

## ARTICLE II

## REPRESENTATIONS AND COVENANTS

Section 2.01. Representations and Covenants 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, the County has been duly authorized to execute and deliver this Lease and any and all agreements collateral thereto.

(b) The County is acquiring the Project, either in its own name or pursuant to a conveyance from the Tenant, and proposes to lease the property to the Tenant in accordance with the terms hereof and to sell the Project to the Tenant at the expiration or sooner termination of the Term of the Lease, if the Tenant, at its sole option, shall elect to purchase the same for the total consideration of One and 00/100 Dollars (\$1.00), 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 and benefiting the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise provided locally.

(c) The County is not in default under any of the provisions of the laws of the State whereby any such default would adversely affect the transactions contemplated by this Lease.

(d) The authorization, execution, and delivery of this Lease, and the compliance by the County with the provisions hereof, will not conflict with, violate, or constitute a breach of, or a default under any existing law, ordinance, court or administrative regulation, decree, order, or a provision of the Constitution or laws of the State relating to establishment of the County or its affairs, or any agreement, mortgage, lease, or other instrument to which the County is subject or by which it is bound.

(e) No actions, suits, proceedings, inquiries, or investigations are pending or threatened against the County in any court or before any governmental authority or arbitration board or tribunal, any of which materially or adversely affect the transactions contemplated by this Lease, or which adversely affect the validity or enforceability of this Lease or any agreement or instrument to which the County is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby. The Lease is a valid and legally enforceable agreement of the County.

(f) The County hereby covenants that it will, upon the expiration or earlier termination of this Lease, and at the sole option of the Tenant, re-convey the Project to the Tenant in the same

quality of title as received, in fee simple absolute, by a limited warranty deed in substantially the form set forth in *Exhibit C* hereto and by a bill of sale in substantially the form set forth in *Exhibit D* hereto, for the purchase price set forth in Section 10.03 hereof.

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

(a) The Tenant is a limited liability company duly organized, having legal existence as a legal entity, and in good standing under the laws of the State of South Carolina, qualified to do business in the State of South Carolina, has power to enter into this Lease, and by proper company action has been duly authorized to execute and deliver this Lease and any and all agreements collateral thereto. The Lease is a valid and legally enforceable agreement of the Tenant.

(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 material breach of any of the terms, conditions, or provisions of any company 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 which materially restricts the Tenant's ability to make any payments hereunder, other than as may be created or permitted by this Lease.

(c) No event has occurred and no condition exists with respect to the Tenant which would constitute an "Event of Default" as defined herein which with the lapse of time or with the giving of notice or both would become an "Event of Default" under this Lease.

(d) The Project constitutes and will constitute a "Project" within the meaning of the Act, and the Tenant intends to operate the Project for the purpose of a manufacturing facility for powder coating applications and related technologies and for such other purposes permitted under the Act as the Tenant may deem appropriate.

(e) The acquisition, by construction and purchase, of the Project by the County, whether in its own name or pursuant to a conveyance from the Tenant, in order to authorize FILOT Payments under the Act, and the leasing of the Project to the Tenant have been instrumental in inducing the Tenant to locate, construct, and expand its facility in the Industrial Park.

(f) No actions, suits, proceedings, inquiries, or investigations are pending or threatened against or affecting the Tenant in any court or before an governmental authority or arbitration board or tribunal, any of which involve the possibility of materially and adversely affecting the transactions contemplated by this Lease, or which in any way would adversely affect the validity or enforceability of any financing arrangement, this Lease, or an agreement or instrument to which the Tenant is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby.

(g) The Tenant further represents and warrants that it intends to invest not less than One

Million Dollars (\$1,000,000) in the Project during the Initial Investment Period and to employ not less than Twenty-five (25) employees at the Project before the end of the Investment Period.

[End of Article II]

ARTICLE III

DEMISING CLAUSE AND WARRANTY OF TITLE

Section 3.01. Demise of Project. The County demises and leases to the Tenant, and the Tenant leases from the County, the Project for the Term and the rental set forth in Section 5.01, 5.02, and 5.03 hereof in accordance with the provisions of this Lease.

