provision therefor has been made except for any items of Cost of the Project not then due and payable or the liability for payment of which is being contested or disputed by the Tenant. Upon receipt of such a certificate of completion, the Lender shall apply any balance remaining in the Construction Fund not required to pay the Cost of the Project in accordance with Section 3.03 of the Mortgage to the prepayment of installments of principal on the Notes. Notwithstanding the foregoing, the certificate of completion may 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 4.05. Completion of the Project if Note Proceeds are Insufficient. If the moneys in the Construction Fund available for payment of the Cost of the Project (including moneys from the proceeds of any Additional Notes sold pursuant to the terms and provisions of the Mortgage to defray the cost of completion of the Project) are insufficient to pay the Cost of the Project in full, the Tenant shall complete or cause to be completed the

Project and pay or cause to be paid all of that portion of the Cost of the Project 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 will be sufficient to pay the Cost of the Project. If the Tenant shall pay any portion of the Cost of the Project pursuant to the provisions of this Section 4.05, it shall not be entitled to any reimbursement therefor (except to the extent of reimbursement from the proceeds of any Additional Notes sold to defray the cost of completion of the Project) from the County or the Lender or the holders of any of the Notes, nor shall it be entitled to any diminution in or postponement of the payments required in Article V of this Lease to be paid by the Tenant.

SECTION 4.06. Additions to Project, Additional Notes. The Tenant shall have the right, subject to the provisions of Section 8.01 hereof, to make additions to, alterations of, and improvements to the Project, structural or otherwise, and to construct and equip additional Facilities (hereinafter collectively in this Section called "improvements"). The cost of any improvements shall be paid for by the Tenant, or the Tenant at its option and subject to the limitations hereinafter set forth, may request the County to pay for or reimburse the Tenant for the improvements by the sale of Additional Notes under the Mortgage. Such request shall be in writing and shall specify the proposed improvements and the estimated cost thereof. In the event the Tenant requests the County to pay for or reimburse the Tenant for the improvements as aforesaid, the County agrees to use its best efforts to issue and sell Additional Notes under and pursuant to the provisions and subject to the limitations and conditions set forth in the Mortgage and that it will apply the proceeds of such sale to pay the cost of such improvements. The schedule of payments and the rate of interest and all other terms on such Additional Notes shall be subject to the Tenant's approval.

Prior to each issuance of Additional Notes under the Mortgage, the parties hereto shall enter into a supplement to this Lease. Said supplement to this Lease shall, among other things, modify and extend the Term hereof at least to the date of the last maturity of all Notes then outstanding, including such Additional Notes, and change the Basic Rent, as defined in Section 5.02 hereof, to be paid hereunder by an amount sufficient to enable the County to pay the principal of, premium, if any, and interest on the 1979 Notes, any other Additional Notes at the time Outstanding and the Additional Notes then proposed to be issued. As and when such revised Basic Rent payments are

agreed upon, a supplement to this Lease shall be executed by the parties hereto and recorded in all appropriate public offices necessary to give notice thereof.

SECTION 4.07. Investment of Funds. Any moneys held as a part of the Construction Fund or any other fund created pursuant to the Mortgage shall, at the direction of the Tenant (or, if the Tenant is in default under this Lease, at the request of the County), be invested or reinvested by the Lender as provided in Section 3.01 of the Mortgage.

## ARTICLE V

### LEASE TERM AND RENT PROVISIONS

SECTION 5.01. Term. Subject to the terms and provisions herein contained, this Lease shall be and remain in full force and effect for a term commencing upon the execution and delivery of this Lease and ending at midnight on December 1, 1994, unless sooner terminated as herein permitted or extended to the extent permitted under Section 4.06 hereof; provided that if at the expiration of the Term, payment of the Notes has not been made or provided for in accordance with the Mortgage, the Term shall expire on such later date as payment of the Notes shall have been made or so provided for.

SECTION 5.02. Basic Rent. At least five business days prior to each Payment Date with respect to a Series of Notes, the Tenant shall pay to the Lender for the account of the County without notice or demand, in such coin or currency of the United States of America as at the time of payment shall be legal tender for public and private debts, at the main office of the Lender, at the address specified in Section 13.03 hereof, a net basic rental (hereinafter called the "Basic Rent") equal to the sum of (i) the principal of such Series of Notes which will become due and payable on such Payment Date, (ii) any applicable prepayment premium and (iii) any accrued interest which will become due and payable on such Payment Date.

The Tenant shall have the option to make from time to time prepayments of any installment or installments due as aforesaid, together with interest accrued and to accrue and premium, if any, to be paid on the Notes if such prepayment is to be used for the prepayment of the Notes as provided in the Mortgage. The Lender shall apply such prepayments in such manner consistent with the provisions of the Mortgage as may be directed by the Tenant.

So long as any Note is outstanding under the Mortgage, all such payments shall be made to the Lender for the account of the County. The Basic Rent shall be absolutely net to the County, free of any taxes, costs, expenses, liabilities, charges or other deductions whatsoever with respect to the Project and the possession, operation, maintenance, repair, rebuilding, use or occupation thereof or of any portion thereof, so that this Lease shall yield the Basic Rent net to or for the account of the County throughout the Term. Nothing herein shall prevent the Tenant from making greater payments of Basic Rent for the purpose of permitting the voluntary prepayment of the Notes as permitted under the Mortgage, or for any

other reason.

SECTION 5.03. Additional Rent. The Tenant shall pay on demand, as additional rent, all other amounts, liabilities and obligations which the Tenant herein assumes or agrees to pay, except that the liquidated damages provided for in Sections 9.04 and 9.05 hereof shall not constitute additional rent. In the event of any failure on the part of the Tenant to pay any such amounts, liabilities or obligations, the County shall have all rights, powers and remedies provided for herein or by law or equity or otherwise in the case of nonpayment of the Basic Rent. The Tenant shall also pay the County, on demand as additional rent, interest at (a) at the highest rate borne by any of the Notes on all overdue installments of the Basic Rent from the due date thereof until payment, and (b) except as is otherwise provided in Section 5.05 hereof, at the rate of 8.5% per annum on all additional rentals from the date which is 30 days after the receipt by Tenant of the demand therefor if the same are not paid within such 30 days.

SECTION 5.04. Net Lease. This Lease is a net lease and so long as any part of the Notes is outstanding and unpaid, the obligation to pay Basic Rent, additional rent and all other sums payable hereunder to or for the account of the County, and to perform all other covenants, conditions and agreements hereunder shall be absolute and unconditional without notice or demand and without setoff, counterclaim, abatement, suspension, deduction, diminution or defense for any reason whatsoever.

SECTION 5.05. Performance of Tenant's Obligations by County. If the Tenant at any time shall fail to make any payment or perform any act on its part to be made or performed under this Lease, then, subject to the provisions of Section 8.13 hereof, the County may (but shall not be obligated to), upon 10 days' prior written notice to the Tenant and without waiving or releasing the Tenant from any obligations or default of the Tenant hereunder, make any such payment or perform any such act for the account and at the expense of the Tenant, and may enter upon the Project for this purpose and take all such action thereon as may be reasonably necessary therefor. No such entry shall be deemed an eviction of the Tenant. All sums so paid by the County or any person acting in its stead and all necessary and incidental costs and expenses (including, without limitation, reasonable attorney's fees and expenses) incurred in connection with the performance of any such act by the County, together with interest at the rate of 8.5% per annum from the date of the making of such payment or the incurring of such costs and expenses by the County, shall be deemed additional rent hereunder and shall be payable by the

Tenant to the County or the person who paid such sums or incurred such costs and expenses on demand, and the Tenant covenants to pay any such sum or sums with interest as aforesaid.

ARTICLE VI

MAINTENANCE AND MODIFICATION OF THE PROJECT;  
REMOVAL OF LEASED EQUIPMENT;  
TAXES, UTILITIES AND OTHER CHARGES; INSURANCE

SECTION 6.01. Maintenance and Modification of the Project. The Tenant at its own expense during the Term of this Agreement, shall keep and maintain the Project in good repair and in good operating condition. The Tenant shall promptly make, or cause to be made, all repairs, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, necessary to keep the Project in good and lawful order and in good operating condition, wear and tear from reasonable use excepted, whether or not such repairs are due to any laws, rules, regulations or ordinances hereafter enacted which involve a change of policy on the part of the government body enacting the same. The Tenant may, also at its own expense except as provided in Section 4.06 hereof, 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 operating unity of the Project; provided, that all such additions, modifications and improvements shall not become a part of the Project; and provided that any damage to the Project occasioned by such removal of such additions, modifications or improvements, shall be repaired by the Tenant at its own expense.

The County shall not be required to rebuild or to make any repairs, replacements or renewals of any nature or description to the Project or to make any expenditure whatsoever in connection with this Lease or to maintain the Project in any way. The Tenant expressly waives the right contained in any law now or hereafter in effect to make any repairs at the expense of the County, as lessor hereunder.

SECTION 6.02. Removal of Leased Equipment. The parties hereto understand that certain machinery, equipment and related property (hereinafter "Leased Equipment") shall be acquired in whole or in part from the proceeds of the Notes and installed on the Leased Land. 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 Default under this Lease shall have happened and be continuing, in any instance where the Tenant in its discretion determines that any items of Leased Equipment have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Tenant may, subject to the provisions of Section 8.01 hereof, remove such items of Leased Equipment from 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 the consent of either the County or the Lender therefor, provided that the Tenant 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 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 Project 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) and shall become a part of the Project; 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 Tenant shall pay to the Lender, to be applied as a prepayment of the principal of any Notes, 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 on the Leased Land, the Tenant shall pay to the Lender, to be applied as a prepayment of the principal of any Notes the amount of the credit received by it in such trade-in, or (iii) that in the case of the sale of any such Leased Equipment to the Tenant or in the case of any other disposition thereof, the Tenant shall pay to the Lender, to be applied as a prepayment of the principal of any Notes, an amount equal to the original cost thereof less depreciation at rates calculated in accordance with generally accepted accounting principles.

In the event any removal of machinery, equipment or related property under this section causes damage to existing buildings or structures included in the Project the Tenant shall restore the same or repair such damage at its sole expense.

The removal from the Project of any portion of the Leased Equipment pursuant to the provisions of this section shall not entitle the Tenant to any abatement or diminution of the rents payable under Sections 5.02 and 5.03 hereof.

The Tenant shall promptly report to the Lender each such removal, substitution, sale and other disposition and shall pay to the Lender such amounts as are required by the preceding provisions of this section to be paid to the Lender 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 dispositions not previously reported aggregates at least \$10,000. The County agrees to execute and deliver such documents, if any, as the Tenant may request in connection with any action taken by the Tenant in conformity with this section. The Tenant shall pay any costs, including reasonable counsel fees, incurred in subjecting to the lien of the Mortgage any items of machinery, equipment or related property that under the provisions of this section are to become part of the Project. The Tenant shall not remove, or permit the removal of, any of the Leased Equipment from the Project except in accordance with the provisions of this section.

SECTION 6.03. 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, the school district or school districts, and other political unit or 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 Tenant to comply with the aforesaid obligation, it is agreed that the County in cooperation with the Tenant (i) shall cause the Project to be valued as if privately owned as aforesaid for purposes of said taxes by the South Carolina Tax Commission 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; and (iii) shall cause the respective appropriate officer or officers charged with the duty of levying and collecting such taxes to submit to the Tenant, when the respective levies are made upon property privately owned as aforesaid, a statement specifying the amount and due date of such taxes which the county, school district or school districts and other political unit or units having taxing powers would receive if the Project were so privately owned; and the Tenant shall file any account or tax returns required with the appropriate officer or officers. The Tenant 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 Tenant's right to obtain exemptions (including that

specified in Article X, Section 3, subitem (g) of the South Carolina Constitution of 1895, as amended) 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 to contest the same in the manner and to the extent provided in Section 8.13 hereof in the case of taxes and other governmental charges. The Tenant's obligation to make such additional payments shall continue only so long as and to the extent the Tenant is required by law to pay the aforesaid amounts in lieu of taxes.

SECTION 6.04. Taxes, Utilities and Other Governmental Charges. The County and the Tenant acknowledge that: (i) pursuant to the Act, no part of the Project owned by the County will be subject to taxation in South Carolina; (ii) 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 and under present law there is no tax imposed upon leasehold estates in South Carolina, and (iii) these factors, among others, have induced the Tenant to enter into this Lease. However, in addition to the payments in lieu of taxes referred to in Section 6.03 hereof and any other taxes and governmental charges that may lawfully be assessed, levied or imposed against it, the Tenant will, subject to Section 8.13 hereof, pay as the same respectively become due: (x) all taxes and governmental charges of any kind whatsoever that may be lawfully assessed, levied or imposed against the County with respect to the Project or any machinery, equipment or other property installed or brought by the Tenant therein or thereon; (y) all utility and other charges incurred in the operation, maintenance, use and occupancy of the Project; and (z) all assessments and charges lawfully made by any governmental body for public improvement to the Project.

SECTION 6.05. Miscellaneous Charges. The Tenant agrees, subject to Section 8.13 hereof, during the Term hereof to pay and discharge as additional rent, punctually as and when the same shall become due and payable, each and every cost, expense and obligation of every kind and nature, foreseen or unforeseen, for the payment of which the County or the Tenant is or shall become liable by reason of its estate or interest in the Project or any portion thereof, by reason of any right or interest of the County or the Tenant in or under this Lease, or by reason of or in any manner connected with or arising out of the possession, operation, maintenance, alteration, repair, rebuilding, use or occupancy of the Project.

SECTION 6.06. Insurance. (a) The Tenant shall at its expense continuously maintain or cause to be maintained insurance under valid and enforceable policies with insurers

of recognized responsibility ensuring against such risks as are customarily insured against by businesses of like size and character, paying as and when the same become due all premiums with respect thereto, including but not necessarily limited to:

(i) Fire and Extended Coverage. Policies of insurance against loss or damage by fire, with standard extended coverage endorsement covering loss or damage, by lightning, windstorm, explosion, aircraft, smoke damage, vehicle damage, sprinkler leakage, vandalism, malicious mischief and such other risks as are normally covered under such endorsement in amounts that are not less than the full insurable value of the Facilities with deductible provisions not exceeding \$10,000. The term "full insurable value," as used in this Lease, shall mean the actual replacement value. During the construction of the Facilities, the Tenant shall keep, or cause the contractor doing the construction to keep, the Facilities insured under "builders risk" insurance (or similar insurance) in such amount as is required in this paragraph.

(ii) Public Liability. General comprehensive public liability insurance against liability for bodily injury to or death of persons and for damage to or loss of property occurring on or about the Project and the adjoining sidewalks and passageways, or in any way related to the operations of the Facilities, in the minimum amounts of \$1,000,000 for death of or bodily injury to any one person, \$5,000,000 for aggregate death and bodily injury claims resulting from any one occurrence, and \$1,000,000 for property damage. Policies for such insurance shall be for the mutual benefit of the County and the Tenant.

(b) All policies of insurance required pursuant to this section may be in the form of blanket policies of insurance. All policies of insurance required by paragraph (a)(i) of this section shall contain standard mortgagee clauses requiring that all net proceeds of insurance resulting from any claim in excess of \$10,000 for loss or damage covered thereby be paid to the Lender. The net proceeds of all policies required by paragraph (a)(ii) of this section shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid. All such policies shall, to the extent obtainable, provide that any loss shall be payable notwithstanding any act of negligence of the Tenant which might otherwise result in forfeiture of said insurance.

In the event no Notes of the County remain outstanding, the policies of insurance described in this

section shall provide that the loss, if any, shall be payable to the Tenant and the County as their interest may appear. Any claims under the policies of insurance described in this section shall be adjusted by and at the expense of the Tenant or its insurance carrier, provided, that the proceeds from such insurance shall be applied pursuant to the terms of this Lease.

The policies of insurance required by this section shall contain an undertaking by the respective insurers, to the extent obtainable, that such policies shall not be modified adversely to the interests of the County or the Lender or cancelled without at least 10 days' prior written notice to the County and the Lender.

SECTION 6.07. Tenant to Furnish Certain Proofs.  
The Tenant covenants to furnish to the County, promptly upon request, proof of the payment of any tax, assessment, governmental charge, any utility charge, or other charge, which is payable by the Tenant as provided in this Lease and the Tenant shall cause certificates from the insurers evidencing the existence of all insurance policies required by Section 6.06 hereof to be filed with the Lender; and prior to the expiration of any such policy the Tenant shall furnish the Lender with evidence satisfactory to the latter, that the policy has been renewed or replaced or is no longer required by this Lease.

## ARTICLE VII

### CASUALTY AND CONDEMNATION

SECTION 7.01. Damage and Destruction. If, while any Notes are outstanding, all or any part of the Project shall be destroyed or damaged to the extent that the cost of rebuilding, replacing, restoring or repairing thereof after any particular incident shall exceed \$10,000, the Tenant shall promptly notify the County, and at the Tenant's expense (whether or not the insurance proceeds hereinafter mentioned are sufficient for this purpose) the Tenant shall, except as otherwise permitted herein promptly and diligently rebuild, restore, replace and repair the same in such manner as to restore the Project to either the value thereof immediately prior to such damage or destruction or to such extent as is necessary to resume use of the Project as it was being used immediately prior thereto. So long as any of the Notes shall be outstanding, and upon the Tenant's compliance with the provisions of the Mortgage, including without limitation Section 6.08 thereof, and the receipt by the Lender of the certificates and instruments referred to in the aforesaid Section 6.08, the Lender shall pay to the Tenant from the insurance proceeds received and held by the Lender on account of such damage or destruction the cost of the repairs, rebuilding or restoration, as certified to the Lender in accordance with Section 6.08 of the Mortgage, up to the full amount of such insurance proceeds and the Lender shall apply the balance, if any, of such insurance proceeds to the payment of the principal of, premium, if any, and interest on the Notes and for the prepayment of the Notes prior to maturity as provided in the Mortgage. Any balance of such insurance proceeds exceeding the amount necessary to redeem all Notes then outstanding shall be paid to the Tenant.

SECTION 7.02. Condemnation. If, during the Term, all or any part of the Project shall be taken by the exercise of the power of eminent domain or condemnation, the County and the Tenant shall, subject to all the terms of this Lease, be entitled to, and shall receive, the entire award for the taking. So long as any of the Notes of the County remain outstanding, the County and the Tenant hereby irrevocably assign all their right, title and interest in and to such award or awards to the Lender under the Mortgage, and the County and the Tenant shall immediately pay the same to the Lender, and any such award or awards shall be held and disbursed as provided herein.

