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imposed on a borrower by its loan documents if the Administrator determines that such action will contribute to enhancement of the government's recovery of debt. Such waivers or reductions in conditions and requirements under this section shall not include the exercise of any of the debt settlement measures set forth in § 1717.1204(c), which are subject to all of the requirements of said § 1717.1204.

§ 1717.1206 Loans subsequent to settlement.

In considering any future loan requests from a borrower whose debt has been settled in whole or in part (including the surviving entity of merged or consolidated borrowers, where at least one of said borrowers had its debts settled), it will be presumed that credit support for the full amount of the requested loan will be required. Such support may be in a number of forms, provided that they are acceptable to the Administrator on a case by case basis. They may include, but need not be limited to, equity infusions and guarantees of debt repayment, either from the applicant's members (in the case of a power supply borrower), or from a third party.

§ 1717.1207 RUS obligations under loan guarantees.

Nothing in this subpart affects the obligations of RUS under loan guarantee commitments it has made to the Federal Financing Bank or other lenders.

§ 1717.1208 Government's rights under loan documents.

Nothing in this subpart limits, modifies, or otherwise affects the rights of the government under loan documents executed with borrowers, or under law or equity.

PART 1718—LOAN SECURITY DOCUMENTS FOR ELECTRIC BORROWERS

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1718.1–1718.49 [Reserved]

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AUTHORITY: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

SOURCE: 60 FR 36888, July 18, 1995, unless otherwise noted.

Subpart A—General

§§ 1718.1–1718.49 [Reserved]

Subpart B—Mortgage for Distribution Borrowers

§ 1718.50 Definitions.

Unless otherwise indicated, terms used in this subpart are defined as set forth in 7 CFR 1710.2.

§ 1718.51 Policy.

(a) Adequate loan security must be provided for loans made or guaranteed by RUS. The loans are required to be secured by a first mortgage lien on most of the borrower's assets substantially in the form set forth in appendix A of this subpart. At the discretion of RUS, this model form of mortgage may be adapted to satisfy different legal requirements among the states and individual differences in lending circumstances, provided that such adaptations are consistent with the policies set forth in this subpart.

(b) Some borrowers, such as certain public power districts, may not be able to provide security in the form of a first mortgage lien on their assets. In

these cases RUS will consider accepting other forms of security, such as resolutions and pledges of revenues.

(c) RUS may require supplemental and amending mortgages to protect its security, or in connection with additional loans.

(d) RUS may also require such other security instruments (such as loan contracts, security agreements, financing statements, guarantees, and pledges) as it deems appropriate.

(e) All distribution borrowers that receive a loan or loan guarantee from RUS on or after August 17, 1995 will be required to enter into a mortgage with RUS that meets the requirements of this subpart. The concurrence of any other lenders secured under the borrower's existing mortgage may be required before the borrower can enter into a new mortgage.

§ 1718.52 Existing mortgages.

Nothing contained in this subpart amends, invalidates, terminates or rescinds any existing mortgage entered into between the borrower and RUS and any other mortgagees.

§ 1718.53 Rights of other mortgagees.

Nothing contained in this subpart is intended to alter or affect any other mortgagee's rights under an existing mortgage.

§ 1718.54 Availability of model mortgage.

Single copies of the model mortgage (RUS Informational Publication 1718 B) are available from the Administrative Services Division, Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250–1500. This document may be reproduced.

APPENDIX A TO SUBPART B OF PART 1718—MODEL FORM OF MORTGAGE FOR ELECTRIC DISTRIBUTION BORROWERS

RESTATED MORTGAGE AND SECURITY AGREEMENT Made By And Between

_____

Mortgagor

and UNITED STATES OF AMERICA and

_____

MORTGAGEE

Dated as of _____

THIS INSTRUMENT GRANTS A SECURITY INTEREST BY A TRANSMITTING UTILITY

THIS INSTRUMENT CONTAINS FUTURE ADVANCE PROVISIONS

THIS INSTRUMENT CONTAINS AFTER-ACQUIRED PROPERTY PROVISIONS

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RESTATED MORTGAGE AND SECURITY AGREEMENT, dated as of _____ 19___, hereinafter sometimes called this ''Mortgage'') is made by and between _____ (hereinafter called the ''Mortgagor''), a corporation existing under the laws of the State of _____, and the UNITED STATES OF AMERICA acting by and through the Administrator of the Rural Utilities Service (hereinafter called the ''Government''), _____ { Supplemental Lender}, (hereinafter called ''_____'') a _____ existing under the laws of _____, and is intended to confer rights and benefits on both the Government and _____ as well as any and all other lenders pursuant to Article II of this Mortgage that enter into a supplemental mortgage in accordance with Section [2.04] of Article II hereof (the Government and any such other lenders being herein sometimes collectively referred to as the ''Mortgagees'').

