

which will be sufficient to pay and retire the Note in accordance with its provisions (including, without limiting the generality of the foregoing, principal, interest to prepayment date and fees and expenses, if any, of the Bank).

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

**SECTION 11.2. Option to Purchase Unimproved Land.** If no event of default under this Agreement shall have happened and then be continuing, the Lessee shall have, and is hereby granted the option to purchase any part of the Leased Land on which the Building is not located, but upon which transportation or utility facilities may be located, at any time and from time to time at and for the purchase price equal to, on a per acre basis, the price paid by the County for the Leased Land provided that it furnishes the County with the following:

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

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

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

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

**SECTION 11.3. Conveyance on Exercise of Option to Purchase.** At the closing of the purchase pursuant to the exercise of the option to purchase granted herein, the County will, upon receipt of the purchase price, deliver to the Lessee documents conveying to the Lessee a good and marketable title to the property being purchased, as such property then exists, subject to the following: (i) those liens and encumbrances (if any) to which title to said property was subject when conveyed to the County; (ii) those liens and encumbrances created by the Lessee or to the creation or suffering of which the Lessee consented; (iii) those liens and encumbrances resulting from the failure of the Lessee to perform or observe any of the agreements on its part contained in this Agreement; and (iv) Permitted Encumbrances other than the Mortgage and this Agreement. The documents aforementioned shall be in form and substance satisfactory to Lessee and Lessee's counsel.

**SECTION 11.4. Relative Position of Options and Mortgage.** The options respectively granted to the Lessee in this Article, except under Section 11.2 hereof, shall be and remain prior and superior to the Mortgage and may be exercised whether or not the Lessee is in default hereunder, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option.

## ARTICLE XII ADDITIONAL OBLIGATIONS OF LESSEE AND COUNTY

**SECTION 12.1. Obligation to Purchase Project.** Upon the expiration or earlier termination of the Lease Term and concurrently with or following payment of the Note, the Lessee hereby agrees to purchase, and the

County hereby agrees to sell, the Project for one dollar, and any and all sums then due to the County and/or the Bank under this Agreement. At the closing of the foregoing purchase, the County will deliver to the Lessee the documents referred to in Section 11.3 hereof. Said documents shall be in form and substance satisfactory to Lessee and Lessee's counsel. The right to purchase granted in this Section shall be and remain prior and superior to the Mortgage and may be exercised whether or not the Lessee is in default hereunder provided that no such default will result in nonfulfillment of any condition to this right.

**SECTION 12.2. Obligation to Purchase Project Under Certain Circumstances.**

(a) If at any time after the date hereof:

(i) Any amendment, modification, addition or change shall have been made in Section 103 of the Internal Revenue Code of 1954, as amended (or any successor section thereto), or any other provision of the Internal Revenue Code of 1954, as amended, or the regulations thereunder, or any ruling of the Internal Revenue Service, deficiency, assessment or opinion of any court shall have been rendered with respect to the Federal income tax treatment of the interest payable on the Note, which amendment, modification, addition, change, ruling, deficiency, assessment or opinion, in the opinion of counsel for the Bank, would preclude the Bank from treating the payments of interest on the Note as not subject to Federal income taxation;

(ii) A final, unappealable order of any court or administrative authority having jurisdiction shall have been rendered which holds this Agreement, the Note, or the Mortgage to be unconstitutional or invalid for any reason whatsoever, including, without limitation, any change of law or regulation or interpretation thereof; or

(iii) There shall occur an event of default under Section 10.1 of this Agreement;

then the Lessee will purchase or cause to be purchased the Project from the County, within 60 days after receipt by the Lessee of written notice by the Bank of such fact in the case of (i) or (ii) above, and promptly on demand in the case of (iii) above, at an aggregate purchase price equal to the sum of the unpaid principal amount of the Notes, together with accrued interest thereon.

The purchase price referred to in this Section 12.2 shall be paid in Federal or other immediately available funds.

(b) If at any time the Bank shall pay United States income tax on interest on the Note because any payment of interest on the Note is required to be included by the Mortgagee in its United States taxable income, the Lessee will promptly on demand pay to the Bank in Federal or other immediately available funds an amount which is equal to the difference between (i) the amount of interest which would have been payable on the principal amount of the Note outstanding from time to time during the Payment Period if the Note had borne interest at the Commercial Lending Rate during such Payment Period and (ii) the amount of interest actually paid and accrued on the Note during the Payment Period.

For purposes of Section 12.2(a) and this Section 12.2(b), the term "Commercial Lending Rate" shall mean a rate equal to one percent (1%) above the minimum commercial lending rate charged from time to time by the Bank for loans to its best corporate customers, such rate to be adjusted as of the effective date of any change in such rate, and the term "Payment Period" shall mean the period from the date as of which interest on the Note is first required to be includable in the Bank's United States taxable income until the repayment in full of the Note held by the Bank, together with accrued interest thereon; provided that there shall be excluded from the Payment Period any period during which payment of taxes by the Bank may not be enforced as a result of any statute of limitations.

For purposes of Section 12.2(a) and this Section 12.2(b), references to the "Bank" shall include the affiliated group of which the Bank is part.

(c) Upon payment of the purchase price set forth in Section 12.2(a) hereof (and, if applicable, Section 12.2(b) hereof), the County agrees to convey the Project to the Lessee and to deliver to the Lessee the documents referred to in Section 11.3 of this Agreement. Said documents shall be in form and substance satisfactory to Lessee and Lessee's counsel.

(d) The purchase price received for the purchase of the Project pursuant to this Section 12.2 shall be used to prepay the Note as provided in the Note and the Note Ordinance.

## ARTICLE XIII MISCELLANEOUS

**SECTION 13.1. Quiet Enjoyment.** The County agrees so long as the Lessee shall fully and punctually pay all of the rents and other amounts