

enforceable in accordance with its terms, subject only to limitations on enforceability imposed by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally.

(e) *Compliance With Laws.* The Borrower is in compliance in all material respects with all federal, state, and local laws, rules, regulations, ordinances, codes, and orders (collectively, "Laws"), the failure to comply with which could have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of the Borrower, or on the ability of the Borrower to perform its obligations under the Loan Documents, except as the Borrower has disclosed on Schedule 1 attached hereto.

(f) *Litigation.* There are no pending legal, arbitration, or governmental actions or proceedings to which the Borrower is a party or to which any of its property is subject which, if adversely determined, could have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of the Borrower, or on the ability of the Borrower to perform its obligations under the Loan Documents, and to the best of the Borrower's knowledge, no such actions or proceedings are threatened or contemplated, except as the Borrower has disclosed on Schedule 1 attached hereto.

(g) *Title to Property.* The Borrower holds good and marketable title to all of its real property and owns all of its personal property free and clear of any lien or encumbrance except the liens and encumbrances specifically identified on Schedule 2 attached hereto (the "Existing Liens"), and liens or other interests permitted under the Mortgage.

(h) *Financial Statements; No Material Adverse Change; Etc.* All financial statements submitted to RUS in connection with the application for the Loan or in connections with this Agreement fairly and fully present the financial condition of the Borrower and the results of the Borrower's operations for the periods covered thereby and are prepared in accordance with RUS Accounting Requirements consistently applied. Since the dates thereof, there has been no material adverse change in the financial condition or operations of the Borrower. All budgets, projections, feasibility studies, and other documentation submitted by the Borrower to RUS are based upon assumptions that are reasonable and realistic, and as of the date hereof, no fact has come to light, and no event or transaction has occurred, which would cause any assumption made therein not to be reasonable or realistic.

(i) *Principal Place of Business; Records.* The principal place of business and chief executive office of the Borrower is at the address of the Borrower shown on Schedule 1 attached hereto.

(j) *Location of Properties.* All property owned by the Borrower is located in the counties identified in Schedule 1 hereto.

(k) *Subsidiaries.* The Borrower has no subsidiary, except as the Borrower has disclosed on Schedule 1 attached hereto.

(l) *Defaults Under Other Agreements.* The Borrower is not in default under any agreement or instrument to which it is a

party or under which any of its properties are subject that is material to its financial condition, operations, properties, profits, or business.

(m) *Survival.* All representations and warranties made by the Borrower herein or made in any certificate delivered pursuant hereto shall survive the making of the Advances and the execution and delivery to RUS of the Note.

Article III—Loan

Section 3.1. *Advances.* RUS agrees to make, and the Borrower agrees to request, on the terms and conditions of this Agreement, Advances from time to time in an aggregate principal amount not to exceed the RUS Commitment. On the Termination Date, RUS may stop advancing funds and limit the RUS Commitment to the amount advanced prior to such date. The obligation of the Borrower to repay the Advances shall be evidenced by the Note in the principal amount of the unpaid principal amount of the Advances from time to time outstanding. The Borrower shall give RUS written notice of the date on which each Advance is to be made.

Section 3.2. *Interest Rate and Payment.* The Note shall be payable and bear interest as follows:

(a) *Payments and Amortization.* Principal will be amortized in accordance with the method stated in Schedule 1 hereto and more fully described in the form of Note attached hereto as Exhibit A.

(b) *Application of Payments.* Each payment shall be applied first to any charges then due on the Note, second to interest accrued on the principal amount to the due date of such payment on the Note, and the balance to the reduction of principal against the Note in inverse order of maturity.

(c) *Electronic Funds Transfer.* Except as otherwise prescribed by RUS, the Borrower shall make all payments on the Note utilizing electronic funds transfer procedures as specified by RUS.

(d) *Fixed or Variable Rate.* The Note will bear interest at either a fixed or variable rate in accordance with the method stated in Schedule 1 hereto and as more particularly described in the form of Note attached hereto as Exhibit A.

Section 3.3. *Prepayment.* The Borrower has no right to prepay the Note in whole or in part except such rights, if any, as are expressly provided for in the Note. However, prepayment of the Note (and any penalties) shall be mandatory under Section [5.3] hereof if the Borrower has used a Contemporaneous Loan in order to qualify for the RUS Commitment, and later prepays the Contemporaneous Loan.

Article IV—Conditions of Lending

Section 4.1. *General Conditions.* The obligation of RUS to make any Advance hereunder is subject to satisfaction of each of the following conditions precedent on or before the date of such Advance:

(a) *Legal Matters.* All legal matters incident to the consummation of the transactions hereby contemplated shall be satisfactory to counsel for RUS.

(b) *Loan Documents.* That RUS receive duly executed originals of this Agreement and the other Loan Documents.

(c) *Authorization.* That RUS receive evidence satisfactory to it that all corporate documents and proceedings of the Borrower necessary for duly authorizing the execution, delivery and performance of the Loan Documents have been obtained and are in full force and effect.

(d) *Approvals.* That RUS receive evidence satisfactory to it that all consents and approvals (including without limitation the consents referred to in Section [2.1(c)] of this Agreement) which are necessary for, or required as a condition of, the validity and enforceability of each of the Loan Documents have been obtained and are in full force and effect.

(e) *Event of Default.* That no Event of Default specified in Article VII and no event which, with the lapse of time or the notice and lapse of time specified in Article VII would become such an Event of Default, shall have occurred and be continuing or will have occurred after giving effect to the Advance on the books of the Borrower.

(f) *Continuing Representations and Warranties.* That the representations and warranties of the Borrower contained in this Agreement be true and correct on and as of the date of such Advance as though made on and as of such date.

(g) *Opinion of Counsel.* That RUS receive an opinion of counsel for the Borrower (who shall be acceptable to RUS) in form and content acceptable to RUS.

(h) *Mortgage Filing.* The Mortgage shall have been duly recorded as a mortgage on real property, including after-acquired real property, and duly filed, recorded or indexed as a security interest in personal property, including after acquired personal property, wherever RUS shall have requested, all in accordance with applicable law, and the Borrower shall have caused satisfactory evidence thereof to be furnished to RUS.

(i) *Wholesale Power Contract.* That the Borrower shall not be in default under the terms of, or contesting the validity of, any contract that has been pledged by any entity to RUS as security for the repayment of any loan made or guaranteed by RUS under the Act.

(j) *Material Adverse Change.* That there has occurred no material adverse change in the business or condition, financial or otherwise, of the Borrower and nothing has occurred which in the opinion of RUS materially and adversely affects the Borrower's ability to meet its obligations hereunder.

(k) *Requisitions.* That the Borrower will requisition all Advances by submitting its requisition to RUS in form and substance satisfactory to RUS. Requisitions shall be made only for the purpose(s) set forth herein. The Borrower agrees to apply the proceeds of the Advances in accordance with its loan application with such modifications as may be mutually agreed.

(l) *Flood Insurance.* That for any Advance used in whole or in part to finance the construction or acquisition of any building in any area identified by the Secretary of Housing and Urban Development pursuant to the Flood Disaster Protection Act of 1973 (the "Flood Insurance Act") or any rules, regulations or orders issued to implement the Flood Insurance Act ("Rules") as any area