RECITALS

WHEREAS, the Mortgagor, the Government and _____ are parties to that certain _____ Mortgage and Security Agreement dated as of _____, 19___, as supplemented, amended or restated (the ''Original Mortgage'' identified in Schedule ''A'' of this Mortgage) originally entered into between the Mortgagor, the Government acting by and through the Administrator of the Rural Electrification Administration, the predecessor of RUS, and _____;

WHEREAS, the Mortgagor deems it necessary to borrow money for its corporate purposes and to issue its promissory notes and other debt obligations therefor from time to time in one or more series, and to mortgage and pledge its property hereinafter described or mentioned to secure the payment of the same;

WHEREAS, the Mortgagor desires to enter into this Mortgage pursuant to which all secured debt of the Mortgagor hereunder shall be secured on parity;

WHEREAS, this Mortgage restates and consolidates the Original Mortgage while preserving the priority of the Lien under the Original Mortgage securing the payment of Mortgagor's outstanding obligations secured under the Original Mortgage, which indebtedness is described more particularly by listing the Original Notes in Schedule ''A'' hereto; and

WHEREAS, all acts necessary to make this Mortgage a valid and binding legal instrument for the security of such notes and obligations, subject to the terms of this Mortgage, have been in all respects duly authorized;

NOW, THEREFORE, THIS MORTGAGE WITNESSETH: That to secure the payment of the principal of (and premium, if any) and interest on the Original Notes and all Notes issued hereunder according to their tenor and effect, and the performance of all provisions therein and herein contained, and in

consideration of the covenants herein contained and the purchase or guarantee of Notes by the guarantors or holders thereof, the Mortgagor has mortgaged, pledged and granted a continuing security interest in, and by these presents does hereby grant, bargain, sell, alienate, remise, release, convey, assign, transfer, hypothecate, pledge, set over and confirm, pledge, and grant a continuing security interest and lien in for the purposes hereinafter expressed [other language may be required under various state laws], unto the Mortgagees all property, rights, privileges and franchises of the Mortgagor of every kind and description, real, personal or mixed, tangible and intangible, of the kind or nature specifically mentioned herein OR ANY OTHER KIND OR NATURE, except any Excepted Property, now owned or hereafter acquired by the Mortgagor (by purchase, consolidation, merger, donation, construction, erection or in any other way) wherever located, including (without limitation) all and singular the following:

GRANTING CLAUSE FIRST

A. all of those fee and leasehold interests in real property set forth in Schedule ''B'' hereto, subject in each case to those matters set forth in such Schedule;

B. all of the Mortgagor's interest in fixtures, easements, permits, licenses and rights-of-way comprising real property, and all other interests in real property, comprising any portion of the Utility System (as herein defined) located in the Counties listed in Schedule ''B'' hereto;

C. all right, title and interest of the Mortgagor in and to those contracts of the Mortgagor (i) relating to the ownership, operation or maintenance of any generation, transmission or distribution facility owned, whether solely or jointly, by the Mortgagor, (ii) for the purchase of electric power and energy by the Mortgagor and having an original term in excess of 3 years, (iii) for the sale of electric power and energy by the Mortgagor and having an original term in excess of 3 years, and (iv) for the transmission of electric power and energy by or on behalf of the Mortgagor and having an original term in excess of 3 years, including in respect of any of the foregoing, any amendments, supplements and replacements thereto;

D. all the property, rights, privileges, allowances and franchises particularly described in the annexed Schedule ''B'' are hereby made a part of, and deemed to be described in, this Granting Clause as fully as if set forth in this Granting Clause at length; and

ALSO ALL OTHER PROPERTY, real estate, lands, easements, servitudes, licenses, permits, allowances, consents, franchises, privileges, rights of way and other rights in or relating to real estate or the occupancy of the same; all power sites, storage rights, water rights, water locations, water appropriations, ditches, flumes, reservoirs, reservoir sites, canals, raceways, waterways, dams, dam sites, aqueducts, and all other rights or means for appropriating, conveying, storing and supplying water; all rights of way and roads; all plants for the generation of electric and other forms of energy (whether now known or hereafter developed) by steam, water, sunlight, chemical processes and/or (without limitation) all other sources of power (whether now known or hereafter developed); all power houses, gas plants, street lighting systems, standards and other equipment incidental thereto; all telephone, radio, television and other communications, image and data transmission systems, air conditioning systems and equipment incidental thereto, water wheels, waterworks, water systems, steam and hot water plants, substations, lines, service and supply systems, bridges, culverts, tracks, ice or refrigeration plants and equipment, offices, buildings and other structures and the equipment thereto all machinery, engines, boilers, dynamos, turbines, electric, gas and other machines, prime movers, regulators, meters, transformers, generators (including, but not limited to, engine-driven generators and turbogenerator units), motors, electrical, gas and mechanical appliances, conduits, cables, water, steam, gas or other pipes, gas mains and pipes, service pipes, fittings, valves and connections, pole and transmission lines, towers, overhead conductors and devices, underground conduits, underground conductors and devices, wires, cables, tools, implements, apparatus, storage battery equipment, and all other fixtures and personalty; all municipal and other franchises, consents, certificates or permits; all emissions allowances; all lines for the transmission and distribution of electric current and other forms of energy, gas, steam, water or communications, images and data for any purpose including towers, poles, wires, cables, pipes, conduits, ducts and all apparatus for use in connection therewith, and (except as hereinbefore or hereinafter expressly excepted) all the right, title and interest of the Mortgagor in and to all other property of any kind or nature appertaining to and/or used and/or occupied and/or employed in connection with any property hereinbefore described, but in all circumstances excluding Excepted Property;

GRANTING CLAUSE SECOND

All other property, real, personal or mixed, of whatever kind and description and wheresoever situated, including without limitation goods, accounts, money held in a trust account pursuant hereto or to a Loan Agreement, and general intangibles now owned or which may be hereafter acquired by

the Mortgagor, but excluding Excepted Property, now owned or which may be hereafter acquired by the Mortgagor, it being the intention hereof that all property, rights, privileges, allowances and franchisees now owned by the Mortgagor or acquired by the Mortgagor after the date hereof (other than Excepted Property) shall be as fully embraced within and subjected to the lien hereof as if such property were specifically described herein.