If as a result of such taking, the Tenant does not exercise an option to purchase the Project under Section 10.02 hereof, this Lease shall nevertheless continue in full

force and effect without abatement of rent (except such credit against rental as is expressly provided pursuant to Section 5.02 hereof). If such taking shall have caused damage to, or necessitated restoration or rebuilding of any of the improvements on the Project, except as provided in Article X hereof, the Tenant, at its sole cost and expense, shall promptly and diligently restore and rebuild such improvements to such condition as shall be reasonable in view of the nature of the taking and the then intended use of the Project by the Tenant, whether or not the net award is sufficient for this purpose. So long as any Notes of the County remain outstanding, upon compliance with the provisions of the Mortgage applicable thereto and the receipt by the Lender of the certificates and instruments provided for in Section 6.09 thereof, the Lender shall assign and pay over to the Tenant such portion of the net award as will reimburse the Tenant for the cost of the restoration and rebuilding, if any, as is so certified up to the full amount of the net award, and if there shall remain any balance of such net award, the Lender shall apply the balance, if any, of the net award to the payment of the principal of, premium, if any, and interest on the Notes and for the prepayment of the Notes prior to maturity as provided in the Mortgage. In lieu of such rebuilding or restoring as herein provided, the Tenant may direct that the entire amount of the net award be used by the Lender to repay and redeem the Notes as provided in the Mortgage.

For the purposes of this Article the term "net award" shall mean the entire award less all expenses incurred by the County or the Tenant in collecting such award.

In any case, any balance of the net award exceeding the amount necessary to redeem all Notes then outstanding shall be paid to the Tenant by the Lender in accordance with the provisions of the Mortgage.

## ARTICLE VIII

### PARTICULAR COVENANTS AND AGREEMENTS

SECTION 8.01. Restrictions on Actions Affecting Exemption of Interest on Notes: (a) The County and the Tenant each covenant with the other and with the Lender that no use will be made of the proceeds from the issue and sale of the Bonds which will cause the Bonds to be "arbitrage bonds" within the meaning of IRC Section 103(c), and regulations promulgated thereunder as in effect at the time of such use and applicable to obligations issued on the date of issuance of the Notes. Pursuant to such covenant the County and the Tenant jointly and severally obligate themselves, so long as any of the Notes are outstanding, to comply with the requirements of IRC Section 103(c) and of all regulations and proposed regulations of the United States Department of the Treasury promulgated thereunder, to the extent such requirements are, at the time, applicable to the Notes.

(b) The Tenant covenants that the aggregate amount of capital expenditures (exclusive of capital expenditures not taken into account as specified in IRC Section 103(b)(6)(F)) paid or incurred by it, or any related person as that term is defined in IRC Section 103(b)(6)(C), with respect to the Project or any other facility that is taken into account for the purposes of IRC Section 103(b)(6)(D)(ii) by reason of IRC Section 103(b)(6)(E) within three years after the date of issuance of the 1979 Note (other than the sale of the 1979 Note will not, when added to the aggregate amount of the 1979 Note issued with respect to the Project and any other facility that is taken into account for the purposes of IRC Section 103(b)(6)(D)(ii) by reason of IRC Section 103(b)(6)(E) (less the aggregate amount of any such capital expenditures not taken into account as specified in IRC Section 103(b)(6)(F) if any) paid or incurred with respect to the Project or any other facility that is taken into account for the purposes of IRC Section 103(b)(6)(D)(ii) by reason of IRC Section 103(b)(6)(E) within three years prior to the date of issuance of the 1979 Note, exceed \$10,000,000 or such other applicable dollar amount of capital expenditures then permitted by law applicable to the 1979 Note. The Tenant further covenants that it will not take any other action or omit to take any action which would cause the loss of the exemption of interest on the Notes (including the 1979 Note) from federal income taxes.

SECTION 8.02. No Covenant of Quiet Possession. The County does not make any representation or covenant that the Tenant shall have quiet and peaceful possession of the

Project provided, however, the County agrees that it will not take any action to interfere with the Tenant's peaceful and quiet enjoyment of the Project and the County agrees that in the Event the peaceful and quiet enjoyment of the Project shall be denied to the Tenant or contested by anyone, the County shall upon request of the Tenant join where necessary in any proceeding to protect and defend the quiet enjoyment of the Tenant, provided that the Tenant shall pay the entire cost of any such proceeding, reimburse and indemnify and hold harmless the County from any cost or liability whatsoever. The provisions of this section shall be subject and subordinate to the obligations of the Tenant set forth in Article V hereof.

SECTION 8.03. Condition and Title of Project. The Tenant acknowledges that it has examined the premises described in Exhibit A attached hereto and the state of the County's title thereto prior to the making of this Lease and knows the condition and state thereof as of the day of the execution hereof, and accepts the same in said condition and state; that no representations as to the condition or state thereof have been made by representatives of the County; and that the Tenant in entering into this Lease is relying solely upon its own examination thereof. The County shall not be liable to the Tenant for any damages resulting from failure of or any defect in the Tenant's title which interferes with, prevents or renders burdensome the use or occupancy of the Project or the compliance by the Tenant with any of the terms of this Lease, or from any cause whatsoever, and no such failure of or defect in the County's title or delay shall terminate this Lease or entitle the Tenant to any abatement, in whole or in part, of any of the rentals or any other sums provided to be paid by the Tenant pursuant to any of the terms of this Lease.

The County makes no warranty, either express or implied, that the Project will be suitable for the Tenant's purposes or needs.

SECTION 8.04. No Conveyance of Title by the County. The County covenants and agrees that, during the term of this Lease, it will not convey, or suffer or permit the conveyance of, by any voluntary act or omission on its part, its title to the Project to any person, firm or corporation whatsoever irrespective of whether any such conveyance or attempted conveyance shall recite that it is expressly subject to the terms of this Lease, provided, however, that nothing herein shall restrict the conveyance or transfer of the Project in accordance with any terms or requirements of this Lease or of the Mortgage.

SECTION 8.05. Primary Use. The Tenant is granted

and shall have the right during the term of this Lease to occupy and use the Project for any lawful purpose authorized pursuant to the Act. Insofar as it is practicable under existing conditions from time to time during the term of this Lease, the Project shall be used primarily as industrial facilities for the manufacture of apparel.

SECTION 8.06. Right to Inspect. The Tenant agrees that the County, the Lender and their, or either of their, duly authorized agents shall have the right to enter the Project at all reasonable times (i) during normal working hours to examine and inspect the same, or (ii) to make any necessary repairs to the Facilities and to perform any work therein that may be necessary by reason of the Tenant's Default under the terms of this Lease.

SECTION 8.07. Release of Leased Land, Easements. The County agrees that so long as the Tenant is not in default hereof it will convey fee title, grant easements, rights of way, licenses, execute party wall agreements or terminate any of the foregoing or enter into such other similar agreements for the purposes of providing railroad services, utility services, roadway or roadway access whether for the Project or other land or for such other similar purposes as may be deemed necessary or desirable by the Tenant upon receipt of the following:

(a) a legal description of the real property proposed to be conveyed or affected by such grant, license or agreement;

(b) the instrument in the form necessary for such purpose;

(c) a certificate of the president or chief financial officer of the Tenant stating that the Tenant is not in default under the Lease;

(d) a certificate from an Independent Engineer and an Authorized Tenant Representative stating that (i) the conveyance, grant, license or agreement will not impair the character or significance of the Project for the purpose for which it was last designed or modified and is not detrimental to the proper conduct of the business of the Tenant at the Project, (ii) no part of the Facilities is included in any conveyance, and (iii) such conveyance, grant, license or agreement will not destroy the means of ingress to the Project or egress therefrom; and

(e) an opinion of Independent Counsel that the proposed conveyance, grant or agreement is not in

violation of the terms hereof or of the Mortgage.

Upon receipt of the foregoing, the County shall promptly execute and deliver such conveyance, grant or agreement and shall transmit the consideration, if any, therefor to the Lender for deposit in the Bond Fund under the Indenture.

No release effected under the provisions of this section of the Lease shall entitle the Tenant to any abatement or diminution of the rents payable under Section 5.02 and 5.03 hereof.

SECTION 8.08. Qualification in State of South Carolina. The Tenant covenants that throughout the Term of this Lease it will cause the Subtenant to continue to be duly qualified to do business in the State of South Carolina so long as the Project is being sublet to the Subtenant.

SECTION 8.09. Indemnification. The Tenant covenants and agrees, at its expense, to pay, and to indemnify and save the County and the Lender harmless against and from any and all claims by or on behalf of any person, firm, corporation or governmental authority, arising from the occupation, use, possession, conduct or management of or from any work done in or about the Project or from the subletting of any part thereof, including any liability for violation of conditions, agreements, restrictions, laws, ordinances or regulations affecting the Project or the occupancy or use thereof. The Tenant also covenants and agrees, at its expense, to pay, and to indemnify and save the County and the Lender harmless against and from any and all claims arising from (i) any condition of the Project and the adjoining sidewalks and passageways, (ii) any breach or default on the part of the Tenant in the performance of any covenant or agreement to be performed by the Tenant pursuant to this Lease, (iii) any act or negligence of the Tenant, or any of its agents, contractors, servants, employees or licensees, or (iv) any accident, injury or damage whatever caused to any person, firm or corporation, in or about the Project or upon or under the sidewalks and from and against all costs, reasonable counsel fees, expenses and liabilities incurred in any action or proceeding brought by reason of any claim referred to in this section. In the event that any action or proceeding is brought against the County or the Lender by reason of any such claim, the Tenant, upon notice from the County or the Lender, covenants to resist or defend such action or proceeding by counsel reasonably satisfactory to the County or the Lender.

SECTION 8.10. Limitation of County's Liability. Anything herein to the contrary notwithstanding: (a) any obligation the County may incur hereunder, including for the

payment of money, shall not be deemed to constitute a debt or general obligation of the County but shall be payable solely and exclusively from the revenues and receipts derived by the County from the leasing or sale of the Project; (b) the County's obligations under any contracts which may be assigned to it in furtherance of any provision of this Lease shall be limited to the proceeds of the Notes or other moneys available to the County hereunder or under the Mortgage; (c) the County may require as a condition to the participation by it with the Tenant in any contests or in obtaining any license or permits or other legal approvals a deposit by the Tenant of such amount as determined by the County to be reasonable to assure the reimbursement to the County of the costs incurred by it in such participation, with any amount of such deposit in excess of such costs to be returned to the Tenant; and (d) the liability of the County for any breach of any of the representations or warranties by it set forth herein shall be limited solely and exclusively to the revenues and receipts derived by it from the leasing or sale of the Project.

SECTION 8.11. No Claim Against County. Except as specifically provided herein, nothing contained in this Lease shall constitute any consent or request by the County, expressed or implied, for the performance of any labor or services or the furnishing of any materials or other property in respect of the Project or any part thereof, nor give the Tenant any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would permit the making of any claim against the County. The County shall have the right to post and keep posted at all reasonable times on the Project any notices which the County shall be required to post for the protection of the County and the Project from the perfection of any lien.

SECTION 8.12. Liens. Subject to Section 8.13 hereof, the Tenant will not create or permit to be created or to remain, and will discharge, any lien, encumbrance or charge (other than Permitted Encumbrances) upon the Project or any part thereof or upon the Tenant's leasehold interest therein.

SECTION 8.13. Permitted Contests. The Tenant shall not be required to pay, discharge or remove any tax, lien or assessment, or any mechanic's, laborer's or materialman's lien or encumbrance, or any other imposition or charge against the Project or any part thereof, or comply with any law, ordinance, order, rule, regulation or requirement, so long as the Tenant shall, after prior written notice to the County and the Lender if there shall

then be any Notes outstanding, at the Tenant's expense, contest the same or the validity thereof in good faith, by action or inaction which shall operate to prevent the collection of the tax, lien, assessment, encumbrance, imposition or charge so contested, or the enforcement of such law, ordinance, order, rule, regulation or requirement, as the case may be, and the sale of said Project or any part thereof to satisfy the same or to enforce such compliance. Such contest may be made by the Tenant in the name of the County or of the Tenant or both, as the Tenant shall determine and the County agrees that it will, at Tenant's expense, cooperate with the Tenant in any such contest to such extent as the Tenant may reasonably request. It is understood, however, that the County shall not be subject to any liability for the payments of any costs or expenses in connection with any such proceeding brought by the Tenant, and the Tenant covenants to pay, and indemnify and save harmless the County from, any such costs or expenses. Pending any such proceeding the County shall not have the right to pay, remove or cause to be discharged any such tax, lien, assessment, encumbrance, imposition or charge, thereby being contested, provided that the Tenant shall have given such security as may be required in the proceeding and such reasonable security as may be demanded by the County or the Lender if there shall then be any Notes Outstanding, or both to insure such payment and prevent any sale or forfeiture of the Project or any part thereof by reason of such nonpayment or noncompliance, and provided further that the County would not be in substantial danger of civil or any danger of criminal liability by reason of such nonpayment or noncompliance.

SECTION 8.14. No Termination or Abatement for Damage or Destruction, Etc. Except as otherwise expressly provided herein and so long as any of the Notes are outstanding, this Lease shall not terminate, nor shall the Tenant have any right to terminate this Lease or be entitled to the abatement of any rent or any reduction thereof, nor shall the obligations hereunder of the Tenant be otherwise affected, by reason of any damage to or the destruction of all or any part of the Project from whatever cause, the loss or theft of the Facilities or any part thereof, the taking of the Project or any portion thereof by condemnation or otherwise, the prohibition, limitation or restriction of the Tenant's use of the Project or the interference with such use by any private person or corporation, or by reason of any eviction by paramount title or otherwise, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the Basic Rent and additional rent reserved hereunder shall continue to be payable in all events and the obligations of the

Tenant hereunder shall be terminated only pursuant to an express provision of this Lease.

The Tenant acknowledges that the County has made no representations as to the condition or manner of construction of the Facilities. This Lease shall not terminate, nor shall the Tenant have any right to terminate this Lease, or be entitled to the abatement of any rent or any reduction thereof, nor shall the obligations hereunder of the Tenant be otherwise affected by reason of or due to the condition of the Project including the Facilities either before, during or after construction or by reason of or due to any failure to complete the construction of the Facilities.

The obligations of the Tenant to make the payments required in Article V and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional. Until such time as the principal of, premium, if any, and interest on the Notes shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Mortgage, the Tenant (i) will not suspend or discontinue any payments provided for in Article V hereof, (ii) will perform and observe all of its other agreements contained in this Lease, and (iii) except as provided in Article X hereof will not terminate this Lease for any cause, including, without limiting the generality of the foregoing, failure to complete the Facilities, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Facilities, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of South Carolina or any political subdivision of the State of South Carolina 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 Lease.

SECTION 8.15. No Termination for Insolvency, Etc., of County. Except as provided in Article X hereof, the Tenant covenants and agrees that it will remain obligated under this Lease in accordance with its terms and that the Tenant will not take any action to terminate, rescind, or avoid this Lease, notwithstanding the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding up or other proceeding affecting the County or any assignee of the County in any such proceeding and notwithstanding any action with respect to this Lease which may be taken by any trustee or receiver of or by any court in any such proceeding.

SECTION 8.16. Tenant Subrogated to the County's

Rights. To the extent of any payments (except the payment in lieu of taxes made by the Tenant pursuant to Section 6.03 hereof) of additional rent by the Tenant under this Lease, the Tenant, if and to the extent permitted by law, shall be subrogated to the County's rights in respect to the proceedings or matter which resulted in the payment of additional rent hereunder, and any recovery by the County or release to the County of moneys in such proceedings or matter shall, if and to the extent permitted by law, be used to reimburse the Tenant for the amount of such additional rent so paid by the Tenant, provided always that the Basic Rent is paid in the manner and at the times herein set forth.

SECTION 8.17. Waiver of Rights by the Tenant. So long as any of the Notes are outstanding, the Tenant waives, to the extent legally permissible, all rights now or hereafter conferred by law (i) to quit, terminate or surrender this Lease or the Project or any part thereof, or (ii) to any abatement, suspension, deferment or reduction of the Basic Rent or additional rent or any other sums payable under this Lease, except as otherwise expressly provided herein, regardless of whether such rights shall arise from any present or future constitution, statute or rule of law.

SECTION 8.18. Non-Waiver by County. No failure by the County or by any assignee to insist upon the strict performance of any provision hereof or to exercise any right, power or remedy consequent upon a breach thereof, and no acceptance of the Basic Rent or other rent, in full or in part, during the continuance of such breach, shall constitute a waiver of such breach or of such provision. No waiver of any breach shall affect or alter this Lease or constitute a waiver of a then existing or subsequent breach.

SECTION 8.19. Compliance With Laws. The Tenant, subject to Section 8.13 hereof, shall throughout the Term of this Lease and, at no expense to the County, promptly comply or cause compliance with all laws, ordinances, orders, rules, regulations and requirements of duly constituted public authorities, which may be obligatory upon the Tenant or the County and applicable to the Project, the repair and alteration thereof (including, without limitation, the Facilities and the streets, sidewalks and passageways adjoining the Project) and the use or manner of use of the Project, whether or not such laws, ordinances, orders, rules, regulations and requirements are foreseen or unforeseen, ordinary or extraordinary, and whether or not they shall involve any change of governmental policy or shall require structural or extraordinary repairs, alterations or additions, irrespective of the cost thereof; provided, however, that if no Notes of the County are

outstanding, the Tenant, in lieu of compliance with such laws, orders, rules, regulations and requirements, or the making of such additions, changes or alterations may elect to terminate this Lease or to purchase the Project in accordance with Section 10.02 hereof, and in either such event, shall have no further liability hereunder. With regard to the County, the Tenant accepts the Project in its condition on the date of commencement of the term of this Lease, and assumes all risks, if any, resulting from any present or future, latent or patent defects therein or from the failure of the Project to comply with all legal requirements applicable thereto, reserving however, any and all rights of the Tenant with respect to parties other than the County.

SECTION 8.20. Recording and Filing. The Tenant, at its own expense, shall cause this Lease and every supplement, assignment and modification hereof to be recorded in such public office or offices as may be at the time provided by law as the proper place for the recordation of a deed conveying the Project. This Lease as originally executed shall be so recorded prior to the recordation of the Mortgage.

SECTION 8.21. Financial and Other Information, and Reports. The Tenant will keep books of record and account in accordance with generally accepted principles of accounting and will furnish to the County and the Lender the following:

(a) Within 120 days following the close of each fiscal year of the Tenant occurring within four years after the issuance of the Bonds, a certificate of the chief financial officer of the Tenant stating that the aggregate amount of capital expenditures made or incurred with respect to or attributable to the Project during the period beginning three years prior to the date of the Bonds and ending the last day of the last preceeding fiscal year has not exceeded \$10,000,000 or such higher dollar amount as may be applicable under IRC Section 103(b)(6)(D)(ii). Each such certificate shall be accompanied by a statement by an Authorized Tenant Representative setting forth (i) a description of the expenditures which are capital expenditures under IRC Section 103(b)(6)(D)(ii) and shall take into account "facilities" referred to in IRC Section 103(b)(6)(E) in computing such capital expenditures, and (ii) a description, and the reason for the exclusion, of any capital expenditures which the Tenant has not taken into account by virtue of the provisions of IRC Section 103(b)(6)(F);

(b) Immediately upon becoming aware of the

existence of any condition or event which constitutes a Default or an Event of Default hereunder, a written notice specifying the nature and period of existence thereof and what action the Tenant is taking and proposes to take with respect thereto;

(c) Immediately upon becoming aware that the holder of any Note or of any evidence of indebtedness or other security of the Tenant has given notice or taken any other action with respect to a claimed Default or Event of Default, a written notice specifying the notice given or action taken by such holder and the nature of the claimed Default or Event of Default and what action the Tenant is taking or proposes to take with respect thereto; and

(d) With reasonable promptness, such other data and information as from time to time may be reasonably requested.