[End of Article III]

## ARTICLE IV

ACQUISITION BY PURCHASE OF  
PROJECT; MODIFICATION, IMPROVEMENT AND  
ADDITIONS TO PROJECT; AMENDMENTS TO EXHIBITS

Section 4.01. Acquisition by Construction and Purchase of Project. The Tenant shall acquire the Project by construction and purchase and acquire and purchase all other things deemed necessary by the Tenant in connection with the Project, all subject to liens and security interests authorized by Section 8.08, hereof, and shall then transfer title to Project property to the County, pursuant to and in accordance with the Act, to be part of and subject to this Lease. The Tenant further agrees to use its best efforts to cause such acquisition as promptly as practicable and to expend upon the acquisition of the Project not less than One Million Dollars (\$1,000,000) during the Initial Investment Period and to employ not less than Twenty-five (25) employees at the Project by the end of the Investment Period. The Tenant agrees to convey to the County, effective as of the end of each of its fiscal years, all property comprising the Project that was placed in service during that fiscal year by the Tenant, if any. Title to the Project shall be in the name of the County throughout the Term of this Lease.

Section 4.02. 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, so long as the Project remains within the minimum investment figures set forth in Section 4.01.

Section 4.03. Completion Date. The Completion Date shall be evidenced to the County 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. Notwithstanding the foregoing, the certificate of completion may state that it is given without prejudice to any rights against third parties which may exist at the date of such certificate or which may subsequently come into being.

Section 4.04. Amendment to Exhibits. The Tenant may supplement and/or amend *Exhibit A* from time to time with the written consent of the County, which consent shall not be unreasonably withheld. The Tenant may supplement and/or amend *Exhibit B* from time to time with or without the consent of the County.

[End of Article IV]

## 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 on the date hereof and ending by the end of Lessee's fiscal year twenty years after the Completion Date unless sooner terminated as herein permitted.

Section 5.02. Basic Rent. In consideration of the public benefits accruing to the citizens of the County as a result of the location of the Project in the Industrial Park, the Tenant will pay to the County without notice or demand One and 00/100 Dollars (\$1.00) per year (herein called "Basic Rent") on or before the date FILOT Payments are due as specified in Section 6.03 of this Lease.

Section 5.03. Administration Expenses. The Tenant will pay on demand, but in no event later than forty-five (45) days after receiving written notice from the County, Administration Expenses, as Additional Rent and all other amounts, liabilities, and obligations that the Tenant herein assumes or agrees to pay. Specifically, but without limitation, the Tenant will pay all insurance payments, assessments, and judgments of the Tenant on or associated with the Project. 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.

Section 5.04. Net Lease. This Lease is a net lease. 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 (except as otherwise provided herein) shall be absolute and unconditional without notice or demand and without set-off, counterclaim, abatement, suspension, deduction, diminution, or defense for any reason whatsoever.

[End of Article V]

## ARTICLE VI

MAINTENANCE AND MODIFICATION OF PROJECT;  
REMOVAL OF PROPERTY; PAYMENTS IN LIEU OF TAXES;  
TAXES, UTILITIES AND OTHER CHARGES; INSURANCE

Section 6.01. Maintenance and Modification of Project. The Tenant at its own expense during the Term of this Lease will keep and maintain the Project in good repair and in good operating condition. Subject to the provisions of Section 7.01 of this Lease, the Tenant will 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 governmental body enacting the same.

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, as lessee hereunder, 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 or Replacement of Property. The Tenant, or its agents, will construct, acquire and/or install Leased Improvements and Leased Equipment on the Leased Land and convey such Leased Improvements and Leased Equipment to the County. The County shall not be under any obligation to renew, repair, or replace any inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary property that is part of the Project. 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 property that are part of the Project have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for the operation of the Project, the Tenant may remove such items of property from the Leased Land and (on behalf of the County) sell, trade-in, exchange, or otherwise dispose of them (in whole or in part) without consent of the County and the Tenant may keep all proceeds of such trade or exchange.

If the Tenant disposes of property subject to the FILOT Payments described in Section 6.03, the FILOT Payments must be reduced by the amount of the FILOT Payment applicable to that property. Any such property is considered disposed of only when disposed of in accordance with this Section. Any property which is placed in service as replacement for property which is subject to the FILOT Payment may become part of the FILOT Payment pursuant to and in accordance with the terms of Section 4-12-30(F) of the Act, or successor legislation.

Section 6.03. Payments in Lieu of Taxes. It is recognized that under the Act, for a project that is located in a High Unemployment Area involving an initial investment of at least One Million Dollars (\$1,000,000), the Lease Agreement may contain a provision requiring the industry to make payments to the County in lieu of taxes. In accordance with the provisions of the Act, and as subsequently amended, during the Term of the Lease the Tenant shall make with respect to the