GRANTING CLAUSE THIRD

Also any Excepted Property that may, from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien hereof by the Mortgagor or by anyone in its behalf; and any Mortgagee is hereby authorized to receive the same at any time as additional security hereunder for the benefit of all the Mortgagees. Such subjection to the lien hereof of any Excepted Property as additional security may be made subject to any reservations, limitations or conditions which shall be set forth in a written instrument executed by the Mortgagor or the person so acting in its behalf or by such Mortgagee respecting the use and disposition of such property or the proceeds thereof.

GRANTING CLAUSE FOURTH

Together with (subject to the rights of the Mortgagor set forth on Section [5.01]) all and singular the tenements, hereditaments and appurtenances belonging or in anywise appertaining to the aforesaid property or any part thereof, with the reversion and reversions, remainder and remainders and all the tolls, earnings, rents, issues, profits, revenues and other income, products and proceeds of the property subjected or required to be subjected to the lien of this Mortgage, and all other property of any nature appertaining to any of the plants, systems, business or operations of the Mortgagor, whether or not affixed to the realty, used in the operation of any of the premises or plants or the System, or otherwise, which are now owned or acquired by the Mortgagor, and all the estate, right, title and interest of every nature whatsoever, at law as well as in equity, of the Mortgagor in and to the same and every part thereof (other than Excepted Property with respect to any of the foregoing).

EXCEPTED PROPERTY

There is, however, expressly excepted and excluded from the lien and operation of this Mortgage the following described property of the Mortgagor, now owned or hereafter acquired (herein sometimes referred to as ''Excepted Property''):

A. all shares of stock, securities or other interests of the Mortgagor in the National Rural Utilities Cooperative Finance Corporation, the National Bank for Cooperatives and the St. Paul Bank for Cooperatives other than any stock, securities or other interests that are specifically described in Subclause D of Granting Clause First as being subjected to the lien hereof;

B. all rolling stock (except mobile substations), automobiles, buses, trucks, truck cranes, tractors, trailers and similar vehicles and movable equipment, and all tools, accessories and supplies used in connection with any of the foregoing;

C. all vessels, boats, ships, barges and other marine equipment, all airplanes, airplane engines and other flight equipment, and all tools, accessories and supplies used in connection with any of the foregoing;

D. all office furniture, equipment and supplies that is not data processing, accounting or other computer equipment or software;

E. all leasehold interests for office purposes;

F. all leasehold interests of the Mortgagor under leases for an original term (including any period for which the Mortgagor shall have a right of renewal) of less than five (5) years;

G. all timber and crops (both growing and harvested) and all coal, ore, gas, oil and other minerals (both in place or severed);

H. the last day of the term of each leasehold estate (oral or written) and any agreement therefor, now or hereafter enjoyed by the Mortgagor and whether falling within a general or specific description of property herein: PROVIDED, HOWEVER, that the Mortgagor covenants and agrees that it will hold each such last day in trust for the use and benefit of all of the Mortgagees and Noteholders and that it will dispose of each such last day from time to time in accordance with such written order as the Mortgagee in its discretion may give;

I. all permits, licenses, franchises, contracts, agreements, contract rights and other rights not specifically subjected or required to be subjected to the lien hereof by the express provisions of this Mortgage, whether now owned or hereafter acquired by the Mortgagor, which by their terms or by reason of applicable law would become void or voidable if mortgaged or pledged hereunder by the Mortgagor, or which cannot be granted, conveyed, mortgaged, transferred or assigned by this Mortgage without the consent of other parties whose consent has been withheld, or without subjecting any Mortgagee to a liability not otherwise contemplated by the provisions of this Mortgage, or which otherwise may not be, hereby lawfully and effectively granted, conveyed, mortgaged, transferred and assigned by the Mortgagor; and

J. the property identified in Schedule ''C'' hereto.

PROVIDED, HOWEVER, that (i) if, upon the occurrence of an Event of Default, any

Mortgagee, or any receiver appointed pursuant to statutory provision or order of court, shall have entered into possession of all or substantially all of the Mortgaged Property, all the Excepted Property described or referred to in the foregoing Subdivisions A through H, inclusive, then owned or thereafter acquired by the Mortgagor shall immediately, and, in the case of any Excepted Property described or referred to in Subdivisions I through J, inclusive, upon demand of any Mortgagee or such receiver, become subject to the lien hereof to the extent permitted by law, and any Mortgagee or such receiver may, to the extent permitted by law, at the same time likewise take possession thereof, and (ii) whenever all Events of Default shall have been cured and the possession of all or substantially all of the Mortgaged Property shall have been restored to the Mortgagor, such Excepted Property shall again be excepted and excluded from the lien hereof to the extent and otherwise as hereinabove set forth.

However, pursuant to Granting Clause Third, the Mortgagor may subject to the lien of this Mortgage any Excepted Property, whereupon the same shall cease to be Excepted Property.