SECTION 8.22. Tenant to Maintain Records With Respect to Notes. As provided in the Mortgage, the Tenant is the registrar responsible for maintaining suitable books of registry to register ownership, transfer and payment with respect to the Notes. Upon making any entry on such books, the Tenant shall furnish the County with a duplicate of such entry. The books of registry shall be open for inspection by the County, the Lender, or any holder of the Notes at all reasonable times.

ARTICLE IX

SUBLET OR ASSIGNMENT OF PROJECT; REPOSSESSION;  
MERGER, CONSOLIDATION OR TRANSFER OF ASSETS BY TENANT;  
SURVIVAL OF TENANT'S OBLIGATION

SECTION 9.01. Sublet or Assignment. The Tenant may sublet the Project or any part thereof and may assign or otherwise transfer all of its rights and interest hereunder; provided (a) that no assignment, transfer or sublease shall affect or reduce any of the obligations of the Tenant hereunder, but all obligations of the Tenant hereunder shall continue in full force and effect as the obligations of a principal and not of a guarantor or surety, (b) the sublessee, assignee or transferee shall assume the obligations of the Tenant hereunder, which such assumption shall be deemed to occur upon the occupancy of any part of the Project by the sublessee, assignee or transferee regardless of the terms of any agreement executed by the Tenant, and (c) the Tenant shall give the County and the Lender under the Mortgage written notice of any such assignment, transfer or sublease not more than nor less than 30 days prior to the effective date thereof and shall furnish or cause to be furnished to the Lender and the County a true and complete copy of any such sublease, assignment or other transfer immediately after its execution. Subject to the foregoing conditions except for the requirement of written notice to the County and the Lender, and any and all other conditions contained herein, the proposed subletting of the Project by the Tenant to the Subtenant is hereby expressly recognized.

SECTION 9.02. Collection of Rent from Others; No Release of Tenant. If this Lease be assigned or transferred, or if the Project or any part thereof be sublet or occupied by anybody other than the Tenant, the County may, after default by the Tenant, collect rent from the assignee, transferee, subtenant, or similar occupant, and apply the net amount collected to the Basic Rent and any other amounts reserved hereunder, but no such assignment, transfer, subletting, occupancy or collection shall be deemed the acceptance of the assignee, transferee, subtenant or similar occupant as tenant of the County, or a waiver or release of the Tenant from the performance of the terms, covenants and conditions of this Lease to be performed by the Tenant. Any violation of any provision of this Lease, whether by act or omission, by an assignee, transferee, subtenant, or similar occupant, shall be deemed a violation of such provision by the Tenant and the Tenant shall assume and be liable to the County for all and any acts and omissions of any and all assignees, transferees, subtenants and similar occupants.

SECTION 9.03. Repossession and Reletting. At any time after termination of this Lease pursuant to Section 11.02 hereof, the County without further notice may enter upon and repossess the Project and may remove the Tenant and all other persons and any and all property from the Project. Prior to the termination of this Lease pursuant to Section 11.02 hereof and without any obligation on the part of the County to terminate this Lease, if an Event of Default occurs and shall be continuing, the County shall also have the right of entry and of repossession, and removal after not less than 30 days prior written notice to the Tenant of its intent to exercise such right and specifying the nature of the Event of Default, provided such Event of Default shall have not been cured prior to the expiration of said 30 day period and such right shall not be in contravention of the laws of South Carolina. In the event of the exercise of such latter right without termination of this Lease, this Lease shall continue in full force and effect for the balance of its Term except that the Tenant shall have no right of possession from the date of the exercise of such right; provided that the exercise of such right by the County shall not preclude the subsequent exercise of any other right of the County under this Lease, including the right of termination pursuant to Section 11.02 hereof. The County shall be under no liability for or by reason of any such entry, repossession or removal.

At any time or from time to time after reentering and taking possession of the Project, with or without terminating this Lease pursuant to Section 11.02 hereof, the County shall use its best efforts (but shall be under no obligation) to relet the Project or any part thereof for the account of the Tenant, in the name of the Tenant or the County, or otherwise without notice to the Tenant, for such term or terms (which may be greater or less than the period which would otherwise have constituted the balance of the Term of this Lease), on such conditions and for such uses as the County in its discretion may determine; and the County may collect and receive the rents therefor. The County shall not be responsible or liable for any failure to relet the Project or any part thereof, or for any failure to collect any rent due upon any such reletting.

The Tenant covenants and agrees to pay, and to indemnify the County and the Lender against, all costs and charges, including reasonable counsel fees, lawfully and reasonably incurred in obtaining possession of the Project after an Event of Default of the Tenant or upon expiration or earlier termination of the Term hereof, or in enforcing any covenant or agreement of the Tenant contained in this Lease.

SECTION 9.04. Tenant's Obligations to Survive Repossession. Except as hereinafter provided, no termination of the Term of this Lease pursuant to Section 11.02 hereof or repossession of the Project pursuant to Section 9.03 hereof shall relieve the Tenant of its liability and obligations hereunder all of which shall survive any such termination or repossession.

In the event of the termination of the Term of this Lease pursuant to Section 11.02 hereof, the Tenant shall pay to the County the Basic Rent and all additional rent and other charges required to be paid, and not theretofore paid, under this Lease, or otherwise, by the Tenant up to the time of such termination; and thereafter the Tenant, until the end of what would have been the Term of this Lease shall be liable for and shall pay to the County, as and for liquidated and agreed current damages for the Tenant's Default: the Basic Rent and all additional rent and other charges which would be payable under this Lease by the Tenant if the Term of this Lease had not been so terminated, less the net proceeds, if any, of any reletting effected for the account of the Tenant pursuant to the provisions of Section 9.03 hereof, after deducting all the County's cost of reletting, including, without limitation, all costs of repossession, brokerage commissions, legal expenses, attorney's fees and expenses, employees expenses, reasonable alteration costs, and expenses of preparation for such reletting.

The Tenant shall pay such damages on the days on which the Basic Rent would have been payable under this Lease if the Term hereof had not so terminated, and the County shall be entitled to recover the same from the Tenant on each such day.

The liability and obligations of the Tenant as set forth in this section shall be the same if the County shall exercise its rights set forth in Section 9.03 of entry, repossession or removal without termination of this Lease.

SECTION 9.05. Optional Recovery by the County on Termination by Default. At any time after the termination of the Term of this Lease pursuant to Section 11.02 hereof, whether or not the County shall have collected any current damages as aforesaid, the County shall, at its option, be entitled to recover from the Tenant, and the Tenant will pay to the County on demand, as and for liquidated and agreed current damages for the Tenant's Default and in lieu of all current damages beyond the date of such demand, an amount equal to the greater of: (i) the Basic Rent and additional rent and other charges which would be payable under this Lease from the date of such demand (or, if it be earlier,

the date to which the Tenant shall have satisfied in full its obligations under Section 9.04 hereof to pay current damages) to the conclusion of what would have been the then unexpired Term of this Lease if the same had not so expired, less the then fair net rental value of the Project for the same period, or (ii) if any Notes of the County are then outstanding and unpaid, an amount equal to the entire principal amount of the then outstanding Notes together with any applicable redemption premiums specified in the Mortgage and all interest accrued or to accrue on and prior to the next earliest maturity or redemption date or dates, as the case may be, on which the Lender can pay the Notes or redeem the same after giving notice to the holders thereof as required by the Mortgage, less moneys available for such purposes then held by the Lender, plus any additional rental due or to become due hereunder, including, without limitation, any unpaid fees and expenses of the County or the Lender which are then due or will become due prior to the time that the Notes are paid in full and the interests established by the Mortgage are terminated.

SECTION 9.06. Rights and Obligations on Default Unchanged by Nontermination. The right of recovery of the County and the obligation of the Tenant to pay the amount set forth in Section 9.05 hereof shall be the same if the County shall exercise its right of entry, repossession or removal without termination of this Lease as provided in Section 9.03 hereof.

SECTION 9.07. Law Affecting Liquidated Current Damages. If any statute or rule of law shall validly limit the amount of such liquidated and agreed current damages to less than the amount agreed upon in Sections 9.04 and 9.05 hereof, the County shall be entitled to the maximum amount allowable under such statute or rule of law.

SECTION 9.08. Merger, Consolidation or Transfer of Assets by Tenant. The Tenant covenants and agrees that neither it nor the Subtenant so long as the project is being sublet to the Subtenant will merge or consolidate with any other corporation or transfer all or substantially all of its or the Subtenant's business and assets to another corporation which in any case succeeds to all or substantially all of the business and assets of the Tenant or the Subtenant, unless such successor corporation is organized under the laws of the United States or a state thereof and expressly assumes in writing all covenants, liabilities and obligations of the Tenant hereunder or Subtenant under the sublease, as the case may be. The Tenant further covenants and agrees that during the Term of this Lease and so long as the Notes are outstanding, without the prior written consent of the County and of the Lender

neither it nor the Subtenant so long as the project is being sublet to the Subtenant will be a party to any such merger, consolidation or transfer of its business and assets, if the corporation surviving or resulting from any such merger or consolidation or acquiring such business and assets would have, after giving effect to such merger, consolidation or acquisition of business and assets, a net worth (computed in accordance with generally accepted accounting principles) less than ninety per centum (90%) of the net worth (computed as aforesaid) of the Tenant or the Subtenant, as the case may be, immediately prior to such merger, consolidation or transfer of business and assets.

ARTICLE X

PURCHASE AND OPTION TO PURCHASE PROJECT;  
PURCHASE PRICE

SECTION 10.01. Mandatory Purchase of Project by Tenant. If, during the Term and so long as any Notes are outstanding and unpaid (a) there shall be an occurrence of a Determination of Taxability as defined in the Mortgage, then in any such event, or (b) as a consequence of a defect in title to the Leased Land the Tenant and the County shall be denied the use and occupancy of the Project, or (c) as a result of any changes in the Constitution of the State 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 Tenant in good faith, this Lease shall have become void or unenforceable or impossible of performance in accordance with the intent and purposes of the parties as expressed in this Lease, then in either such event the Tenant, shall purchase the Project. Such purchase shall be made on the date specified by the Lender pursuant to the provisions of Section 4.02 of the Mortgage or not later than 45 days after such change, decree, judgment or order as the case may be.

SECTION 10.02. Options to Purchase the Project; Exercise of Option Hereunder. The Tenant shall have, and is hereby granted, the option to purchase the Project prior to the full Term hereof upon the occurrence of any of the following:

(a) The Project shall have been substantially damaged or destroyed to such extent that the Tenant deems it not practicable or desirable to rebuild, repair, or restore the Project.

(b) Title to, or the temporary use of, all or substantially all of the Project, or such part thereof as shall materially interfere, in the Tenant's reasonable judgment, with the operation of the Project for the purpose for which the Project is designed, shall have been taken under the exercise of the power of eminent domain or condemnation by any governmental authority or by any person acting under governmental authority to such extent that the Tenant, in its reasonable judgment will be thereby prevented or would likely be prevented from using the Project for its normal purposes and operations.

(c) Unreasonable burdens or excessive liabilities shall have been imposed on the County or the Tenant with

respect to the Project or the operation of the Project, including without limitation, federal, state or other ad valorem property, income or other taxes not being imposed or levied on the date of this Lease which taxes are unreasonable or excessive in amount.

To exercise such option, the Tenant shall, within 90 days following the event authorizing the exercise of such option, give written notice to the County and to the Lender and shall specify therein the date of closing such purchase, which date shall be not less than 45 days nor more than 90 days from the date such notice is mailed. Such notice shall specify the event giving rise to such option and be accompanied by a copy of a resolution of the Board of Directors of the Tenant to the effect that as a result of the event specified in the notice, the Tenant has discontinued or will at the earliest practicable date discontinue its, and the Subtenant's or any other subtenant's, operation of the Project.

The Tenant shall further have the option to purchase the Project at the conclusion of the Term hereof or at any time when no Notes shall be Outstanding. This option may be exercised at any time by delivery to the County by the Tenant of an instrument indicating satisfaction or discharge of the Mortgage from the Lender and payment of the purchase price set forth in Section 10.03 hereof.

The options respectively granted to the Tenant in this Lease shall be and remain prior and superior to the Mortgage and may be exercised whether or not the Tenant is in default hereunder, provided that no such default shall result in nonfulfillment of any condition to the right of the Tenant to obtain a conveyance of the Project by making the payments required hereunder.

SECTION 10.03. Purchase Price. The purchase price for any purchase by the Tenant pursuant to this Lease, other than a purchase of unimproved land under Section 10.07 hereof, shall be an amount equal to the entire principal amount of the then outstanding Notes together with any applicable prepayment premiums specified in the Mortgage and all interest accrued or to accrue on and prior to the next earliest maturity or prepayment date or dates, as the case may be, (whether at maturity or by mandatory prepayment or acceleration as provided in the Mortgage) on which the Lender can pay the Notes, or prepay the same plus (a) any additional rental due or to become due hereunder, including, without limitation, any unpaid fees and expenses of the County or the Lender which are then due or will become due prior to the time that the Notes are paid in full and the lien established by the Mortgage is terminated, and (b)

\$1.00.

SECTION 10.04. Payment of Purchase Price. Notwithstanding any other provisions hereof, this Lease shall not terminate on the date on which the Tenant shall purchase the Project (whether or not any delay in the completion of such purchase shall be the fault of the County), nor shall the Tenant's obligations hereunder cease, until the Tenant shall have paid the purchase price then payable for the Project or any portion thereof, without set-off, counterclaim, abatement, suspension, deduction, diminution or defense for any reason whatsoever, so long as any Notes of the County are outstanding and unpaid, and until the Tenant shall have discharged all of its obligations under this Lease, which obligations have arisen on or before the date for the purchase of the Project or any portion thereof, including the obligation to pay the Basic Rent due and payable to and including the date for the purchase of the Project or such portion thereof.

SECTION 10.05. Status of Title. In the event of any purchase of the Project or any portion thereof by the Tenant pursuant to any provision of this Lease, the County shall convey good and marketable title by a deed thereto to the Tenant free and clear of the Mortgage, but the County shall not otherwise be obligated to give or assign any better title to the Tenant than existed on the first day of the Term. The Tenant shall accept such title, subject, however, to (i) Permitted Encumbrances, (ii) any liens, encumbrances, charges, exceptions and restrictions not created or caused by the County, and (iii) any applicable laws, regulations and ordinances. Although the County shall be obligated to convey title to the Project or any portion thereof purchased as aforesaid on the date of purchase upon receipt of the purchase price therefor, the County shall nevertheless have such additional time as is reasonably required by the County to deliver or cause to be delivered to the Tenant all instruments and documents reasonably required by the Tenant and necessary to remove from record or otherwise discharge any liens, encumbrances, charges or restrictions in order that the County may convey title as aforesaid.

SECTION 10.06. Conveyance; Charges Incident Thereto. Upon the date fixed for the purchase of the Project or any portion thereof by the Tenant, the Tenant shall tender the purchase price therefor to the County, and the County shall deliver a deed for the Project or such portion thereof to the Tenant. The Tenant shall pay all expenses of the County and all other charges incident to any conveyance, including any escrow fees, recording fees, title insurance premiums and any applicable federal, state and

local taxes and the like.

SECTION 10.07. Option to Purchase Unimproved Land.  
The Tenant shall have, and is hereby granted, the option to purchase any unimproved part of the Leased Land on which none of the Facilities, except transportation, parking or utility facilities is located, at any time and from time to time at and for a purchase price equal to the cost thereof (\$1.00 per acre for the Leased Land and the cost of any transportation, parking or utility facilities financed with proceeds from the Notes) provided that it furnishes the County and the Lender 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 Tenant intends to exercise its option to purchase such portion of the Leased Land on a date stated, which shall not be less than 45 nor more than 90 days from the date of such notice;

(b) A certificate of an Independent Engineer dated not more than 90 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 purpose for which it was designed or last modified, and (ii) the purchase will not impair the usefulness of the Project for such purpose and will not destroy the means of ingress thereto or egress therefrom;

(c) An amount of money equal to the purchase price to be paid therefor, computed as provided in this section.

The County agrees that upon receipt of the notice, certificate and any money required in this Section 10.07 to be furnished to it by the Tenant, the County will promptly deliver such money to the Lender for prepayment of the Notes and secure from the Lender a release from the lien of the Mortgage of such portion of the Leased Land with respect to which the Tenant shall have exercised the option granted to it in this Section 10.07.

In the event the Tenant shall exercise the option granted to it under this Section, the Tenant shall not be entitled to any abatement or diminution of the rents payable under Section 5.02 hereof except to the extent money paid for the unimproved land purchased under this section is credited against rent as provided in said Section \_\_\_\_\_ of the Indenture and if such option relates to Leased Land on

which transportation, parking 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.

Upon satisfaction by the Tenant of the requirements of this section, the County shall, subject to the limitations expressed in Section 10.05 hereof, convey to the Tenant title to Leased Land in accordance with the provisions of Section 10.06 hereof.

ARTICLE XI

EVENTS OF DEFAULT AND REMEDIES

SECTION 11.01. Events of Default. Any one or more of the following events shall constitute an event of default hereunder (herein called "Events of Default"):

(a) if default shall be made in the due and punctual payment of any Basic Rent or additional rent;

(b) if default shall be made by the Tenant in the due performance of or compliance with any of the provisions contained in Section 10.01 hereof;

(c) if the Tenant shall assign this Lease, or sublet the whole or any part of the Project, otherwise than as expressly permitted hereunder;

(d) if default shall be made by the Tenant in the due performance of or compliance with any of the terms hereof, other than those referred to in the foregoing subdivisions (a), (b) or (c), and such default shall continue for (i) 30 days after the County or the Lender shall have given the Tenant written notice of such default, or (ii) in the case of any such default which can be cured but which cannot with due diligence be cured within such 30 day period, if the Tenant shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default with due diligence, it being intended in connection with the default not susceptible of being cured with due diligence within 30 days that the time of the Tenant within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with all due diligence;

(e) if the Tenant shall file a voluntary petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking any reorganization, composition, readjustment, liquidation or similar relief for itself under any present or future statute, law or regulation, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Tenant or of all or any substantial part of its properties or of the Project, or shall make any general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due;

(f) if a petition shall be filed against the Tenant seeking any reorganization, composition, readjustment, liquidation or similar relief under any present or future

statute, law or regulation, and shall remain undismissed or unstayed for an aggregate of 30 days (whether or not consecutive), or if any trustee, receiver or liquidator of the Tenant or of all or any substantial part of its properties or of the Project shall be appointed without the consent or acquiescence of the Tenant and such appointment shall remain unvacated or unstayed for an aggregate of 30 days (whether or not consecutive);

(g) if any representation or warranty made by the Tenant herein, or any representation, warranty or covenant made by the Tenant in any statement, certificate, guaranty or indemnification furnished or delivered by the Tenant in connection with the execution and delivery of this Lease, proves untrue in any material respect as of the date of the issuance or making thereof or is violated or breached, as the case may be;

(h) if the Tenant shall abandon the Project;

(i) if under the Guaranty there shall be an event of default (as defined therein).