HABENDUM

TO HAVE AND TO HOLD all said property, rights, privileges and franchises of every kind and description, real, personal or mixed, hereby and hereafter (by supplemental mortgage or otherwise) granted, bargained, sold, aliened, remised, released, conveyed, assigned, transferred, mortgaged, encumbered, hypothecated, pledged, setover, confirmed, or subjected to a continuing security interest and lien as aforesaid, together with all the appurtenances thereto appertaining (said properties, rights, privileges and franchises, including any cash and securities hereafter deposited with any Mortgagee ((other than any such cash, if any, which is specifically stated herein not to be deemed part of the Mortgaged Property)), being herein collectively called the ''Mortgaged Property'') unto the Mortgagees and the respective assigns of the Mortgagees forever, to secure equally and ratably the payment of the principal of (and premium, if any) and interest on the Notes, according to their terms, without preference, priority or distinction as to interest or principal (except as otherwise specifically provided herein) or as to lien or otherwise of any Note over any other Note by reason of the priority in time of the execution, delivery or maturity thereof or of the assignment or negotiation thereof, or otherwise, and to secure the due performance of all of the covenants, agreements and provisions herein and in the Loan Agreements contained, and for the uses and purposes and upon the terms, conditions, provisos and agreements hereinafter expressed and declared.

SUBJECT, HOWEVER, to Permitted Encumbrances (as defined in Section 1.01).

ARTICLE I

DEFINITIONS & OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01. *Definitions*. In addition to the terms defined elsewhere in this Mortgage, the terms defined in this Article I shall have the meanings specified herein and under the UCC, unless the context clearly requires otherwise. The terms defined herein include the plural as well as the singular and the singular as well as the plural.

Accounting Requirements shall mean the requirements of any system of accounts prescribed by RUS so long as the Government is the holder, insurer or guarantor of any Notes, or, in the absence thereof, the requirements of generally accepted accounting principles applicable to businesses similar to that of the Mortgagor.

Additional Notes shall mean any Notes issued by the Mortgagor to the Government or any other lender pursuant to Article II of this Mortgage including any refunding, renewal, or substitute Notes which may from time to time be executed and delivered by the Mortgagor pursuant to the terms of Article II.

Board shall mean either the Board of Directors or the Board of Trustees, as the case may be, of the Mortgagor.

Business Day shall mean any day that the Government is open for business.

Debt Service Coverage Ratio (''DSC'') shall mean the ratio determined as follows: for each calendar year add (i) Patronage Capital or Margins of the Mortgagor, (ii) Interest Expense on Total Long Term Debt of the Mortgagor (as computed in accordance with the principles set forth in the definition of TIER) and (iii) Depreciation and Amortization Expense of the Mortgagor, and divide the total so obtained by an amount equal to the sum of all payments of principal and interest required to be made on account of Total Long-Term Debt during such calendar year increasing said sum by any addition to interest expense on account of Restricted Rentals as computed with respect to the Times Interest Earned Ratio herein.

Depreciation and Amortization Expense shall mean an amount constituting the depreciation and amortization of the Mortgagor as computed pursuant to Accounting Requirements.

Electric System shall mean, and shall be broadly construed to encompass and include, all of the Mortgagor's interests in all electric production, transmission, distribution, conservation, load management, general plant and other related facilities, equipment or property and in any mine, well, pipeline,

plant, structure or other facility for the development, production, manufacture, storage, fabrication or processing of fossil, nuclear or other fuel of any kind or in any facility or rights with respect to the supply of water, in each case for use, in whole or in major part, in any of the Mortgagor's generating plants, now existing or hereafter acquired by lease, contract, purchase or otherwise or constructed by the Mortgagor, including any interest or participation of the Mortgagor in any such facilities or any rights to the output or capacity thereof, together with all additions, betterments, extensions and improvements to such Electric System or any part thereof hereafter made and together with all lands, easements and rights-of-way of the Mortgagor and all other works, property or structures of the Mortgagor and contract rights and other tangible and intangible assets of the Mortgagor used or useful in connection with or related to such Electric System, including without limitation a contract right or other contractual arrangement referred to in Granting Clause First, Subclause [(C)] but excluding any excepted property.

Environmental Law and *Environmental Laws* shall mean all federal, state, and local laws, regulations, and requirements related to protection of human health or the environment, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*), the Clean Water Act (33 U.S.C. 1251 *et seq.*) and the Clean Air Act (42 U.S.C. 7401 *et seq.*), and any amendments and implementing regulations of such acts.

Equity shall mean the total margins and equities and margins computed pursuant to Accounting Requirements, but excluding any Regulatory Created Assets.

Event of Default shall have the meaning specified in Section [4.01] hereof.

Excepted Property shall have the meaning stated in the Granting Clauses.

Government shall mean the United States of America acting by and through the Administrator of RUS and shall include its successors and assigns.

Government Notes shall mean the Original Notes, and any Additional Notes, issued by the Mortgagor to the Government, or guaranteed or insured as to payment by the Government.

Independent shall mean when used with respect to any specified person or entity means such a person or entity who (1) is in fact independent, (2) does not have any direct financial interest or any material indirect financial interest in the Mortgagor or in any affiliate of the Mortgagor and (3) is not connected with the Mortgagor as an officer, employee, promoter, underwriter, trustee, partner, director or person performing similar functions.

Interest Expense shall mean an amount constituting the interest expense of the Mortgagor as computed pursuant to Accounting Requirements.

Lien shall mean any statutory or common law consensual or non-consensual mortgage, pledge, security interest, encumbrance, lien, right of set off, claim or charge of any kind, including, without limitation, any conditional sale or other title retention transaction, any lease transaction in the nature thereof and any secured transaction under the UCC.

Loan Agreement shall mean any agreement executed by and between the Mortgagor and the Government or any other lender in connection with the execution and delivery of any Notes secured hereby.

Long-Term Debt shall mean any amount included in Total Long-Term Debt pursuant to Accounting Requirements.

Long-Term Lease shall mean a lease having an unexpired term (taking into account terms of renewal at the option of the lessor, whether or not such lease has previously been renewed) of more than 12 months.

Margins shall mean the sum of amounts recorded as operating margins and non-operating margins as computed in accordance with Accounting Requirements.

Maximum Debt Limit, if any, shall mean the amount more particularly described in Schedule ''A'' hereof.

Mortgage shall mean this Restated Mortgage and Security Agreement, including any amendments or supplements thereto from time to time.

Mortgaged Property shall have the meaning specified as stated in the Habendum to the Granting Clauses.

MORTGAGEE or MORTGAGEES shall mean the Government, _____ {the supplemental lender}, _____ their successors and assigns as well as any and all other lenders pursuant to Article II of this Mortgage that enter into a supplemental mortgage in accordance with Section [2.04] of Article II hereof, their successors and assigns.

Net Utility Plant shall mean the amount constituting the total utility plant of the Mortgagor less depreciation computed in accordance with Accounting Requirements.

Note or Notes shall mean one or more of the Government Notes, and any other Notes which may, from time to time, be secured under this Mortgage.

Noteholder or Noteholders shall mean one or more of the holders of Notes secured by this Mortgage; PROVIDED, however, that in the case of any Notes that have been guaranteed or insured as to payment by RUS, as to such Notes Noteholder or Noteholders shall mean RUS, exclusively, regardless of whether such notes are in the possession of RUS.

Original Mortgage means the instrument(s) identified as such in Schedule ''A'' hereof.

Original Notes shall mean the Notes listed on Schedule ''A'' hereto as such, such Notes being instruments evidencing outstanding indebtedness of the Mortgagor (i) to the Government (including indebtedness which has been issued by the Mortgagor to a third party and guaranteed or insured as to payment by the Government) and (ii) to each other Mortgagee on the date of this Mortgage.

Outstanding Notes shall mean as of the date of determination, (i) all Notes theretofore issued, executed and delivered to any Mortgagee and (ii) any Notes guaranteed or insured as to payment by the Government, *except* (a) Notes referred to in clause (i) or (ii) for which the principal and interest have been fully paid and which have been canceled by the Noteholder, and (b) Notes the payment for which has been provided for pursuant to Section [5.03].

Permitted Debt shall have the meaning specified in Section [3.08].

Permitted Encumbrances shall mean:

(1) as to the property specifically described in Granting Clause First, the restrictions, exceptions, reservations, conditions, limitations, interests and other matters which are set forth or referred to in such descriptions and each of which fits one or more of the clauses of this definition, PROVIDED, such matters do not in the aggregate materially detract from the value of the Mortgaged Property taken as a whole and do not materially impair the use of such property for the purposes for which it is held by the Mortgagor;

(2) liens for taxes, assessments and other governmental charges which are not delinquent;

(3) liens for taxes, assessments and other governmental charges already delinquent which are currently being contested in good faith by appropriate proceedings; PROVIDED the Mortgagor shall have set aside on its books adequate reserves with respect thereto;

(4) mechanics', workmen's, repairmen's, materialmen's, warehousemen's and carriers' liens and other similar liens arising in the ordinary course of business for charges which are not delinquent, or which are being contested in good faith and have not proceeded to judgment; PROVIDED the Mortgagor shall have set aside on its books adequate reserves with respect thereto;

(5) liens in respect of judgments or awards with respect to which the Mortgagor shall in good faith currently be prosecuting an appeal or proceedings for review and with respect to which the Mortgagor shall have secured a stay of execution pending such appeal or proceedings for review; PROVIDED the Mortgagor shall have set aside on its books adequate reserves with respect thereto;

(6) easements and similar rights granted by the Mortgagor over or in respect of any Mortgaged Property, PROVIDED that in the opinion of the Board or a duly authorized officer of the Mortgagor such grant will not impair the usefulness of such property in the conduct of the Mortgagor's business and will not be prejudicial to the interests of the Mortgagees, and similar rights granted by any predecessor in title of the Mortgagor;

(7) easements, leases, reservations or other rights of others in any property of the Mortgagor for streets, roads, bridges, pipes, pipe lines, railroads, electric transmission and distribution lines, telegraph and telephone lines, the removal of oil, gas, coal or other minerals and other similar purposes, flood rights, river control and development rights, sewage and drainage rights, restrictions against pollution and zoning laws and minor defects and irregularities in the record evidence of title, PROVIDED that such easements, leases, reservations, rights, restrictions, laws, defects and irregularities do not materially affect the marketability of title to such property and do not in the aggregate materially impair the use of the Mortgaged Property taken as a whole for the purposes for which it is held by the Mortgagor;

(8) liens upon lands over which easements or rights of way are acquired by the Mortgagor for any of the purposes specified in Clause [(7)] of this definition, securing indebtedness neither created, assumed nor guaranteed by the Mortgagor nor on account of which it customarily pays interest, which liens do not materially impair the use of such easements or rights of way for the purposes for which they are held by the Mortgagor;

(9) leases existing at the date of this instrument affecting property owned by the Mortgagor at said date which have been previously disclosed to the Mortgagees in writing and leases for a term of not more than two years (including any extensions or renewals) affecting property acquired by the Mortgagor after said date;