SECTION 11.02. Remedies on Event of Default. Upon the occurrence of any Event of Default the County at its option: (i) may declare immediately due and payable an amount of Basic Rent equal to the entire principal amount of the then outstanding Notes together with any applicable prepayment premiums specified in the Mortgage and all interest accrued or to accrue on and prior to the next earliest maturity or prepayment date or dates, as the case may be, on which the Lender can pay the Notes, or redeem the same after giving notice to the holders thereof as required by the Mortgage, less moneys available for such purposes then held by the Lender, plus any additional rental due or to become due hereunder, including, without limitation, any unpaid fees and expenses of the County or the Lender which are then due or will become due prior to the time that the Notes are paid in full and the interests established by the Mortgage are terminated; (ii) may terminate this Lease by 30 days notice in writing specifying the termination date; (iii) may reenter and take possession of the Project, with or without terminating this Lease, and relet the Project in accordance with Section 9.03 hereof; (iv) may have access to and inspect, examine and make copies of, the books, records and accounts of the Tenant pertaining to the Project; or (v) may take whatever action at law or in equity as may appear necessary or desirable to collect the rent then due and thereafter to become due or to enforce observance or performance of any covenant, condition or agreement of the Tenant under this Lease.

ARTICLE XII

ASSIGNMENT OF COUNTY'S INTEREST

SECTION 12.01. Assignment of County's Interest to Lender. The Tenant agrees that the County shall have the right to assign to the Lender under the Mortgage, this Lease and all right, title and interest of the County under this Lease as further security for the obligations of the County under the Mortgage. Provided, however, that any such assignment shall be subordinate and subject to the terms and provisions of this Lease and shall not have the effect of releasing the County from any of its obligations under this Lease nor constitute an assumption of any such obligation by the assignee.

SECTION 12.02. Rights of Assignee. The Tenant covenants and agrees that in the event of an assignment under Section 12.01: (a) the Lender may enforce any and all of the terms of this Lease, to the extent so assigned, as though the Lender had been a party hereto; (b) the Tenant will pay all rent including amounts payable under this Lease to or upon the direction of the Lender, without any setoff, deduction, abatement or diminution; (c) no action, or failure to act, on the part of the County shall adversely affect or limit any rights of the Lender; (d) no amendment, modification or termination of this Lease and no waiver of any of the terms and provisions hereof shall be valid unless consented to in writing by the Lender as provided in the Mortgage; (e) all notices, demands, certificates, insurance policies and other instruments given by the Tenant hereunder shall be delivered to the Lender; and (f) all references to the County herein shall be deemed to include the Lender to the full extent necessary or desirable for the full protection of the Lender.

SECTION 12.03. No Modification by the Tenant. Except as otherwise expressly permitted herein the Tenant shall not: (i) modify or in any way alter the terms of this Lease, including, without limitation, the covenant to pay rent set forth in Section 5.02 hereof, or terminate the Term hereof, without the prior written consent of the Lender as required under the Mortgage or in accordance with the terms of the Mortgage; (ii) anticipate the rental hereunder except as herein provided or accept a waiver, offering, excuse or in any manner secure or obtain a release or discharge of the Tenant of or from any orders, obligations, covenants, conditions and agreements under the Lease, including the obligation to pay the rent called for herein in the manner and at the place and at the time specified herein, without the prior written consent of the Lender as provided in the Mortgage; or (iii) obtain any consents, approvals or

permissions or participate with the County in the exercise of any of the County's rights, options, elections or privileges as the lessor hereunder without the prior written consent of the Lender as provided in the Mortgage. Any attempt on the part of the Tenant to do any of the aforesaid without the prior written consent of the Lender shall be of no force or effect.

ARTICLE XIII

MISCELLANEOUS

SECTION 13.01. Rights and Remedies Cumulative. Each right, power and remedy of the County or of the Tenant provided for in this Lease shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, in any jurisdiction where such rights, powers and remedies are sought to be enforced, and the exercise by the County or by the Tenant of any one or more of the rights, powers or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Tenant of any or all such other rights, powers or remedies.

SECTION 13.02. Successors and Assigns. The terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 13.03. Notices; Demands; Requests. All notices, demands and requests to be given or made hereunder to or by the County, the Tenant or the Trustee, shall be in writing, and shall be deemed to be properly given or made if sent by United States registered mail, postage prepaid addressed as follows or at such other places as may be designated in writing by such party.

(a) As to the County:

Anderson County Council

(b) As to the Tenant:

Yoder Brothers, Inc.

(c) As to the Lender:

Mellon Bank, N.A.

SECTION 13.04. Applicable Law; Entire Under-

standing. This Lease shall be governed exclusively by the provisions hereof and by the applicable laws of the State of South Carolina. This Lease expresses the entire understanding and all agreements of the parties hereto with each other and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Lease or in certificates delivered in connection with the execution and delivery hereof.

SECTION 13.05. Severability. In the event that any clause or provision of this Lease shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

SECTION 13.06. Headings and Table of Contents; References. The headings of this Lease and any Table of Contents or Index annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Lease to particular Articles or Sections or subdivisions of this Lease are references to the designated Articles or Sections or subdivisions of this Lease.

SECTION 13.07. Multiple Counterparts. This Lease may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, Anderson County, South Carolina, has executed this Lease by causing its name to be hereunto subscribed by the Chairman of its County Council and the official seal of said County Council to be impressed hereon and attested by the Clerk to the County Council and Yoder Brothers, Inc., has executed this Lease by causing its corporate name to be hereunto subscribed by its President or a Vice President and its corporate seal to be impressed hereon and attested by its Secretary or Assistant Secretary, all being done as of the day and year first above written.

ANDERSON COUNTY, SOUTH CAROLINA

BY \_\_\_\_\_,  
\_\_\_\_\_, Chairman,  
County Council of Anderson  
County, South Carolina

(SEAL)

ATTEST:

Clerk to County Council, Anderson  
County, South Carolina

Signed, sealed and delivered in the  
presence of:

-----  
-----

YODER BROTHERS, INC.

By \_\_\_\_\_

(SEAL)

Its \_\_\_\_\_

ATTEST:

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Signed, sealed and delivered in the  
presence of:

-----  
-----

EXHIBIT A

[DESCRIPTION OF LEASED LAND]

EXHIBIT B

[DESCRIPTION OF FACILITIES]



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF ANDERSON )

PROBATE

PERSONALLY appeared before me \_\_\_\_\_  
who on oath says that (s)he saw the within Anderson County  
by \_\_\_\_\_, the Chairman of the County Council  
of Anderson and \_\_\_\_\_, the Clerk of the  
County Council of Anderson County, South Carolina, sign the  
within Lease and the said County, by said officers of  
Florence County Council, seal as its act and deed deliver  
the within Lease and that (s)he with  
\_\_\_\_\_ witnessed the execution thereof.

\_\_\_\_\_  
Witness

SWORN to before me, this  
\_\_\_\_ day of December, 1979.

\_\_\_\_\_(L.S.)  
Notary Public for South Carolina  
My Commission expires: \_\_\_\_\_

EXHIBIT

NOV 30 1979 NO. 01

STATE BUDGET & CONTROL BOARD

1.02

ANDERSON COUNTY, SOUTH CAROLINA

TO

MELLON BANK, N.A.

MORTGAGE LOAN AGREEMENT

DATED AS OF DECEMBER 1, 1979

RELATING TO ANDERSON COUNTY, SOUTH CAROLINA

FIRST MORTGAGE INDUSTRIAL REVENUE NOTES

(YODER BROTHERS, INC. PROJECT)

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PROBATES

THIS MORTGAGE LOAN AGREEMENT (hereinafter referred to as the "Mortgage") made and entered into as of the 1st day of December, 1979, by and between Anderson County (hereinafter referred to as the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, and Mellon Bank, N.A., in Pittsburgh, Pennsylvania (the "Lender").

WITNESSETH:

WHEREAS Title 4, Chapter 29, Code of Laws of South Carolina, 1976, as amended (hereinafter referred to as the "Act") empowers the several counties of the State of South Carolina to acquire, enlarge, improve, and expand one or more projects (as defined in the Act), to lease any or all of such projects in furtherance of the purposes of the Act, and to issue their revenue bonds (defined in the Act to include revenue notes) secured by a pledge of the revenues derived from the leasing of projects to defray the cost of acquiring, enlarging, improving or expanding such projects by construction and purchase;

WHEREAS the County has agreed to assist Yoder Brothers, Inc., an Ohio corporation (hereinafter referred to as the "Tenant"), to locate in South Carolina by issuing a revenue note of the County for the purpose of defraying the cost of acquiring, by construction and purchase, certain land, now owned by the Tenant in the County and other improvements, buildings, equipment, machinery, fixtures and furnishings located in the County constituting a project (hereinafter referred to as the "Project");

WHEREAS the County by due corporate action has authorized the execution and delivery of a Lease between the County and the Tenant dated as of the first day of December, 1979, (hereinafter referred to as the "Lease") pursuant to which the County shall acquire and lease to the Tenant the Project;

WHEREAS the County by due corporate action has authorized the issuance of a First Mortgage Industrial Revenue Note (Yoder Brothers, Inc. Project) 1979, in the original principal amount of Three Million Five Hundred Thousand Dollars (\$3,500,000) (hereinafter referred to as the "1979 Note") pursuant to the Act in order to defray the costs of acquiring, by construction and purchase, the Project;

WHEREAS the County by due corporate action has authorized the execution and delivery of this Mortgage mortgaging the Project, pledging the revenues to be derived

from the lease or sale thereof, including the revenues derived under the Lease, as security for any person or entity who or which at any time shall be a holder of any Note (as hereinafter defined) subject to the terms and conditions hereinafter set forth;

WHEREAS all acts and things have been done and performed which are necessary to make the 1979 Note, when executed and issued by the County, the legal, valid and binding limited obligation of the County in accordance with its terms and to make this Mortgage a valid and binding agreement for the security of the 1979 Note and any Additional Notes (as hereinafter defined and authorized) (said 1979 Note and Additional Notes being hereinafter collectively referred to as the "Notes") and delivered under this Mortgage; and

WHEREAS the 1979 Note to be issued hereunder in the principal amount of \$1,500,000 shall be in substantially the form set forth in Article IX hereof with necessary and appropriate variations, omissions and insertions as are permitted by said Article;

NOW, THEREFORE, THIS MORTGAGE FURTHER WITNESSETH:

The County, in consideration of the premises, making of the loan by the Lender evidenced by the 1979 Note, issued and secured hereunder, and the sum of One Dollar (\$1.00) lawful money of the United States of America to it duly paid by the Lender at or before the execution and delivery of these presents, and for other good and valuable consideration, the receipt whereof is hereby acknowledged; and in order to secure payment of the principal of, premium, if any, and interest on the Notes at any time issued and outstanding hereunder according to their tenor and effect and performance and observance by the County of all the provisions and covenants expressed or implied herein and in the Notes, has granted, bargained, sold, warranted, alienated, remised, released, conveyed, assigned, pledged, transferred, mortgaged, set over and confirmed and granted a security interest in, and does by these presents hereby grant, bargain, sell, pledge, transfer, mortgage, set over, confirm and grant a security interest, to Mellon Bank, N.A., and to its successors and assigns forever, in all and singular the following property, real and personal, (said property being herein sometimes referred to as the "mortgaged property"), to wit:

ITEM A

Subject to Permitted Encumbrances as hereinafter defined, the parcel of real property located in the County,

consisting of the land described in Exhibit A hereto, together with all right, title and interest of the County in and to all buildings, structures, improvements and appurtenances now standing, or at any time hereafter constructed or placed upon said property or any part thereof, and the reversion or reversions, remainder or remainders, in and to said real property and each and every part thereof, and together with the entire interest of the County in and to all and singular the tenements, hereditaments, easements, rights, privileges and appurtenances to said real property belonging or in any wise appertaining thereto, and all the estate, right, title, interest, claim or demand whatsoever of the County either in law or in equity, in possession or expectancy, of, in and to said real property, subject, however, to the right reserved to the Tenant and the County in Sections 8.07 and 10.07 of the Lease to release and remove certain real property from the Lease and this Indenture upon compliance with the terms and conditions of said Sections 8.07 and 10.07 of the Lease and subject to the right of the Tenant to make additions, modifications or improvements which do not become a part of the Project under Sections 4.06 and 6.01 of the Lease;

ITEM B

Subject to Permitted Encumbrances as hereinafter defined, the items described in Exhibit B hereto, together with all other machinery, equipment, other fixtures or personal property (a) the acquisition of which was financed in whole or in part from the proceeds of the 1979 Note, or (b) which will be installed in the Project in substitution or replacement of machinery, equipment, fixtures or personal property described in the preceding subparagraph (a) or which will be installed in the Project in substitution or replacement of other such substitutions or replacements;

ITEM C

(1) The Lease by and between the County and the Tenant covering the property described in Items A and B above (such property, as aforesaid being hereinafter defined and herein referred to as the "Project"), all right, title and interest of the County in, under and to the Lease; and all rents, revenues, issues, profits, income and other sums due and to become due to the County under and pursuant to or by reason of the Lease (excluding, however, amounts paid by the Tenant thereunder to the County and other local taxing authorities as assessments or taxes or in lieu of taxes pursuant to the provisions of Sections 6.03 and 6.04 thereof and amounts paid by the Tenant to the County pursuant to Section 8.09 thereof), it being the intent and purpose hereof that the assignment and transfer to the Lender of the

rents and other sums due and to become due under the Lease shall be effective and operative immediately and shall continue in force and effect, and the Lender shall have the right to collect and receive said rents and other sums for application in accordance with the provisions hereof at all times during the period from and after the date of execution of this Mortgage until the indebtedness hereby secured shall have been fully paid and discharged, including without limitation, at all times after the institution and during the pendency of foreclosure proceedings and after any sale on foreclosure; and

(2) any other lease by the County of the Project, whether in writing or by operation of law; all right, title and interest of the County in, under and to any such other lease; and all rents, revenues, issues, profits, income or other sums due and to become due to the County under and pursuant to or by reason of any such other lease;

ITEM D

The rights of the County under any construction contracts entered into by or on behalf of the County with respect to the Project;

ITEM E

Until used and applied in accordance with the provisions hereof, all moneys (and the securities in which such moneys may from time to time be invested) held by the Depositary (as hereinafter defined) hereunder, including, without limiting the generality of the foregoing, the proceeds of the Notes, proceeds of insurance, condemnation awards, receipts from the sale of all or part of the Project and the earnings on and income from the investment of moneys held hereunder;

ITEM F

Subject to Permitted Encumbrances as hereinafter defined, all rights, privileges, licenses, permits, immunities and easements of the County of every kind and nature appurtenant to the properties and estates described in the foregoing Items or appurtenant to any property covered by any instrument at any time hereafter conveying, mortgaging, pledging or assigning any property of any kind to the Lender to be held hereunder as part of the mortgaged property; and also all and singular the tenements, hereditaments or appurtenances belonging to said properties or any part thereof or in any wise appertaining thereto and the reversions, remainders, rents, issues and profits thereof (including, but without limitation of the present assignment, pledge and transfer of the rents, income and

other sums due and to become due under and pursuant to the Lease which is provided for in Item C above, the rents, income and profits during any period allowed by law for the redemption of the mortgaged property after any foreclosure or other sale); and all the estate, right, title and claim whatsoever, at law as well as in equity, which the County now has or may hereafter acquire in and to the property and estates described in the foregoing Items or any part thereof, whether now owned or hereafter acquired; and

ITEM G

All other property which, by the express provisions of the Mortgage, is required to be subjected to the lien hereof and any additional property that may, from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien hereof, by the County or by anyone in its behalf, and the Lender is hereby authorized to receive the same at any time as additional security hereunder;

TO HAVE AND TO HOLD, all and singular, the mortgaged property, including all additional property which by the terms hereof has or may become subject to the encumbrances of this Mortgage, unto the Lender and its successors and assigns, forever;

Provided, always, nevertheless, and it is the true intent and meaning of the parties hereto, that if the County shall well and truly pay or cause to be paid fully and promptly when due all indebtedness, liabilities, obligations and sums at any time secured hereby, including interest and attorney's fees, and shall promptly, faithfully and strictly keep, perform and observe or cause to be kept, performed and observed all of its covenants, warranties and agreements contained herein, then and in such event this Mortgage shall cease, determine and be utterly null and void and of no further force and effect; otherwise, the same shall remain in full force and effect and subject to the covenants and conditions hereinafter set forth; and

Provided, further, that it is agreed by and between the parties that the County or the Tenant under the Lease is to hold and enjoy the mortgaged property until there shall occur an Event of Default (as hereinafter defined) hereunder.



ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION;  
CERTIFICATES AND OPINIONS

SECTION 1.01. Definitions. In addition to words and terms elsewhere defined in the Mortgage, the following words and terms as used herein and in the preambles hereto shall have the following meanings, unless the context or use indicates another or different meaning or intent:

"Act" shall mean Title 4, Chapter 29, Code of Laws of South Carolina, 1976, and all future acts supplemental thereto or amendatory thereof.

"Additional Note" or "Additional Notes" shall mean any Note, some of the Notes or all of the Notes issued pursuant to Section 2.03 of this Mortgage from time to time outstanding.

"Authorized County Representative" shall mean the person at the time designated to act on behalf of the County by written certificate furnished to the Tenant and the Lender containing the specimen signature of such person and signed on behalf of the County by the Chairman of the County Council. Such certificate may designate an alternate or alternates.

"Authorized Tenant Representative" shall mean the person at the time designated to act on behalf of the Tenant by written certificate furnished to the County and the Lender containing the specimen signature of such person and signed on behalf of the Tenant by its President, any Vice President or Treasurer or Assistant Treasurer. Such certificate may designate an alternate or alternates.

"Basic Rent" shall mean the rental payable pursuant to Section 5.02 of the Lease.

"Completion Date" shall mean the date on which the acquisition of the Project by construction and purchase is completed as certified in Section 4.04 of the Lease.

"Cost of the Project" shall mean and be deemed to include (a) obligations incurred for labor and materials and other expenses to contractors, builders and materialmen in connection with the acquisition, construction and installation of the Project; (b) the costs of contract bonds and of insurance of all kinds that may be required or necessary during the course of construction of the Project which are not paid by the contractor or contractors or otherwise provided for; (c) the expenses for test borings,

surveys, test and pilot operations, estimates, plans and specifications and preliminary investigations therefor, and for supervising construction, as well as for the performance of all other duties required by or reasonably necessary for the acquisition, construction and installation of the Project; (d) legal, accounting, financial and printing expenses, fees and all other expenses incurred in connection with the issuance of the Notes; (e) all other costs required to be paid under the terms of any contract or contracts for the acquisition, construction and installation of the Project; and (f) any sums required to reimburse the Tenant for advances made by it for any of the above items, or for any other work done by, and costs incurred by, the Tenant which are properly chargeable to a capital account with respect to the Project or would be so chargeable either with or but for a proper election by the Tenant.

"County" shall mean Anderson County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, and its successors and assigns.

"Default" shall mean an event or condition the occurrence of which would, but for the lapse of time or the giving of notice or both, become an Event of Default as defined in Section 11.02 hereof.

"Depositary" shall mean Mellon Bank, N.A., in Pittsburgh, Pennsylvania.

"Determination of Taxability" shall mean (a) the issuance of a statutory notice of deficiency by the Internal Revenue Service which holds in effect that the interest paid or payable on the 1979 Note is includable in the gross income or a holder or former holder thereof as a result of either the limitations prescribed in IRC Section 103(b)(6)(d) having been exceeded or (b) the issuance of a statement by the Tenant to the effect that it has exceeded or intends to exceed the maximum amount of capital expenditures permitted under IRC Section 103(b)(6)(D); Provided, nevertheless, that no Determination of Taxability under clause (a) hereof shall occur if there is available to the Tenant, either directly, or with the cooperation of any one or more of the holders of the 1979 Note, a protest which, if successful, would result in a revocation, rescission, or retraction of any such statutory notice of deficiency by the Internal Revenue Service. Such a Determination of Taxability shall be deemed for all purposes of this Indenture to have occurred on the date borne by said statutory notice of deficiency or the date borne by said statement, as the case may be.

"Event of Taxability" shall mean the occurrence of the circumstances described in IRC Section 103(b)(6)(D) under which circumstances a Determination of Taxability shall have been found to have occurred with the result that the interest payable on the 1979 Note becomes includable in the gross income of the holders or former holders of the 1979 Note, other than a holder who is a "substantial user" of the Project or a "related person: as such terms are used in IRC Section 103.

"Facilities" shall mean (i) all buildings and appurtenances now or hereafter located on the Leased Land including the additions to the building and appurtenances which are presently under construction or are to be constructed on the Leased Land from the proceeds of the Notes, as they may at any time exist, including any air conditioning and heating systems (which shall be deemed fixtures); and (ii) the items described in Exhibit B attached hereto together with all other machinery and equipment (a) the acquisition of which was financed in whole or in part from the proceeds of the Notes, or (b) which will be installed in the foregoing buildings or on the Leased Land in substitution or replacement of machinery, equipment, fixtures or personal property described in the immediately preceding clause (a), or which will be installed in the foregoing buildings or on the Leased Land in substitution or replacement of other such substitutions or replacements.

"Guaranty" shall mean the Guaranty, dated as of December 1, 1979, given by the Tenant to the Lender.

"Independent Architect" or "Independent Engineer" shall mean an architect or firm of architects or a registered engineer, firm of engineers or engineering corporation being in fact independent, having no substantial financial interest in the Tenant and not being an employee of either the Tenant or the County.

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

"IRC" shall mean the Internal Revenue Code of 1954 as amended and the regulations proposed or promulgated thereunder by the Department of the Treasury as such code and regulations apply to any particular Note or Notes.

"Lease" shall mean the lease dated as of December 1, 1979, executed by the County, as lessor, and the Tenant, as lessee, as from time to time amended and supplemented.

"Leased Land" shall mean the real property described in Exhibit A attached hereto.

"Lender" shall mean Mellon Bank, N.A., its successors and assigns as the holder of the Note.

"Mortgage" shall mean this instrument as originally executed and as from time to time amended or supplemented.

"Mortgaged Property", whether such words begin with upper case or lower case letters, shall mean the real and personal property listed and described in Items A through G of the Granting Clauses hereof.

"1979 Note" shall mean the Note issued pursuant to Section 2.01 of this Mortgage.

"Note" or "Notes" shall mean any note, some of the notes or all of the notes issued under and secured by the terms of this Mortgage from time to time outstanding and shall include the Additional Notes and the 1979 Note.

"Noteholder" or "Holder" shall mean any person entitled to payment on account of any Note.

"Officer's Certificate" shall mean: (i) with reference to the Tenant, a certificate in writing signed by the President or any Vice President and attested to by the Secretary or any Assistant Secretary of the Tenant, and (ii) with reference to the County, a certificate in writing signed by the Chairman or Vice Chairman of the County Council and attested to by the Clerk or Acting Clerk to the County Council.

"Opinion of Counsel" shall mean a written opinion of an attorney or firm of attorneys, who may be counsel for the Tenant, the County or the Lender.

"Outstanding" whether such word commences with an upper case or a lower case letter, shall mean when used with reference to any of the Notes and as of any particular time, all the Notes executed and delivered by the County under this Mortgage except Notes theretofore cancelled by the County, delivered to the County for cancellation or subject to cancellation by it.

"Payment Date" shall mean any date on which the payment of principal and/or interest on any of the Notes shall become due whether by maturity, redemption, acceleration or purchase.

"Permitted Encumbrances" shall mean as of any

particular time: (i) liens for ad valorem taxes and special assessments not then delinquent; (ii) the Lease and the Mortgage; (iii) utility, access and other easements and rights of way, flood rights, leases, restrictions and exceptions that an Independent Engineer and the Authorized Tenant Representative each certify will not interfere with or impair the operations being conducted in the Project (or, if no operations are being conducted therein, the operations for which the Project 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 do not in the opinion of an Independent Counsel, materially impair the property affected thereby for the purposes for which it was acquired or is held by the County; (v) mechanic's and materialman's liens not filed or perfected in the manner prescribed by law in effect on the date of execution hereof or otherwise; and (vi) any mortgage, lease or security interest with respect to furnishings, machinery, equipment and apparatus installed in but not a part of the Project.

"Permitted Investments" shall mean any one or more of the following, if and to the extent the same are then legal investments under the applicable laws of South Carolina for the moneys then proposed to be invested therein: (i) direct and general obligations of the United States of America, or obligations for which the United States of America has unconditionally guaranteed or assumed the obligation of the payment of the principal of and interest thereon; (ii) obligations of the Federal Land Bank, Federal Home Loan Banks, Federal National Mortgage Association, Federal Intermediate Credit Corporation, Federal Bank for Cooperatives, International Bank for Reconstruction and Development, Asian Development Bank, and direct and general obligations of any agencies of the United States of America not included in the foregoing listing; (iii) direct and general full faith and credit obligations of the State of South Carolina; (iv) direct and general full faith and credit obligations of any political unit in the State of South Carolina; (v) obligations of Savings and Loan Associations to the extent that the same are insured by an agency of the federal government; (vi) certificates of deposit of any bank or trust company if such certificates of deposit are collaterally secured by securities of the type described in clauses (i), (ii), and (iii) above held by another bank or trust company as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest; (vii) certificates of deposit of banks or trust companies, including the Depository, organized under the laws of the United States of America or of any state thereof, to the

extent such certificates are insured by an agency of the federal government; and (viii) any other investment permitted by law.

"Plans and Specifications" shall mean the plans and specifications prepared for that portion of the Project financed with proceeds from the 1979 Note and on file at the Project, as the same may be implemented and detailed from time to time and as the same may be revised from time to time prior to the Completion Date in accordance with the terms hereof.

"Project" shall mean the Leased Land and the Facilities.

"Responsible Officer" or "Responsible Officers" of the Depositary shall mean the chairman of the board of directors, the president, the cashier, every assistant cashier, the secretary, every assistant secretary, every trust officer, and every officer and assistant officer of the Depositary in addition to those specifically above mentioned, to whom any corporate trust, depositary or custodial matter is referred because of his knowledge of, and familiarity with, a particular subject.

"Tenant" shall mean (i) Yoder Brothers, Inc., an Ohio corporation, and its successors and assigns, and (ii) any surviving, resulting or transferee corporation of any of them as provided in Section 9.08 of the Lease.

"Written Request" shall mean: (i) with reference to the County, a request in writing signed by the Chairman or Vice Chairman of the County Council and attested to by the Clerk or Acting Clerk to the County Council; and (ii) with reference to the Tenant, a request in writing signed by the President or any Vice President and attested to by the Treasurer or any Assistant Treasurer or the Secretary or any Assistant Secretary of the Tenant.

SECTION 1.02. Rules of Construction. Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of the Mortgage:

(a) Words importing the singular number shall include the plural number and vice versa.

(b) Words importing the redemption of Note shall include the prepayment thereof.

(c) Words importing the redemption or calling for redemption of Notes shall not include or connote the payment

of Notes at their stated maturity.

(d) Unless otherwise indicated, all references herein to particular Articles or Sections are references to Articles or Sections of this Mortgage.

(e) The words "hereof," "herein," "hereunder" and other words of similar import refer to this Mortgage as a whole.

(f) The headings of articles, sections and subdivisions hereof and any table of contents or index attached hereto are for convenience of reference only and shall not affect the meaning, construction or effect of this Mortgage or define or limit the provisions hereof.

SECTION 1.03. Concerning Certificates and Opinions. Any certificate or opinion made or given by an officer of the County may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representation by counsel, unless such officer knows that the certificate or opinion or representation with respect to the matters upon which his certificate or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should have known that the same were erroneous. Any certificate or opinion made or given by counsel may be based, insofar as it relates to factual matters with respect to which information is in the possession of the County, upon the certificate or opinion of or representation by an officer or officers of the County, unless such counsel knows that the certificate or opinion or representation with respect to the matters upon which his certificate or opinion may be based as aforesaid are erroneous, or in the exercise of reasonable care should have known that the same were erroneous.

ARTICLE II

AUTHORIZATION, EXECUTION AND DELIVERY OF  
NOTES; USE OF PROCEEDS THEREOF

SECTION 2.01. Description, Authorization and  
Details of 1979 Note.

(a) Description. The Notes may, at the election of the County, be issued in one or more Series and, except as hereinafter provided, shall be designated generally as "First Mortgage Industrial Revenue Notes (Yoder Brothers, Inc. Project)" with such further appropriate and particular designations added to or incorporated in such title for the Notes of any particular Series as the County may determine. Each Note shall bear upon the face thereof the designation so selected for the Series to which it belongs.

(b) Authorization, Issue, Maturity, and Interest Rates. There is hereby authorized to be issued hereunder and secured hereby a Note in the principal amount of \$3,500,000 to be entitled and designated as "Anderson County, South Carolina, First Mortgage Industrial Revenue Note (Yoder Brothers, Inc. Project), 1979." The 1979 Note shall be issued in the form set forth in Article IX hereof, shall be dated and bear interest from the date thereof until maturity. The 1979 Note shall bear interest at the rate of seven and one-half percent (7 1/2%) per annum on the principal amount outstanding as of any particular time.

The 1979 Note in fully registered form shall be dated as of December 1, 1970, or such later date as may be agreed to by the Tenant and the Lender on or before December 31, 1979, and shall bear interest from such date at the rate of seven and one-half percent (7.5%) per annum payable on the first days of January, April, July and October of each year with the first interest payment being made on April 1, 1980. The 1979 Note shall be payable as to principal in 44 installments of \$79,545.46 each on the first days of January, April, July and October beginning January 1, 1981, and shall mature on January 1, 1992.

(c) Prepayment Prior to Maturity. The 1979 Note shall be subject to prepayment prior to maturity thereof:

(i) in whole or in part from time to time without penalty or premium in the event there are proceeds from any condemnation award or insurance proceeds (including title insurance) not required to rebuild, repair or restore the Project or remedy the defect in title giving rise thereto or proceeds remaining from the issuance of the 1979 Note after

payment of all Cost of the Project or other permitted payments under Section 3.03 of the Mortgage;

(ii) in whole at any time, without penalty or premium, in the event the Tenant purchases the Project pursuant to the provisions of Sections 10.01 or 10.02 of the Lease, in the event of the destruction of all or part of the Project, or certain circumstances whereby the Lease shall become void, unenforceable or impossible of performance as expressed therein, or the Tenant or the County is denied the use or occupancy of the Project as the result of a defect in title thereto, or the imposition of unreasonable burdens or excessive liabilities upon the Tenant or the County with respect to the Project or the operation thereof or the condemnation or taking by eminent domain of the Project or so much of the use or control of the Project as renders it unsuitable for continued use by the Tenant;

(iii) in whole at any time upon the occurrence of a Determination of Taxability, upon payment of the principal amount of the 1979 Note then outstanding plus interest accrued through to the date of prepayment from and after the date of the Event of Taxability with respect which such Determination of Taxability shall have occurred at a rate, as the County may elect at the direction of the Tenant, of either (i) eleven and one-half percent (11.5%) per annum, or (ii) three-quarters of one percent (.75%) above the prime commercial loan rate of the Bank for prime commercial loans of approximately 90-day maturities.

(iv) at the direction of the Tenant, in whole at any time or in part from time to time on any Payment Date on or after December 1, 1983, in amounts not less than \$100,000 at the following prepayment prices expressed as percentages of the principal amount of the 1979 Note to be prepaid during the following periods of time, plus interest to the date fixed for redemption:

Period During Which Redeemed (Both Dates Inclusive)	Redemption Price
December 1, 1983 through November 30, 1989	103%
December 1, 1989, and thereafter	100%

In the event of any prepayment of the 1979 Note under this Section 2.01(c), there shall also be paid the interest accrued on the principal amount so prepaid to the date of such payment, and notice of the prepayment of such 1979 Note shall be given and have the effect as is provided in Article IV hereof.

(d) Reference to Other Sections. The 1979 Note shall be in the form and shall be executed in the manner provided in Article IX hereof and shall be payable as is provided in Section 5.03 hereof.

SECTION 2.02. Application of Proceeds of 1979 Note. The County shall execute and deliver the 1979 Note to the Lender upon payment to the Depository of the sum of \$3,500,000. The Depository shall deposit such amount in the Construction Fund created under the provisions of Article III of this Mortgage to be held and distributed as provided therein.

SECTION 2.03. Additional Notes. At any time while an Event of Default does not exist or is not continuing under this Mortgage, the County may issue an additional Note or Additional Notes for any purpose then permitted by the Act upon the following conditions:

(a) The issuance of such Additional Note or Additional Notes shall then be authorized by law;

(b) The County shall have received an opinion of nationally recognized bond counsel stating that the issuance of such Additional Note or Additional Notes in the manner contemplated shall not result in a violation of the terms of this Mortgage.

(c) The Lender shall have consented to the issuance of any Additional Note or Additional Notes, by written notice to the County and the Tenant setting forth the terms and conditions upon which such Additional Note or Additional Notes may be issued.

SECTION 2.04. Delivery of Additional Note or Notes; Application of Proceeds Thereof. Any Additional Note or Additional Notes shall be executed by the County in accordance with the provisions of Section 9.02 of this Mortgage and delivered to the Lender or other purchaser thereof only upon the receipt by the County of the following:

(a) A Written Request from the Tenant to the County to execute and deliver such Additional Note or Additional Notes to the person or persons named therein upon

payment to the Depository for the account of the County of the sum specified therein;

(b) An opinion of nationally recognized bond counsel that the issuance of such Additional Note or Additional Notes will not violate the Act or any other provision of law or the Constitution of the State of South Carolina and that all proceedings in connection with the issuance of such Additional Note or Additional Notes are legal and that such Additional Note or Additional Notes and all other agreements in connection therewith are valid and enforceable in accordance with the terms thereof; and

(c) A certificate of the Lender stating that it approves the execution and delivery of such Additional Note or Additional Notes, the supplemental mortgage related thereto and all other proceedings in connection therewith.

The proceeds of the Additional Note or Additional Notes shall be applied by the Depository as is provided in the supplemental mortgage providing for the issuance thereof.

SECTION 2.05. All Notes Equally and Ratably Secured. All Notes from time to time executed and delivered under the Mortgage shall be equally and ratably secured as to principal, premium, if any, and interest by the Mortgage, without preference, priority or distinction of any Note over any other Note.

ARTICLE III

CONSTRUCTION FUND; APPLICATION  
OF MONEYS THEREIN

SECTION 3.01. Construction Fund. There is hereby created and established hereunder with the Depositary a separate special trust fund of the County, to be known and designated as the "Anderson County, South Carolina, Industrial Revenue Construction Fund (Yoder Brothers, Inc. Project)." The moneys on deposit from time to time in the Construction Fund and the securities in which such moneys may from time to time be invested shall be held by the Depositary until used and applied as hereinafter provided in this article. Pending such application (i) all moneys in the Construction Fund which are not invested shall be secured in the manner provided by law, and (ii) all such moneys and the securities in which such moneys may from time to time be invested shall be held in trust for the equal and ratable benefit and security of all the Notes and shall be subject to the liens, pledges and charges created hereby in favor of the holders of the Notes.

There shall be deposited into the Construction Fund (i) the amount referred to in Section 2.02 of the Mortgage, and (ii) such amounts as may be designated by the proceedings authorizing an Additional Note or Additional Notes, if any.

Moneys on deposit in the Construction Fund shall continuously be invested and reinvested by the Depositary at the direction of the Tenant in Permitted Investments maturing in the amounts and at the times so that such moneys may be applied in accordance with the provisions of this Article.

In determining when it may need to make payments and what amounts can be invested or reinvested hereunder, the Depositary shall be entitled to rely upon a schedule of anticipated payments of construction costs provided by the Tenant. Any interest or profit on such investments shall be credited to the Construction Fund and any loss on such investments shall be charged to the Construction Fund. The Depositary shall not be obligated to invest any moneys held by it in the Construction Fund except as directed by the Tenant and justified by the foregoing schedule of anticipated payments and shall not be obligated to pay interest on any moneys not invested pursuant to the terms hereof. The Depositary may sell or present for redemption any investment purchased by it whenever it shall be necessary in order to provide moneys to meet any payment hereunder, and the Depositary shall not be liable or

responsible for any loss resulting from such investment, sale or redemption.

SECTION 3.02. Specifications; Changes in Specifications. The County will keep or cause to be kept the Plans and Specifications as defined in the Lease which provide for the acquisition by construction and purchase of the Project (or any portion thereof) for the use of the Tenant and shall deposit with the Depositary evidence of "builders risk" insurance on the Project during the course of construction as required by Section 6.06 of the Lease. Changes in and additions to the Plans and Specifications may be made by the Tenant provided that in the event such changes or additions render inaccurate the description of the Facilities contained in Exhibit B to the Mortgage, the County shall cause the Tenant to prepare and file for record any amendments or supplements to Exhibit B required to render the description of the facilities therein accurate.

SECTION 3.03. Costs of Construction; Withdrawals from Construction Fund. The moneys on deposit from time to time in the Construction Fund shall be held under and subject to the Mortgage; shall be subject to the liens, pledges, charges, assignments and trusts created hereby for the security and benefit of the holders of the Notes; and shall be used and applied solely to the payment of the Cost of the Project, in accordance with the remaining provisions of this section.