(10) terminable or short term leases or permits for occupancy, which leases or permits expressly grant to the Mortgagor the right to terminate them at any time on not more than six months' notice and which occupancy does not interfere with the operation of the business of the Mortgagor;

(11) any lien or privilege vested in any lessor, licensor or permittor for rent to become due or for other obligations or acts to be performed, the payment of which rent or performance of which other obligations or acts is required under leases, subleases, licenses or permits, so long as the payment of such rent or the performance of such other obligations or acts is not delinquent;

(12) liens or privileges of any employees of the Mortgagor for salary or wages earned but not yet payable;

(13) the burdens of any law or governmental regulation or permit requiring the Mortgagor to maintain certain facilities or perform certain acts as a condition of its occupancy of or interference with any public lands or any river or stream or navigable waters;

(14) any irregularities in or deficiencies of title to any rights-of-way for pipe lines, telephone lines, telegraph lines, power lines or appurtenances thereto, or other improvements thereon, and to any real estate used or to be used primarily for right-of-way purposes, PROVIDED that in the opinion of counsel for the Mortgagor, the Mortgagor shall have obtained from the apparent owner of the lands or estates therein covered by any such right-of-way a sufficient right, by the terms of the instrument granting such right-of-way, to the use thereof for the construction, operation or maintenance of the lines, appurtenances or improvements for which the same are used or are to be used, or PROVIDED that in the opinion of counsel for the Mortgagor, the Mortgagor has power under eminent domain, or similar statutes, to remove such irregularities or deficiencies;

(15) rights reserved to, or vested in, any municipality or governmental or other public authority to control or regulate any property of the Mortgagor, or to use such property in any manner, which rights do not materially impair the use of such property, for the purposes for which it is held by the Mortgagor;

(16) any obligations or duties, affecting the property of the Mortgagor, to any municipality or governmental or other public authority with respect to any franchise, grant, license or permit;

(17) any right which any municipal or governmental authority may have by virtue of any franchise, license, contract or statute to purchase, or designate a purchaser of or order the sale of, any property of the Mortgagor upon payment of cash or reasonable compensation therefor or to terminate any franchise, license or other rights or to regulate the property and business of the Mortgagor; PROVIDED, HOWEVER, that nothing in this clause 17 is intended to waive any claim or rights that the Government may otherwise have under Federal laws;

(18) as to properties of other operating electric companies acquired after the date of this Mortgage by the Mortgagor as permitted by Section [3.10] hereof, reservations and other matters as to which such properties may be subject as more fully set forth in such Section;

(19) any lien required by law or governmental regulations as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the Mortgagor to maintain self-insurance or to participate in any fund established to cover any insurance risks or in connection with workmen's compensation, unemployment insurance, old age pensions or other social security, or to share in the privileges or benefits required for companies participating in such arrangements; PROVIDED, HOWEVER, that nothing in this clause 19 is intended to waive any claim or rights that the Government may otherwise have under Federal laws;

(20) liens arising out of any defeased mortgage or indenture of the Mortgagor;

(21) the undivided interest of other owners, and liens on such undivided interests, in property owned jointly with the Mortgagor as well as the rights of such owners to such property pursuant to the ownership contracts;

(22) any lien or privilege vested in any lessor, licensor or permittor for rent to become due or for other obligations or acts to be performed, the payment of which rent or the performance of which other obligations or acts is required under leases, subleases, licenses or permits, so long as the payment of such rent or the performance of such other obligations or acts is not delinquent;

(23) purchase money mortgages permitted by Section [3.08]; and

(24) the Original Mortgage.

Property Additions shall mean Utility System property as to which the Mortgagor shall provide Title Evidence and which shall be (or, if retired, shall have been) subject to the lien of this Mortgage, which shall be properly chargeable to the Mortgagor's utility plant accounts under Accounting Requirements (including property constructed or acquired to replace retired property credited to such accounts) and which shall be:

(1) acquired (including acquisition by merger, consolidation, conveyance or transfer) or constructed by the Mortgagor after the date hereof, including property in the process of construction, insofar as not reflected on the books of the Mortgagor with respect to periods on or prior to the date hereof, and

(2) used or useful in the utility business of the Mortgagor conducted with the properties described in the Granting Clauses of this Mortgage, even though separate from and not physically connected with such properties.

''Property Additions'' shall also include:

(3) easements and rights-of-way that are useful for the conduct of the utility business of the Mortgagor, and

(4) property located or constructed on, over or under public highways, rivers or other public property if the Mortgagor has the lawful right under permits, licenses or franchises granted by a governmental body having jurisdiction in the premises or by the law

of the State in which such property is located to maintain and operate such property for an unlimited, indeterminate or indefinite period or for the period, if any, specified in such permit, license or franchise or law and to remove such property at the expiration of the period covered by such permit, license or franchise or law, or if the terms of such permit, license, franchise or law require any public authority having the right to take over such property to pay fair consideration therefor.