Withdrawals of moneys on credit to the Construction Fund shall be made only in accordance with applicable law and upon a written requisition for such payment signed by the Tenant which requisition shall in each case be accompanied by an Officer's Certificate of the Tenant stating that: (i) the amount to be paid and the name of the person to whom payment is due; (ii) that an obligation in the stated amount has been incurred by or on behalf of the County and has not theretofore been paid, (iii) that the payment of such amount is a proper charge against the Construction Fund and specifying the purpose and circumstances of such obligation in reasonable detail, accompanied by a bill or statement of account for such obligation; (iv) at least 90% of the total amount requisitioned from the Construction Fund, including the amount being requisitioned, has been or, when applied as stated in the requisition, will have been expended for the acquisition, construction, reconstruction, or improvement of land or other property of a character subject to the allowance for depreciation under IRC Section 167 and that no more than 10% of the aggregate total amount requisitioned when applied as stated in the requisition will have been directly or indirectly used to provide working capital or

nonqualifying expenditures; (v) the officer giving such certification has no notice of any vendor's, mechanic's or other liens or rights to liens, or conditional sales contracts, or other contracts or obligations, which have not been released or for which security has not been provided or which will not be released simultaneously with such payment and which should be satisfied or discharged before such payment is made; (vi) such requisition contains no item representing payment on account of any retained percentages under any contract which, as of the date of such requisition, is not required to be paid; and (vii) with respect to any such requisition for payment for labor, services, materials, supplies, furnishings, apparatus or equipment, that such labor or services were actually performed or such materials, supplies, furnishings, apparatus or equipment were actually used in or about the construction of the Project or delivered at the site thereof for such purpose, or delivered for storage or fabrication at a place or places approved by the signer or the signers and that upon payment the lien of this Mortgage will extend to such items subject to no prior lien or encumbrance (except Permitted Encumbrances) or if not so used or delivered, that an advance payment therefor is required by the supplier thereof.

Whenever the Cost of the Project to be paid from the Construction Fund has been paid in full, or the amount necessary for such payment has been set aside in such Construction Fund for such purpose, the balance of the moneys credited to such Construction Fund may be used either (i) for the payment of not more than the interest on the Notes the proceeds of which such balance represents, provided that prior to any such use the Tenant shall certify that such use will be in compliance with the certification requirement of clause (iv) of the immediately preceding paragraph; or (ii) for the prepayment of Notes.

## ARTICLE IV

### PREPAYMENT OF NOTES

SECTION 4.01. Prepayment of 1979 Note. The 1979 Note shall be subject to prepayment (i) only as set forth in Section 2.01(c) hereof, and (ii) upon compliance with the provisions of this Article. Additional Notes shall be subject to such prepayment only in accordance with the provisions of the Supplemental Mortgage providing for their issuance, and upon compliance with the provisions of this Article.

SECTION 4.02. Mandatory Prepayment. The Tenant shall cause the 1979 Note to be prepaid in accordance with its terms (i) from the balance of any insurance or condemnation proceeds after repairing, rebuilding or restoring the Project as provided in Sections 7.01 and 7.02 of the Lease, from the proceeds of title insurance to the extent such proceeds are not used to remedy the defect in title giving rise thereto as provided in Section 3.02 of the Lease, or in the event there remains a balance in the Construction Fund after payment of all Cost of the Project and other sums permitted to be paid therefrom; or (ii) in the event of a purchase by the Tenant of the Project, or any remainder thereof pursuant to Sections 10.01 or 10.02 of the Lease or in the event of a direction by the Tenant with respect to the proceeds of any condemnation award pursuant to the provisions of Section 7.02 of the Lease.

With respect to the prepayment required by Section 2.01(c)(iii) such redemption and such prepayment date shall not be later than forty-five (45) days after (i) the Lender notifies the Tenant of the occurrence of such Determination of Taxability as referred to in Section 2.01(c)(iii) hereof, or (ii) the Tenant shall have received or given notice of such occurrence, or (iii) any contest or appeal of such Determination of Taxability shall no longer be available for any reason or such tax liability shall have been finally adjudicated, whichever shall be earlier. The obligation to prepay the 1979 Note as provided in Section 2.01(c)(iii) hereof and this Article shall exist and continue notwithstanding the fact that the Lender may have transferred the 1979 Note.

SECTION 4.03. Notice to the Lender. Except for prepayments required by the provisions of Section 4.02 hereof, the County or the Tenant, in the event either shall elect to make any prepayment, shall notify the Lender in writing at least three (3) business days prior to the proposed prepayment (or such shorter time as may be acceptable to the Lender) of any election by it to make any

prepayment, which notice shall specify the prepayment date and the aggregate principal amount of the prepayment to be made.

SECTION 4.04. Application and Amount of Prepayment. All prepayments of the 1979 Note shall be in the amount of \$5,000 of principal together with the interest accrued on the principal amount of 1979 Note being prepaid accrued to the date of such prepayment, plus any premium or penalty due on account of such prepayment. Prepayments shall be credited in inverse order to installments of principal on the 1979 Note.

SECTION 4.05. Notation By Lender. Upon receipt by it of any prepayment of any installment of principal on the 1979 Note, the Lender shall promptly note such prepayment on the payment schedule appearing as part of the 1979 Note and shall notify the County and the Tenant of the remaining principal balance due or owing on the 1979 Note, the amount which will be due on the next interest payment date after giving effect to the payment of interest and principal with such prepayment, and specifying the amount of such prepayment applied to interest, principal, and any penalty or premium.

SECTION 4.06. Effect of Prepayment. In the event prepayment shall be made hereunder after proper notice thereof, all such prepayments shall be valid and effectual so as to discharge the obligation of the County (or the Tenant) with respect to the amount so prepaid or interest thereon, notwithstanding any failure of the Lender to note the receipt of such prepayment on the 1979 Note.

ARTICLE V

CONCERNING THE NOTES AND THE NOTEHOLDERS

SECTION 5.01. Notes Limited Obligations of County; Limitations on County's Liability Hereunder. The Notes shall be limited obligations of the County, the principal of, premium, if any, and interest on which shall be payable solely out of the revenues derived by the County from leasing the Project including, without limiting the generality of the foregoing, all moneys included or to be included in the Mortgaged Property. The Notes and the premium, if any, and interest thereon shall never constitute an indebtedness of the County within the meaning of any state constitutional or statutory provision or limitation or a pecuniary liability of the County or a charge against its general credit or taxing powers. The principal of, premium, if any, and interest on the Notes shall be secured solely by the aforesaid revenues, by this Mortgage, including, without limiting the foregoing, by the pledge to the Lender made herein of said revenues and the Lease.

No breach by the County of this Mortgage or of any provision or condition hereof or of any agreement herein contained shall result in the imposition of any pecuniary liability upon the County or any charge upon its general credit or against its taxing power. The liability of the County under this Mortgage or any provision or condition hereof or of any agreement herein contained or of any warranty herein included or for any breach or default by the County of any of the foregoing shall be limited solely and exclusively to the Mortgaged Property. The County shall not be required to execute or perform any of its duties, obligations, powers or covenants hereunder except to the extent of the Mortgaged Property available therefor.

The provisions of this section shall control every other provision of this Mortgage, anything in such other provisions to the contrary notwithstanding.

SECTION 5.02. Method and Place of Payment of Notes and Interest. As provided in Section 2.01 hereof, the 1979 Note and any Additional Note or Additional Notes shall be issued only in fully registered form.

Payment of the principal of, premium, if any, and interest on any Note shall be paid by check or draft of the County or the Tenant drawn on any bank in which either may lawfully deposit money and mailed to the Lender at its address as it appears upon the books of registry maintained by the Tenant. The Lender shall promptly record all such payments of principal of, premium and interest on the Note

with respect to which such payments are made in the space provided therefor on the reverse thereof, as well as on a separate record of payment to be maintained by the Lender, and, when such Note has been paid in full or otherwise discharged or cancelled, the Lender shall promptly deliver such Note to the County marked as paid, discharged or otherwise cancelled.

SECTION 5.03. Registrar and Books of Registry. The Tenant as registrar shall maintain suitable books of registry in which any Note or Notes may be registered and transferred as herein provided. The Tenant shall be required to provide the County with duplicates of the books of registry upon each change recorded therein.

SECTION 5.04. Transfer of a Note. A Note may be transferred by the surrender thereof to the Tenant accompanied by a written instrument or instruments of transfer duly executed by the registered holder thereof and in form satisfactory to the Tenant. Upon such surrender the Tenant shall register such transfer and deliver the Note to the transferee so registered on the books of registry, which Note shall be the same as the Note surrendered with the payment schedule on the reverse thereof marked to correspond with the schedule of payments remaining due. No transfer of any Note shall be made within three (3) business days preceding an interest payment date for such Note or within three (3) business days preceding a date fixed for the prepayment of any portion of such Note. No charge shall be made to the holder of any Note for the transfer thereof, except that any holder requesting any such transfer shall pay any tax or other governmental charge required with respect thereto.

SECTION 5.05. Persons Treated as Owners of Notes. The County and the Tenant may deem and treat the person in whose name any Note shall be registered on the books of registry as the absolute owner thereof for all purposes, whether payment on such Note shall be past due or not, and payment of or on account of the principal of, premium, if any, and interest on any such Note shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effective to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid, and no notice to the contrary shall be of any effect whatsoever.

SECTION 5.06. Mutilated, Lost, Stolen or Destroyed Notes. Subject to the provisions of any applicable law, in case any Note shall become mutilated, or be lost, stolen or destroyed, upon application to the County and subject to the

conditions set forth in this section, the County shall execute and deliver a new Note of like tenor, amount, maturity and date in exchange and substitution for, and upon cancellation of, the mutilated Note or in lieu of and substitution for such lost, stolen or destroyed Note. If any such Note shall have matured or shall be about to mature, instead of issuing a substituted Note, the County may pay such Note without surrender thereof. In every case of destruction, loss or theft, the applicant shall furnish evidence thereof satisfactory to the County and the Tenant, shall furnish indemnity satisfactory to the County and the Tenant, and shall comply with such other reasonable regulations as the County or the Tenant may prescribe. The County or the Tenant may charge for the issuance of such new Note an amount sufficient to reimburse the County or the Tenant for the expense incurred by either of them in the issuance thereof. All payments or prepayments which have been made on on the Note in substitution for which such new Note is being issued shall be recorded on the reverse of such new Note when issued.

SECTION 5.07. Cancellation of Notes and Coupons. Whenever the Mortgage provides for the cancellation of Notes, such cancelled Notes shall be delivered by the Lender or registered owner to the County or as it may direct. The County may authorize the Lender or registered owner to cremate or otherwise destroy such Notes, in which event such person shall cremate or destroy the same, in the presence of an officer of the County if the County shall so require. The Lender or registered owner shall deliver to the County a certificate of each cremation or destruction of a Note or Notes.

SECTION 5.08. Requests, Consents or Other Instruments of Lender. Any request, consent or other instrument required by the Mortgage to be signed and executed by the Lender may be signed or executed by the Lender in person or by agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent shall be sufficient for any purpose of the Mortgage and shall be conclusive in favor of the Tenant and the County if made in the manner provided hereinafter in this section.

The fact and date of the execution by any person of any such request, consent or other instrument of writing may be proved by the affidavit of a witness to such execution or by the certificate of any notary public or other officer of any jurisdiction authorized by the laws thereof to take acknowledgements of deeds, certifying that the person signing such request, consent or other instrument

acknowledged to him the execution thereof. If such execution is by an officer of a corporation or association or by a member of a partnership on behalf of such corporation, association or partnership, as the case may be, such affidavit or certificate shall also constitute sufficient proof of his authority.

The ownership of a Note shall be proved by the books of registry maintained by the Tenant (or its successor).

Any request, consent or vote of the holder of any Note shall bind every future holder of the same Note and the holder of every Note issued in transfer or exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Tenant or the County pursuant to such request, consent or vote.

ARTICLE VI

PARTICULAR COVENANTS OF THE COUNTY

So long as any Note or Notes are Outstanding, each of the sections of this Article shall constitute and be a covenant by the County with the holders and purchasers from time to time of the Notes, subject, however, in each and every case to the provisions of Section 5.01 hereof.

SECTION 6.01. Payment of Principal, Interest and Premium. The County shall pay, or cause to be paid, the principal of, premium, if any, and interest on each and every Note at the place, on the dates and in the manner provided herein and in the Notes according to the true intent and meaning hereof and thereof.

SECTION 6.02. Ownership of Land; Title Insurance. The County shall acquire good and marketable fee simple title to the Leased Land described on Exhibit A hereto subject to Permitted Encumbrances.

The Tenant shall obtain or cause to be obtained title insurance on all real property included in the Project in an amount not less than \$1,100,000 with the proceeds thereof to be payable to the holders of the Note or Notes. Any proceeds received from such insurance shall either be applied to curing the defect which gave rise to the receipt of such proceeds, with any excess amount thereof to be credited to the payment of the Note or Notes, or used in its entirety to prepay the Note or Notes.

The Tenant shall defend the title of the County to the Project and each part thereof, subject to Permitted Encumbrances, for the benefit of the holders of the Note or Notes against the claims and demands of all persons whomsoever.

SECTION 6.03. Authority. The County is duly authorized under the Constitution and laws of South Carolina, including particularly and without limitation the Act, to issue the Notes; to execute the Mortgage; to mortgage the property described in Items A through G of the Granting Clauses hereto; and to assign the Lease and pledge the revenues and receipts therefrom in the manner and to the extent herein set forth. All action on the part of the County for the issuance of the Notes and the execution and delivery of the Mortgage has been duly and effectively taken. The Notes in the hands of the holders and owners thereof are and shall be valid and enforceable obligations of the County according to the tenor thereof, subject to

valid bankruptcy, insolvency, reorganization, moratorium and other laws affecting the enforcement of creditors' rights generally.

SECTION 6.04. No "Arbitrage". The County and the Tenant covenant that no use of the proceeds of the sale of the Notes shall be made which will cause the Notes to be "arbitrage bonds," as defined in IRC Section 103(c)(2), subject to the provisions of IRC Section 103(c)(1), and to that end the County and the Tenant shall comply with the applicable regulations of the Treasury Department promulgated or proposed under IRC Section 103 so long as any Notes are outstanding.

SECTION 6.05. Maintenance and Repair. The County shall cause any lessee of the Project, including the Tenant, to keep the same in good repair and promptly to make all repairs, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, necessary to keep the Project in good and lawful order and condition, wear and tear from reasonable use excepted, whether or not such maintenance is required by any laws, rules, regulations or ordinances hereafter enacted which involve a change of policy on the part of the governmental body enacting the same.

SECTION 6.06. Payments of Taxes and Other Charges. The County shall cause any lessee of the Project, including the Tenant, to pay and discharge punctually as and when the same shall become due and payable without penalty, all real estate taxes, personal property and income taxes (including income taxes on the income derived by the County from the Project or under the Indenture), business and occupational taxes, occupational license taxes, water charges, sewage charges, assessments (including but not limited to, assessments for public improvements or benefits) and all other governmental taxes, impositions and charges of every kind and nature, extraordinary or ordinary, general or special, foreseen or unforeseen, whether similar or dissimilar to any of the foregoing, which at any time shall be or become due and payable by the County or any lessee, including the Tenant, and which shall be levied, assessed or imposed, or which shall be or become liens, upon any of the following:

(i) the Project or any portion thereof or any interest therein of the County or any lessee, including the Tenant;

(ii) the Lease or any other lease, whether in writing or by operation of law, of the Project or any portion thereof;

(iii) any rents from the Project or any portion thereof;

(iv) the possession, operation, maintenance, alteration, repair, rebuilding, use or occupancy of the Project or any portion thereof; or

(v) this transaction or any documents to which any lessee, including the Tenant, of the Project or any portion thereof is a party, creating or transferring any interest or an estate in the Project, under and by virtue of any present or future law, statute, ordinance, regulation or other requirement of any governmental authority, whether federal, state, county, city, municipal or otherwise.

SECTION 6.07. Insurance. So long as the Lease shall not have terminated, the County shall cause the Tenant to procure and maintain all insurance required by Section 6.06 of the Lease. If the Lease shall have terminated, the County shall cause any other lessee of the Project to procure and maintain such insurance as would have been required by the Lease to be procured and maintained by the Tenant had the Lease not terminated, and shall cause the proceeds thereof to be applied in accordance with the Lease as though the same had not terminated, and the references therein to the "Tenant" were to such other lessee.

The County shall cause certificates evidencing the foregoing insurance to be delivered to the Lender at the times required by the Lease, or if the Lease shall have terminated, at the times which would have been required had the same not so terminated.

All proceeds of insurance carried pursuant to this section shall be held and used, at the option of the Tenant, if it is not then in Default under the Lease, either (a) to repair, rebuild, replace, restore or reconstruct the Project or (b) to prepay installments of principal and interest on the Note or Notes in accordance with the provisions of Section 4.02 hereof.

SECTION 6.08. Damage or Destruction. If all or any part of the Project shall be destroyed or damaged and the Tenant or other lessee of the Project repairs, rebuilds, replaces, restores or reconstructs the Project, all proceeds of insurance carried pursuant to Section 6.07 of the Indenture shall be made available to the Tenant for payment of the Cost of the Project incurred for repairing, rebuilding, replacing, restoring or reconstructing such destruction or damage and the balance, if any, after completing such repairs, rebuilding, replacing, restoring or reconstructing shall be used to effect the prepayment of

Notes. Such payments shall be made upon receipt of an Officer's Certificate of the Tenant or other lessee stating that the Tenant is not in default under the Lease or other lease, accompanied by an approving certificate of an Independent Engineer or Independent Architect employed by the Tenant or other lessee or the County stating that the Tenant or other lessee has repaired, rebuilt, replaced, restored or reconstructed the Project in such manner as to restore the Project, or portion thereof, to at least the value thereof prior to such damage or destruction, and that such repair, rebuilding, replacement, restoration and reconstruction has been completed, or a portion thereof has been completed and setting forth the cost of such repair, rebuilding, replacement, restoration and reconstruction.

Upon completion of such repairs, rebuilding, replacement, restoration or reconstruction, the Tenant or other lessee shall furnish to the Lender (i) an Opinion of Counsel either (A) specifying the instruments of further assurance and supplemental mortgage, if any, which will be sufficient to subject to the direct lien of the Mortgage (so far as permitted by law) all of the County's right, title and interest in and to the repaired, rebuilt, replaced, restored and reconstructed Project and stating that the instruments and supplemental mortgage, if any, have been recorded or filed in such a manner so as to constitute the Mortgage as supplemented and amended a valid first mortgage lien upon all of the County's right, title and interest in and to all such property as against all creditors and subsequent purchasers, subject, however, to Permitted Encumbrances and to rights and interests which in the opinion of such Counsel will not weaken, diminish or impair the security intended to be given by or under the Mortgage and will not interfere with the use and operation of the Project, or (B) stating that no such instruments or mortgage are supplementally required for the purposes set forth in the preceding clause; and (ii) the instruments of further assurance and supplemental mortgage, if any, specified in such Opinion.

If all or any part of the Project shall be destroyed or damaged while any Notes are Outstanding and the Tenant or other lessee of the Project purchases the Project and delivers the certificate and pays an amount equal to the amount required to be delivered and paid to the Lender upon such purchase by the provisions of Section 10.02 of the Lease, the Tenant or such other lessee shall be entitled to receive any insurance proceeds on account of such damage or destruction to the Project.

SECTION 6.09. Condemnation. If the entire Project, or any part thereof which renders the remaining

portion unsatisfactory for the Tenant's or other lessee's business purposes, is taken by condemnation while any Note is Outstanding and the Tenant or other lessee purchases the Project and delivers the certificate and pays an amount equal to the amount required to be delivered and paid to the Lender upon such purchase under the provisions of Section 10.02 of the Lease, the Tenant or other lessee shall be entitled to receive any condemnation award on account of such taking.

If a portion of the Project which is less than that referred to in the preceding paragraph is taken by condemnation while any Note remains Outstanding, the Lender shall be furnished with the following: (i) an Officer's Certificate of the Tenant or other lessee of the Project stating that the Tenant or such other lessee has made the necessary adjustments in the Project suitable for its business purposes, that such adjustments have been completed and setting forth the cost thereof, or stating that no adjustments were required, as the case may be; (ii) a certificate of the County stating either that the County has incurred expenses in collecting the award and the amount of such expenses or that no such expenses have been incurred; (iii) an Opinion of Counsel either (A) specifying the instruments of further assurance and supplemental mortgage, if any, which will be sufficient to subject to the direct lien of the Mortgage (so far as permitted by law) all of the County's right, title and interest in and to the Project and stating that the instruments and supplemental mortgage, if any, have been recorded or filed in such a manner as to constitute the Mortgage as supplemented and amended a valid first mortgage lien upon all of the County's right, title and interest in and to such property as against all creditors and subsequent purchasers, subject, however, to Permitted Encumbrances and to rights and interests which in the opinion of such Counsel will not weaken, diminish or impair the security intended to be given by or under the Mortgage and will not interfere with the use and operation of the Project, or (B) stating that no such instrument or mortgage are supplementally required for the purposes set forth in the preceding subclause (A) of this clause (iii); and (iv) the instruments of further assurance and supplemental mortgage, if any, specified in the Opinion of Counsel referred to in the immediately preceding clause.

Upon receiving such items, the Lender shall make available to the County or the Tenant or other lessee so much of any condemnation award as is necessary to: (i) pay to the County the amount of any expenses stated in the certificate of the County to have been incurred by the County in collecting such award; and (ii) pay to the Tenant or other lessee the amount of costs stated in the Officer's

Certificate of the Tenant or other lessee to have been incurred by it in making the adjustment. The balance, if any, of such condemnation award shall be used to effect the prepayment of Notes in accordance with the provisions of Section 4.02 hereof.

SECTION 6.10. Not to Further Encumber Project or Revenues and Receipts; Not to Dispose of Project. The County shall not issue any bonds, notes (other than the Notes) or other evidences of indebtedness, or incur any indebtedness, payable prior to or on a parity with the Notes from the revenues and receipts derived by it from the leasing and sale of the Project (including the revenues and receipts under the Lease) or ranking superior to or equally with the Notes as to the security of the Mortgage and the lien and pledge created hereunder on such revenues and receipts.

The County shall not mortgage, encumber, hypothecate, sell, transfer, assign or otherwise dispose of all or any part of the Project or the revenues and receipts thereof (other than to the Lender hereunder and other than for dispositions of the Project permitted by the Lease) or assign, transfer or hypothecate (other than to the Lender hereunder) any Basic Rent (or analogous payment) then due or to accrue in the future under the Lease (or under any other lease of the Project).

SECTION 6.11. Concerning the Lease.

(a) The County

(i) shall not do or permit anything to be done, or omit or refrain from doing anything in any case where any such act done or permitted to be done, or any such omission of or refraining from action, would be a ground for declaring a forfeiture of the Lease;

(ii) shall perform and discharge each and every obligation, covenant and agreement of the County contained in the Lease;

(iii) shall give prompt notice to the Lender of any notice, request, report or other document received from the Tenant together with a true and complete copy of any thereof received by the County in writing; and

(iv) shall enforce or secure the performance of each and every obligation, covenant, condition and agreement of the Tenant contained in the Lease.

(b) Except as otherwise expressly permitted

hereinafter in this section, the County shall not: (i) modify or in any way alter the terms of the Lease; or (ii) waive, excuse or in any manner release or discharge the Tenant from any obligations, covenants, conditions and agreements, including the obligation to pay rental called for in the Lease in the manner, at the place, and at the time specified therein.

(c) The County, to the extent requested by the Tenant or if required to perfect such rights, shall appear in and defend any action or proceedings arising under, growing out of, or in any manner connected with the Lease or the obligations, duties or liabilities of the County, as lessor, or the Tenant, as lessee, as the case may be; and shall pay, subject to the limitations expressed in Section 5.01 hereof, or cause to be paid all costs and expenses of the Lender in any such action or proceeding in which the Lender may appear.

(d) The holder of any Note or Notes shall at any and all times have the power to exercise and enforce any of the rights, powers or privileges of the County under the Lease, including but without limiting the generality of the foregoing, the rights (i) to grant consents, approvals or permissions, (ii) to declare an event of default as defined therein, (iii) to exercise any and all remedies provided for therein, (iv) to exercise any and all rights of entry, and (v) to perform the County's covenants as provided for therein.

(e) The County shall not amend or consent to any amendment to the Lease without the consent of the Lender thereto.

SECTION 6.12. Default Under the Lease. In the event of a default under the Lease, the County shall use its best efforts, but shall be under no obligation otherwise, to obtain a new tenant or tenants for the Project and to keep the same continuously rented upon the terms and provisions most favorable to the security of and payment for the Notes.

SECTION 6.13. Lender May Perform County's Obligations Hereunder and Under the Lease. Should the County fail to make any payment or to do any act as provided herein or in the Lease within the time permitted herein or in the Lease, then the Lender, but without obligation so to do and without notice to or demand on the County, and without releasing the County from any obligation contained in the Mortgage, shall have the right to make or do the same in such manner and to such extent as the Lender may deem necessary to protect the security hereof, including, specifically, without limiting its general powers: (i) the

right to appear in and defend any action or proceeding proposing to affect the security hereof or the rights or powers of the Lender; and (ii) the right to perform and discharge each and every obligation, covenant and agreement of the County contained in the Lease.

SECTION 6.14. Filing and Recording. The Lender, forthwith upon the execution and delivery of the Mortgage and thereafter from time to time, shall cause the Mortgage, and each supplement hereto, and all financing statements, continuation statements and other instruments required by applicable law necessary in connection therewith to be filed, registered and recorded, refiled, reregistered and rerecorded and kept filed, registered and recorded, in such manner and in such places as may be required by any present or future law in order to publish notice of and fully protect the lien hereof upon, and the title of the Lender to, the Mortgaged Property and in order to entitle the Notes then Outstanding to the benefits and security of the Mortgage. The Lender forthwith upon the execution and delivery of the Lease, and thereafter from time to time shall cause the Lease and any supplement thereto to be filed, registered or recorded, refiled, reregistered or rerecorded and kept filed, registered and recorded, in such manner and in such places as may be required by law in order to publish notice and fully protect the validity thereof. The Lender from time to time shall perform or cause to be performed any other act as provided by law and will execute or cause to be executed any and all further instruments which may be necessary for such publication, protection and entitlement. The County shall pay or cause to be paid all filing, registration and recording taxes and fees incident to such filing, refiled, registration, reregistration, recording and rerecording and all expenses incidental to the preparation, execution and acknowledgment of the Mortgage, the Lease, any instrument of further assurance and any supplements to any of said instruments and all federal or state stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Mortgage, the Lease, the Notes, any instrument of further assurance, and any supplements to any of said instruments.

Promptly after any filing, registration or recording or any refiled, reregistration or rerecording of the Mortgage or the Lease or any filing, registration, recording, refiled, reregistration or rerecording of any supplement to any of said instruments, or any instruments of further assurance as are required pursuant to the provisions hereof, the County shall obtain or cause to be obtained an Opinion of Counsel addressed to the Lender to the effect that such filing, registration, recording, refiled,

reregistration or rerecording has been duly accomplished and setting forth the particulars thereof.

Without limiting the generality of the foregoing provisions of this section and provisions supplemental thereto, on or before December 1, 1984, and on or before each December 1 thereafter, the County shall obtain or cause to be obtained an Opinion of Counsel addressed to the Lender stating that no filing, registration or recording and no refiling, reregistration or rerecording of any instrument is necessary during the annual period immediately succeeding the date of such opinion in order to comply with this section or, if such filing registration or recording or refiling, reregistration or rerecording is necessary, setting forth the requirements with respect thereto, and the Lender shall cause any such requirements to be complied with.

SECTION 6.15. Not to Extend Time for Payment of Interest. The County shall not directly or indirectly extend or assent to the extension of the time for the payment of interest or claim for interest of or upon any Note, and shall not directly or indirectly be a party to any arrangement therefor, either by purchasing or refunding or in any manner keeping alive such interest or claim for interest, or otherwise. In case the payment of any such interest or claim for interest shall be so extended with or without the consent of the County, then anything in the Mortgage contained to the contrary notwithstanding, such interest or claim for interest so extended shall not be entitled, in case of default under the Mortgage, to any benefit of or from the Mortgage, except after the prior payment in full of the principal of all Notes issued pursuant to the Mortgage, premium, if any, thereon, and of such interest and claims for interest as shall not have been so extended.

SECTION 6.16. Not to Impair Tax Exemption of Interest on the 1979 Notes. The County shall not engage in any activities or take any action, or omit to take any action, which will result in the income derived by it from the Project becoming taxable to it, or in any interest on the 1979 Note becoming taxable to the recipient thereof under the federal income tax laws.

SECTION 6.17. Performance of Mortgage; Further Assurances. The County shall faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in the Mortgage, in any and every Note executed, authenticated and delivered hereunder, and in all proceedings of its County Council pertaining thereto.

The County shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such mortgages supplemental hereto and such further acts, instruments and transfers, including, without limiting the generality of the foregoing, such filing, registration, recording, refileing, reregistration or rerecording, as may be necessary or as the Lender may reasonably require for better assuring, transferring, mortgaging, pledging, assigning and confirming unto the Lender all and singular the Mortgaged Property.

ARTICLE VII

POSSESSION, USE AND PARTIAL RELEASE OF THE PROJECT

SECTION 7.01. Subordination to Rights of the Tenant. As provided in Sections 10.02 and 12.01 of the Lease, this Mortgage and the rights and privileges hereunder of the Lender are specifically made subject and subordinate to the rights and privileges of the Tenant set forth in the Lease. So long as not otherwise provided in this Mortgage the Tenant shall be suffered and permitted to possess, use and enjoy the Project so as to carry out its obligations under the Lease.

SECTION 7.02. Release of Leased Land. Reference is made to the provisions of the Lease, including without limitation specifically Sections 8.07 and 10.07 thereof, whereunder the County and the Tenant have reserved the right to withdraw from the Project part of the Leased Land included therein. The Lender, upon request of the County or the Tenant, shall certify that any real property so removed is no longer part of the Project for purposes of this Mortgage upon compliance with the provisions of the Lease.

SECTION 7.03. Release of Facilities. Reference is made to the provisions of the Lease, including without limitation specifically Section 6.02 thereof, whereunder the Tenant may withdraw from the Project certain items of machinery and equipment included in the Facilities, defined in the Lease as Leased Equipment. The Lender, at the request of the County or the Tenant, shall certify that any such Leased Equipment is free from any provision of this Mortgage upon compliance with the provisions of the Lease, including, without limitation, the requirement of said Section 6.02 that any substituted machinery, equipment, or related property be duly subjected to the perfected lien of the Mortgage.

SECTION 7.04. Granting of Easements. Reference is made to the provisions of the Lease, including without limitation Section 8.07 thereof, whereunder the County may grant or release certain easements, licenses, rights-of-way, and other rights or privileges in the nature of easements with respect to the Project. The Lender, upon request of the County or the Tenant, shall certify that the rights or privileges so granted or released are no longer part of the Project for purposes of this Mortgage upon compliance with the requirements of the Lease.

ARTICLE VIII

EVENTS OF DEFAULT; REMEDIES ON DEFAULT

SECTION 8.01. Mandamus. In the event of default in the payment of the principal of, premium, if any, or interest on any Notes, or in the event of default in the performance of any agreement contained in this Mortgage (whether or not such defaults shall constitute Events of Default under Section 8.02 of this Mortgage), such payment and performance may be enforced by mandamus or other appropriate similar proceeding by the Lender.

SECTION 8.02. Events of Default. Each of the following events (herein defined and referred to as an "Event of Default" or "Events of Default") is hereby declared to be and to constitute an Event of Default:

(a) failure to pay the interest on any Note on the the day when the same becomes due;

(b) failure to pay the principal of and premium, if any, on any Note on the day when the same becomes due, whether by reason of stated maturity, prepayment, by declaration of acceleration or otherwise;

(c) failure by the County in the performance or observance of any other of the covenants, agreements or conditions on its part contained in the Mortgage or in the Notes, and the continuation thereof for a period of thirty (30) days after written notice given to the County by the Lender; provided that, if any such default cannot be corrected within such thirty (30) day period, it shall not constitute an Event of Default if corrective action is instituted within such period and diligently pursued until the default is corrected;

(d) entry or filing of an order, judgment or decree of a court of competent jurisdiction appointing, without the consent of the County, a receiver of the Project or any other part of the Mortgaged Property, or of the whole or any substantial part of the Project or any other part of the Mortgaged Property or approval of a petition filed against the County with respect to the Project or the Mortgaged Property or any part thereof under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof, if such order, judgment or decree shall not be vacated or set aside or stayed within thirty (30) days from the date of the entry thereof; the assumption of custody or control of the Project or the Mortgaged Property by any court of competent jurisdiction under the provisions of any other law for the

relief or aid of debtors and such custody or control shall not be terminated or stayed within sixty (60) days from the date of assumption of such custody or control; and

(e) the occurrence of an Event of Default under Section 11.01 of the Lease; and

(f) the occurrence of an Event of Default under the Guaranty;

SECTION 8.03. Notices of Events of Default; Tenant May Remedy the Same. Whenever under the provisions of paragraph (c) of Section 8.02 of this Mortgage the Lender shall give the County any notice contemplated by said paragraph, the Lender at the same time as it gives such notice to the County shall mail a copy thereof by registered mail to the Tenant. Whenever any notice is given to the Lender under the provisions of paragraph 8.02(b) of this Mortgage, the Lender shall immediately mail a copy thereof by registered mail to the Tenant.

Whenever an Event of Default shall occur, the Lender, as soon as it has knowledge of the same, shall mail notice by registered mail to the Tenant specifying the nature of the same.

With regard to any alleged Event of Default under the provisions of Section 8.01 or 8.02 of this Mortgage, the County hereby grants the Tenant full authority for the account of the County to perform any covenant or obligation, the non-performance of which is alleged to constitute an Event of Default, in the name and stead of the County and with full power to do any and all things and acts, to the same extent that the County could do and perform any such things and acts, and with full power of substitution.

SECTION 8.04. Certain Defaults; Acceleration and Waiver. Upon the occurrence and during the continuation of an Event of Default as a consequence of the failure to pay the principal of, premium, if any, or interest on any Note, the Lender may, upon notice in writing to the County, declare the entire unpaid principal of, premium, if any, and interest accrued on the Notes then Outstanding due and payable (unless the same shall have theretofore become due and payable), and thereupon the entire unpaid principal of, premium, if any, and interest on such Notes shall immediately be and become due and payable, anything in the Mortgage or in the Notes contained to the contrary notwithstanding, except as expressly provided in the following provision of this section.

The preceding provisions of this section are

subject to the condition that if at any time after such a default or the principal of the Notes shall have been so declared due and payable and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the County shall pay to or shall deposit with, or shall cause to be paid to or deposited with, the Lender a sum sufficient to pay all principal on the Notes matured, other than solely by reason of such declaration, to pay all matured installments of interest, if any, upon all the Notes, with interest at the highest rate the Notes shall bear on such overdue principal and premium, if any, and (to the extent legally enforceable) on such overdue installments of interest and to pay the reasonable expenses of Lender, and if any and all other defaults known to the Lender (other than in the payment of principal of and interest on the Notes due and payable solely by reason of such declaration) shall have been made good or cured or adequate provision shall have been made therefor, then and in every such case the Lender, in its discretion, may rescind and annul such declaration and its consequences. No such rescission and annulment shall, however, extend to or affect any subsequent default, or impair or exhaust any right or power consequent thereon.

SECTION 8.05. Surrender of Possession of Project.  
Upon the occurrence of an Event of Default and while such Event of Default shall be continuing, but only if and to the extent then permitted by applicable law, the County, upon demand of the Lender, shall forthwith surrender to the Lender possession of the Project, including the County's rights under the Lease, together with the books and records of the County pertaining thereto and its rights to hold, operate and manage the same. If and to the extent then permitted by applicable law, the Lender personally or by its agent or attorneys may enter into and take possession of the Project and forthwith operate and manage the same and exercise all rights, powers and franchises of the County in respect thereto, including the making of all needful repairs and improvements to the Project as the Lender may deem wise and lease the Project or any portion thereof in the name and for the account of the County, subject, however, to the Lease. The Lender may collect and receive the rents and revenues from the Project, pay all proper costs and expenses of taking, holding and managing the same (including reasonable compensation to the Lender, its agents and counsel, any charges of the Lender under this Mortgage, any taxes and assessments and other charges prior to the lien of this Mortgage which the Lender may deem it wise to pay, and all expenses of such repairs and improvements) and apply the remainder of the moneys so received in accordance with the provisions of Section 8.09 of this Mortgage. Whenever such Event of Default shall have been corrected the Lender shall

surrender possession of the Project to the County, its successors and assigns.

SECTION 8.06. Additional Powers of Lender. Upon the occurrence and during the continuation of an Event of Default, the Lender may exercise any of the rights and powers hereinafter set forth in this section (in addition to the powers granted to it in Sections 8.01, 8.04 and 8.05 of the Mortgage).

(a) The Lender may declare to be immediately due and payable an amount equal to the entire principal amount of the then Outstanding Notes together with any applicable redemption premiums specified in the Mortgage and all interest accrued or to accrue on and prior to the next earliest maturity or redemption date or dates, as the case may be, on which the Trustee can pay the Notes, or redeem the same after giving notice to the holders thereof as required by the Mortgage, less moneys available for such purposes then held by the Lender, plus any additional rental due or to become due hereunder, including, without limitation, any unpaid fees and expenses of the County or the Lender which are then due or will become due prior to the time that the Notes are paid in full and the lien created by the Mortgage is terminated, and may enforce all rights of the County under the Lease.

(b) The Lender may exercise any of the rights of a secured party under the Uniform Commercial Code of South Carolina, as then in effect, with respect to such part of the Mortgaged Property as is covered by such Code.

(c) The Lender, as a matter of right, without notice and without giving bond to the County or anyone claiming under it, may have appointed, and shall be entitled to the appointment of, a receiver in equity with power to charge and collect rents and to apply the revenues from the Project in accordance with the provisions of the Mortgage, and such other powers as the court making the appointment may confer.

(d) The Lender may, with or without entry, foreclose the lien on the Project created and vested by the Mortgage and sell the Project, either by proceedings in equity or at public auction at such place or places as may be required by law, having first given notice of such sale by publication or otherwise as may be required by law, and upon such sale may make and deliver to the purchaser a good and sufficient deed or deeds or bill or bills of sale or assignment or assignments for the same. The Lender may become the purchaser at any foreclosure sale if the highest bidder. The County, for it and for all who may claim

through or under it, if and to the extent permitted by law, hereby expressly waives and releases all rights to have the Mortgaged Property marshalled upon any foreclosure sale, and the Lender or any court in which the foreclosure of the Mortgage is sought shall have the right to sell the Mortgaged Property as an entirety and in a single parcel or several parcels or lots in the discretion of the Lender. The County covenants that, if and to the extent permitted by law, it will not at any time insist upon or plead, claim or take any benefit or advantage of any stay or extension law or any laws providing for the valuation or appraisal of the Mortgaged Property prior to any sale or sales thereof nor after any such sale or sales claim or exercise any right to redeem the property so sold, and the County, to the extent permitted by law, hereby expressly waives for itself and on behalf of each and every person claiming by, through or under the County all benefit and advantage of any such law or laws.