''Property Additions'' shall NOT include:

(a) good will, going concern value, contracts, agreements, franchises, licenses or permits, whether acquired as such, separate and distinct from the property operated in connection therewith, or acquired as an incident thereto, or

(b) any shares of stock or indebtedness or certificates or evidences of interest therein or other securities, or

(c) any plant or system or other property in which the Mortgagor shall acquire only a leasehold interest, or any betterments, extensions, improvements or additions (other than movable physical personal property which the Mortgagor has the right to remove), of, upon or to any plant or system or other property in which the Mortgagor shall own only a leasehold interest unless (i) the term of the leasehold interest in the property to which such betterment, extension, improvement or addition relates shall extend for at least 75% of the useful life of such betterment, extension, improvement or addition and (ii) the lessor shall have agreed to give the Mortgagee reasonable notice and opportunity to cure any default by the Mortgagor under such lease and not to disturb any Mortgagee's possession of such leasehold estate in the event any Mortgagee succeeds to the Mortgagor's interest in such lease upon any Mortgagee's exercise of any remedies under this Mortgage so long as there is no default in the performance of the tenant's covenants contained therein, or

(d) any property of the Mortgagor subject to the Permitted Encumbrance described in clause [(23)] of the definition thereof.

Prudent Utility Practice shall mean any of the practices, methods and acts which, in the exercise of reasonable judgment, in light of the facts, including, but not limited to, the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result consistent with cost-effectiveness, reliability, safety and expedition. It is recognized that Prudent Utility Practice is not intended to be limited to optimum practice, method or act to the exclusion of all others, but rather is a spectrum of possible practices, methods or acts which could have been expected to accomplish the desired result at the lowest reasonable cost consistent with cost-effectiveness, reliability, safety and expedition.

REA shall mean the Rural Electrification Administration of the United States Department of Agriculture, the predecessor of RUS.

Regulatory Created Assets shall mean the sum of any amounts properly recordable as unrecovered plant and regulatory study costs or as other regulatory assets, pursuant to Accounting Requirements.

Restricted Rentals shall mean all rentals required to be paid under finance leases and charged to income, exclusive of any amounts paid under any such lease (whether or not designated therein as rental or additional rental) for maintenance or repairs, insurance, taxes, assessments, water rates or similar charges. For the purpose of this definition the term ''finance lease'' shall mean any lease having a rental term (including the term for which such lease may be renewed or extended at the option of the lessee) in excess of 3 years and covering property having an initial cost in excess of $250,000 other than aircraft, ships, barges, automobiles, trucks, trailers, rolling stock and vehicles; office, garage and warehouse space; office equipment and computers.

RUS shall mean the Rural Utilities Service, an agency of the United States Department of Agriculture, or if at any time after the execution of this Mortgage RUS is not existing and performing the duties of administering a program of rural electrification as currently assigned to it, then the entity performing such duties at such time.

Security Interest shall mean any assignment, transfer, mortgage, hypothecation or pledge.

Subordinated Indebtedness shall mean secured indebtedness of the Mortgagor, payment of which shall be subordinated to the prior payment of the Notes in accordance with the provisions of Section [3.08] hereof by subordination agreement in form and substance satisfactory to each Mortgagee which approval will not be unreasonably withheld.

Supplemental Mortgage shall mean an instrument of the type described in Section [2.04].

Times Interest Earned Ratio (''TIER'') shall mean the ratio determined as follows: for each calendar year: add (i) patronage capital or margins of the Mortgagor and (ii) Interest Expense on Total Long-Term Debt of the Mortgagor and divide the total so obtained by Interest Expense on Total Long-Term Debt of the Mortgagor, *provided, however,* that in computing Interest Expense on Total Long-Term Debt, there shall be added, to the extent not otherwise included, an amount equal to 33–1/3% of the excess of Restricted Rentals paid by the Mortgagor over 2% of the Mortgagor's Equity.

Title Evidence shall mean with respect to any real property:

(1) an opinion of counsel to the effect that the Mortgagor has title, whether fairly deducible of record or based upon prescriptive rights (or, as to personal property, based on such evidence as counsel shall determine to be sufficient), as in the opinion of counsel is satisfactory for the use thereof in connection with the operations of the Mortgagor, and counsel in giving such opinion may disregard any irregularity or deficiency in the record evidence of title which, in the opinion of such counsel, can be cured by proceedings within the power of the Mortgagor or does not substantially impair the usefulness of such property for the purpose of the Mortgagor and may base such opinion upon counsel's own investigation or upon affidavits, certificates, abstracts of title, statements or investigations made by persons in whom such counsel has confidence or upon examination of a certificate or guaranty of title or policy of title insurance in which counsel has confidence; or

(2) a mortgagee's policy of title insurance in the amount of the cost to the Mortgagor of the land included in Property Additions, as such cost is determined by the Mortgagor in accordance with the Accounting Requirements, issued in favor of the Mortgagees by an entity authorized to insure title in the states where the subject property is located, showing the Mortgagor as the owner of the subject property and insuring the lien of this Mortgage; and with respect to any *personal property* a certificate of the general manage or other duly authorized officer that the Mortgagor lawfully owns and is possessed of such property.

Total Assets shall mean an amount constituting total assets of the Mortgagor as computed pursuant to Accounting Requirements, but excluding any Regulatory Created Assets.

Total Long-Term Debt shall mean the total outstanding long-term debt of the Mortgagor as computed pursuant to Accounting Requirements.

Total Utility Plant shall mean the total of all property properly recorded in the utility plant accounts of the Mortgagor, pursuant to Accounting Requirements.

Uniform Commercial Code or UCC shall mean the UCC of the state referred to in Section [1.04], and if Mortgaged Property is located in a state other than that state, then as to such Mortgaged Property UCC refers to the UCC in effect in the state where such property is located.