(e) The Lender may proceed to protect and enforce its rights under the Mortgage by a suit or suits in equity or at law, either for the specific performance of any covenant or agreement contained herein or in aid of the execution of any power herein granted, or for the foreclosure of the Mortgage, or for the enforcement of any other appropriate legal or equitable remedy, as the Lender, may deem most effective to protect and enforce any of the rights or interests under the Notes or the Mortgage or both.

SECTION 8.07. Remedies Under Lease Vested in Lender; Appointment of Lender as Agent of County. If and to the extent permitted by law, in order to have the claims of the County against the Tenant allowed in any equity receivership, insolvency, liquidation, bankruptcy or other proceedings to which the Tenant shall be a party, the Lender is hereby appointed the true and lawful attorney-in-fact of the County, with authority to make or file, in the name of the County, any proof of debt, amendment to proof of debt, petition or other document; to receive payment of all sums becoming distributable on account thereof; to execute any other papers or documents, and to do and perform any and all acts and things for and in behalf of the County as may be necessary or advisable in the opinion of the Lender. The Lender shall have full power of substitution and delegation in respect of any such powers.

SECTION 8.08. Waiver of Event of Default. The Lender may in its discretion waive any Event of Default and its consequences hereunder.

Section 8.09. Application of Moneys. All moneys received by the Lender pursuant to any right given or action

taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, liabilities and advances incurred or made by the Lender and the County in carrying out the Mortgage, shall be applied as follows:

(a) Unless the principal of all the Notes shall have become or shall have been declared due and payable, all such moneys shall be applied: (i) to the payment of all installments of interest then due on the Notes then Outstanding in the order of the maturity of the installments of such interest; and (ii) to the payment to the persons entitled thereto the unpaid principal of and premium, if any, on any of the Notes then Outstanding which shall have become due.

(b) If the principal of the Notes shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Notes then Outstanding, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest according to the amounts due respectively for principal and interest.

(c) If the principal of all the Notes shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of Section 8.04 of the Mortgage, then, subject to the provisions of paragraph (b) of this section in the event that the principal of all the Notes shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of paragraph (a) of this section.

SECTION 8.10. Effect of Waivers and of Failure to Exercise Rights and Powers; Remedies Not Exclusive; Termination of Proceedings. No waiver of any default or Event of Default under the Mortgage, by the Lender shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No remedy by the terms of the Mortgage conferred

upon or reserved to the Lender is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any other remedy given to the Lender herein or now or hereafter existing at law or in equity or by statute.

In case the Lender shall have proceeded to enforce any right or exercise any power under the Mortgage and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Lender then and in every case the County, the Lender, and the Tenant shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Lender shall continue as if no such proceedings had been taken.

ARTICLE IX

FORM OF NOTES, EXECUTION THEREOF

SECTION 9.01. Form of Notes. The 1979 Note shall be in substantially the form hereinafter set forth in this section.

Unless or except as may be otherwise provided in any mortgage supplemental hereto providing for their issuance hereunder, each Additional Notes, if any, shall also be in substantially the form hereinafter set forth in this section with such insertions in said form or such variations thereto or deletions therefrom as may be necessary, required or desirable to reflect (a) the series designation, date, number, denomination, interest rate, date of maturity, prepayment and any other specific details of the particular Additional Note; (b) the provisions of the mortgage supplemental hereto providing for the issuance of such Additional Note pursuant to the Mortgage; or (c) applicable law.

(FORM OF 1979 NOTE)

\$ 3,500,000

UNITED STATES OF AMERICA  
STATE OF SOUTH CAROLINA  
COUNTY OF ANDERSON  
FIRST MORTGAGE INDUSTRIAL REVENUE NOTE, 1979  
(YODER BROTHERS, INC. PROJECT)

KNOW ALL MEN BY THESE PRESENTS that Anderson County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina (hereinafter referred to as the "County") for value received hereby promises to pay but solely from the sources and as hereinafter provided and not otherwise, to Mellon Bank, N.A., or registered assigns, principal sum of

THREE MILLION FIVE HUNDRED THOUSAND DOLLARS

in such coin or currency of the United States of America as at the time of payment shall be legal tender for public and private debts, with interest on the unpaid principal balance hereof, but solely from the sources and as hereinafter provided and not otherwise, at the rate of seven and one-half percent (7 1/2%) per annum, payable on the first day of January, April, July and October beginning on April 1, 1980, with respect to the principal balance hereof outstanding as

of the last day of the immediately preceding month, until payment in full of such principal sum, and to pay interest on overdue principal, premium, if any, and interest (to the extent legally enforceable) at the same rate per annum. Payments of principal and interest shall be by check or draft mailed by Yoder Brothers, Inc., an Ohio corporation (the "Tenant"), or its respective successors, to the registered owner hereof without the necessity of surrendering this note and all such payments shall fully discharge the obligation of the County hereon to the extent of the payments so made. All such payments of principal shall be noted on the schedule on the reverse hereof.

This note is a duly authorized Note of the County known as its "Anderson County, South Carolina, First Mortgage Industrial Revenue Note (Yoder Brothers, Inc. Project) 1979" in the principal amount of \$3,500,000. This note is secured as to principal, premium, if any, and interest by a Mortgage Loan Agreement (hereinafter referred to as the "Mortgage") dated as of December 1, 1979, executed by the County and Mellon Bank, N.A. (hereinafter referred to as the "Lender"), to all of the provisions of which any holder of this note by his acceptance hereof thereby assents and to which Mortgage and all mortgages supplemental thereto reference is hereby made for a description of the Mortgaged Property, the nature and extent of the security for this note and a statement of the terms and conditions upon which this note is issued and secured, the rights of the holders thereof and the Lender thereunder, and the indebtedness which is equally and ratably secured with this note, and the other matters set forth therein. As provided in the Mortgage, notes of other series, payable and secured equally and ratably with this note may be issued thereunder, and such notes may vary in such manner as is provided and permitted in the Mortgage. All notes from time to time outstanding under the terms of the Mortgage are hereinafter referred to as the "Notes."

This note has been issued for the purpose of acquiring, constructing, installing and equipping additions to a building on land owned by the Tenant immediately prior to the issuance hereof, machinery, equipment and other improvements located thereon in the County, constituting facilities for the purpose of rooting chrysanthemum cuttings (hereinafter referred to as the "Project") and leasing the Project to Yoder Brothers, Inc., an Ohio corporation (hereinafter referred to as the "Tenant"), and paying expenses incidental thereto so as thereby to promote industry and trade in South Carolina. The Project has been leased to the Tenant under and pursuant to a lease between the County and the Tenant dated as of December 1, 1979 (hereinafter referred to as the "Lease"). Under the Lease

the Tenant must pay to the County such rentals as will be fully sufficient to pay the principal of, premium, if any, and interest on the Notes as the same mature and become due. Under the Lease it is the obligation of the Tenant to pay the cost of maintaining the Project in good repair and to keep it properly insured. The rights of the County under the Lease and the rentals to be paid by the Tenant for the lease of the Project have been assigned to the Lender as further security for this note. Payment of the principal of, interest, and premium, if any, on the 1979 Note has been unconditionally guaranteed to the Lender by the Tenant, under the terms of a Guaranty between the Tenant and the Lender dated as of December 1, 1979. Copies of the Mortgage, the Lease, and the Guaranty are on file at the principal office of the Lender in Pittsburgh, Pennsylvania, and recorded in the Office of the Register of Mesne Conveyances for the County.

Installments of the principal of this note are subject to prepayment by the County at the request of the Tenant prior to maturity in full at any time or in part from time to time on December 1, 1983, or on any June 1 or December 1 thereafter, in amounts not less than \$100,000 in any case, at the following prepayment prices (expressed as percentages of principal amount to be prepaid) during the following periods of time, plus interest accrued to the date fixed for redemption: December 1, 1983, through November 30, 1989, inclusive -- 103%; and December 1, 1989 and thereafter -- 100%.

As more fully set forth in the Mortgage and subject to the conditions set forth therein this note, this note is also subject to prepayment at any time, in whole or in part, at a prepayment price equal to the principal amount prepaid and the interest accrued on such principal amount to the date of prepayment in the event of a material defect in the title of the land within the Project. Also, as more fully set forth in the Mortgage, this note is subject to prepayment in whole upon the taking of the Project by the exercise of the power of eminent domain at a prepayment price equal to the principal amount prepaid and the interest accrued on such principal amount to the date of prepayment. Also as more fully set forth in the Mortgage, this note is subject to prepayment in part from time to time from the proceeds of any condemnation award or insurance (including title insurance) proceeds to the extent such proceeds are not used to rebuild, repair or restore the Project or remedy the defect in title giving rise thereto. Also as more fully set forth in the Mortgage, this note is subject to prepayment in whole at a price equal to the principal amount prepaid and the interest accrued on such principal amount to the date of prepayment in the event the Tenant purchases the

Project pursuant to and subject to the terms of the Lease in the event of (i) the damage, destruction or condemnation of the Project resulting in the discontinuance of operation of the Project; (ii) changes in law rendering the Lease void, unenforceable, or impossible of performance; or (iii) the imposition of unreasonable burdens or excessive liabilities upon the County or the Tenant with respect to the Project or the operation thereof. Also as more fully set forth in the Mortgage and subject to the conditions stated therein this note is subject to prepayment in whole upon the occurrence of a Determination of Taxability (as defined in the Mortgage) at a prepayment price equal to the principal amount prepaid and interest accrued on such principal amount at (a) the rate of eleven and one-half percent (11 1/2%) or (b) three-fourths of one percent (.75%) above the prime commercial loan rate of the Lender for prime commercial loans of approximately 90-day maturities, as the Tenant may elect, from the date of the occurrence of the Event of Taxability (as defined in the Mortgage) giving rise to such Determination of Taxability to the date of prepayment.

If this note (or any portion of the principal sum hereof) shall have been duly called for prepayment and notice of such prepayment duly given at least three (3) business days prior thereto, and if on or before the prepayment date the payment of the applicable prepayment price and the interest accrued on the principal sum hereof to the prepayment date shall be duly made or provided for, then this note (or the portion of the principal sum to be prepaid) shall become due and payable at such prepayment price upon such prepayment date, and from and after such date interest on the principal amount to be prepaid shall cease to accrue.

This note is issued pursuant to and in full compliance with the Constitution and laws of the State of South Carolina, particularly Title 4, Chapter 29, Code of Laws of South Carolina, 1976, and pursuant to an ordinance of the County Council of Anderson County duly adopted and approved, which ordinance authorized the execution and delivery of the Mortgage. Pursuant to law and the proceedings under which this note is issued, this note and the premium, if any, and interest thereon are limited obligations of the County and shall never constitute an indebtedness of the County within the meaning of any state, constitutional or statutory provision or limitation, but is payable solely and exclusively out of the revenues and other amounts derived by the County from the leasing or sale of the Project financed through the issuance of the Notes, and not otherwise. This note and the premium, if any, and interest thereon do not now and shall never constitute nor give rise to a pecuniary liability of the County or to a

charge against its general credit or taxing powers. The full faith, credit and taxing power of the County are not pledged for the payment of the principal of, premium, if any, or interest on this note.

The principal hereof may be declared or may become due on the conditions and in the manner and at the time set forth in the Mortgage upon the occurrence of an event of default, as provided in the Mortgage.

This note is transferable by the registered holder hereof in person, or by his attorney duly authorized in writing, at the principal office of the Tenant in \_\_\_\_\_, \_\_\_\_\_, but only in the manner and subject to the limitations provided in the Mortgage and upon surrender of this note. Upon such surrender, this note, so surrendered, will be reissued to the transferee registered in the name of such transferee.

The County and the Tenant may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof, premium, if any, hereon, and interest due hereon and for all other purposes and neither the County nor the Tenant shall be affected by any notice to the contrary.

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. This note shall not be entitled to any benefit under the Mortgage or become valid or obligatory for any purpose until this Note shall have been executed and delivered by the County.

IN WITNESS WHEREOF, Anderson County, South Carolina, has caused this note to be duly executed in its name by the manual signature of the Chairman of the County Council, the seal of the County Council to be impressed or imprinted hereon, and such execution to be attested by the manual signature of the Clerk to said County Council, all as of the 1st day of December, 1979.

ANDERSON COUNTY, SOUTH CAROLINA

By \_\_\_\_\_,  
\_\_\_\_\_, Chairman, County

Council of Anderson County,  
South Carolina

(SEAL)

ATTEST:

\_\_\_\_\_, Clerk,  
County Council of Anderson  
County, South Carolina

(FORM OF PROVISION FOR ASSIGNMENT OF NOTES)

For value received \_\_\_\_\_ hereby  
sells, assigns and transfers unto \_\_\_\_\_ the  
within-mentioned note and hereby irrevocably constitutes and  
appoints \_\_\_\_\_, attorney-in-fact, to  
transfer the same on the books of registry with full power  
of substitution in the premises.

Dated: \_\_\_\_\_, 19\_\_.

In the Presence of:

\_\_\_\_\_  
[Payment Schedule to be Supplied]

SECTION 9.02. Execution of Notes. The 1979 Note shall be executed, sealed and attested as set forth in the last paragraph of the form of the 1979 Note set forth in Section 9.01 of the Mortgage.

Unless or except as may otherwise be provided in any mortgage supplemental hereto providing for the issuance thereof, each Additional Note shall be executed, sealed and attested, as the case may be, as is provided for in the immediately preceding paragraph for the execution, sealing and attestation of the 1979 Note.

ARTICLE X

DISCHARGE OF MORTGAGE

SECTION 10.01. Discharge of Mortgage. Whenever there shall no longer be any Note Outstanding under the Mortgage and the County shall have paid or caused to have been paid, or shall have made provision for the payment of, any and all other sums that may be due hereunder, then these presents and the rights hereby granted shall cease, determine and be void, and the mortgages, liens, pledges, charges and interests, created or granted hereby shall be discharged and satisfied. Thereupon, the Lender shall cancel and discharge the Mortgage and execute and deliver to the County such instruments in writing as shall be requisite to satisfy the same, and shall reconvey to the County the estates hereby conveyed and assign and deliver to the County the Lease and any other property at the time subject to or security under the Mortgage which may then be in possession of the Lender, except amounts required by any provision hereof to be paid to the Tenant.

ARTICLE XI

MISCELLANEOUS

SECTION 11.01. Obligations of County to Inure to Successors. All the covenants, stipulations, promises and agreements in the Mortgage contained, by or on behalf of the County, shall bind and inure to the benefit of its successors or assigns, whether so expressed or not.

SECTION 11.02. Limitation of Rights. With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this Mortgage or the Notes is intended or shall be construed to give to any person other than the parties hereto and their assigns any legal or equitable right, remedy or claim under or in respect to this Mortgage or any covenants, conditions and provisions herein contained; this Mortgage and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and their assigns as herein provided (and the Tenant where expressly given benefits hereunder).

SECTION 11.03. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper under this Mortgage if given in writing and sent by United States certified or registered mail, postage prepaid, and addressed as follows:

To the Lender:

To the County:

To the Tenant:

Whenever this Mortgage requires the giving of notice by mail or otherwise, the giving of such notice may be waived in writing by the person entitled to receive such notice, and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of an action taken in reliance upon such waiver.

SECTION 11.04. Sundays and Holidays. In any case when the date on which an act to be performed hereunder (including the payment of principal, of premium, if any, or interest on any Note shall be a Sunday or a legal holiday, such act need not be performed on such date, but may be performed on the next succeeding business day not a Sunday or a legal holiday, with the same force and effect as if made on the date on which said act was otherwise required to be performed. In any case when the period during which any obligation hereunder is to be performed shall expire on a date which is a Sunday or a legal holiday, then such act need not be performed prior to such date, but may be performed prior to the next succeeding business day not a Sunday or a legal holiday with the same force and effect as if such performance had been within the required period.

SECTION 11.05. No Personal Liability of Officers of County. No covenant, condition or agreement contained herein shall be or be deemed to be a covenant, condition, agreement or obligation of any present or future member, officer, employee or agent of the County in his individual capacity. Neither the members of the County Council nor any officer thereof executing or attesting the Notes or the Mortgage shall be liable personally on the Notes or hereunder or be subject to any personal liability or accountability by reason of the issuance thereof or the execution and delivery hereof. No member of the County Council and no officer, employee or agent of the County shall incur any personal liability with respect to any action taken by him pursuant to the Mortgage or to the Act.

SECTION 11.06. Applicable Law. The Mortgage shall be governed by the laws of the State of South Carolina.

SECTION 11.07. Severability. If any provision of this Mortgage shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or sections in the Mortgage contained shall not affect the remaining portions of the Mortgage, or any part thereof.

SECTION 11.08. Counterparts. The Mortgage may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, ANDERSON COUNTY, South Carolina, has caused these presents to be signed in its name and behalf by the Chairman of its County Council, the seal of the Clerk to the County Council to be hereunto affixed, and such execution attested by the Clerk to the County Council and, to evidence its acceptance hereof Mellon Bank, N.A., has caused these presents to be signed in its name and behalf by its \_\_\_\_\_ and its corporate seal to be hereunto affixed and attested by one of its \_\_\_\_\_, all as of the day and year first above written.

ANDERSON COUNTY, SOUTH CAROLINA

By \_\_\_\_\_  
Chairman,  
County Council of Anderson  
County, South Carolina

(SEAL)

ATTEST:

\_\_\_\_\_, Clerk  
Anderson County, South Carolina

In the presence of:

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

MELLON BANK, N.A., as Lender

By \_\_\_\_\_  
Its: \_\_\_\_\_

(SEAL)

ATTEST:

\_\_\_\_\_  
Its: \_\_\_\_\_

In the presence of:

\_\_\_\_\_

\_\_\_\_\_



STATE OF SOUTH CAROLINA        )  
  )  
COUNTY OF \_\_\_\_\_        )

PERSONALLY appeared before me \_\_\_\_\_,  
who being duly sworn says that (s)he saw the corporate seal  
of Anderson County, South Carolina, affixed to the foregoing  
Mortgage Loan Agreement, and that (s)he also saw \_\_\_\_\_  
as Chairman of the County Council of Anderson County, South  
Carolina and \_\_\_\_\_, Clerk of Anderson County,  
South Carolina, sign and attest the same and that (s)he with  
\_\_\_\_\_, witnessed the execution and  
delivery thereof as the act and deed of the said Anderson  
County, South Carolina.

\_\_\_\_\_

SWORN to before me this  
\_\_\_ day of December, 1979.

\_\_\_\_\_(L.S.)  
Notary Public for South Carolina  
My commission expires: \_\_\_\_\_

**THE END**