Utility System shall mean the Electric System and all of the Mortgagor's interest in community infrastructure located substantially within its electric service territory, namely water and waste systems, solid waste disposal facilities, telecommunications and other electronic communications systems, and natural gas distribution systems.

SECTION 1.02. *General Rules of Construction:*

a. Accounting terms not referred to above are used in this Mortgage in their ordinary sense and any computations relating to such terms shall be computed in accordance with the Accounting Requirements.

b. Any reference to ''directors'' or ''board of directors'' shall be deemed to mean ''trustees'' or ''board of trustees,'' as the case may be.

SECTION 1.03. *Special Rules of Construction if RUS is a Mortgagee:* During any period that RUS is a Mortgagee, the following additional provisions shall apply:

a. In the case of any Notes that have been guaranteed or insured as to payment by RUS, as to such Notes RUS shall be considered to be the Noteholder, exclusively, regardless of whether such Notes are in the possession of RUS.

b. In the case of any prior approval rights conferred upon RUS by Federal statutes, including (without limitation) Section 7 of the Rural Electrification Act of 1936, as amended, with respect to the sale or disposition of property, rights, or franchises of the Mortgagor, all such statutory rights are reserved except to the extent that they are expressly modified or waived in this Mortgage.

SECTION 1.04. *Governing Law:* This Mortgage shall be construed in and governed by Federal law to the extent applicable, and otherwise by the laws of the State of _____.

SECTION 1.05 *Notices:* All demands, notices, reports, approvals, designations, or directions required or permitted to be given hereunder shall be in writing and shall be deemed to be properly given if sent by registered or certified mail, postage prepaid, or delivered by hand, or sent by facsimile transmission, receipt confirmed, addressed to the proper party or parties at the following address:

As to the Mortgagor:

_____

_____

_____

As to the Mortgagee:

Rural Utilities Service,
United States Department of Agriculture,
Washington, DC 20250–1500

_____

_____

_____

and as to any other person, firm, corporation or governmental body or agency having an interest herein by reason of being a Mortgagee, at the last address designated by such person, firm, corporation, governmental body or agency to the Mortgagor and the other Mortgagees. Any such party may from time to time designate to each other a new address to which demands, notices, reports, approvals, designations or directions may be

addressed, and from and after any such designation the address designated shall be deemed to be the address of such party in lieu of the address given above.

ARTICLE II

ADDITIONAL NOTES

SECTION 2.01. *Additional Notes:* (a) Without the prior consent of any Mortgagee or any Noteholder, the Mortgagor may issue Additional Notes to the Government or to another lender or lenders for the purpose of acquiring, procuring or constructing new or replacement Eligible Property Additions which Notes will thereupon be secured equally and ratably with the Notes if each of the following requirements are satisfied:

(1) As evidenced by a certificate of an Independent certified public accountant sent to each Mortgagee on or before the first advance of proceeds from such Additional Notes:

(i) The Mortgagor shall have achieved for each of the two calendar years immediately preceding the issuance of such Additional Notes, a TIER of not less than 1.25 and a DSC of not less than 1.25;

(ii) After taking into account the effect of such Additional Notes on the Total Long Term Debt of the Mortgagor, the ratio of the Mortgagor's Net Utility Plant to its Total Long Term Debt shall be greater than or equal to 1.0 on a pro forma basis;

(iii) After taking into account the effect of such Additional Notes on the Total Assets of such Mortgagor, the Mortgagor shall have Equity greater than or equal to 27 percent of Total Assets on a pro forma basis; and

(iv) The sum of the aggregate principal amount of such Additional Notes (if any) that are not related to the Electric System if added to the aggregate outstanding principal amount of all the existing Notes (if any) that are not related to the Electric System will not exceed 30% of the Mortgagor's Equity on a pro forma basis.

(2) No Event of Default has occurred and is continuing hereunder, or any event which with the giving of notice or lapse of time or both would become an Event of Default has occurred and is continuing.

(3) The Eligible Property Additions being constructed, acquired, procured or replaced are part of the Mortgagor's Utility System.

(4) The Borrower's general manager or other duly authorized officer shall send to each of the Mortgagees a certificate in substantially the form attached hereto as [Exhibit A] on or before the date of the first advance of proceeds from such Additional Notes.

(b) For purposes of this section:

(1) ''Eligible Property Additions'' shall mean Property Additions acquired or whose construction was completed not more than 5 years prior to the issuance of the Additional Notes and Property Additions acquired or whose construction is started and/or completed not more than 4 years after issuance of the Additional Notes, but shall exclude any Property Additions financed by any other debt secured under the Mortgage at the time additional Notes are issued;

(2) Notes are considered to be ''issued'' on, and the date of ''issuance'' shall be, the date on which they are executed by the Mortgagor; and

(3) For purposes of calculating the pro forma ratios in subparagraphs (a)(1)(ii) and (iii), the values for Total Long Term Debt and Total Assets before debt issuance and the values for Equity and Net Utility Plant shall be the most recently available end-of-month figures preceding the issuance of the Additional Notes, but in no case for a month ending more than 180 days preceding such issuance.

SECTION 2.02. *Refunding or Refinancing Notes:* The Mortgagor shall also have the right without the consent of any Mortgagee or any Noteholder to issue Additional Notes for the purpose of refunding or refinancing any Notes so long as the total amount of outstanding indebtedness evidenced by such Additional Note or Notes is not greater than 105% of the then outstanding principal balance of the Note or Notes being refunded or refinanced. PROVIDED, HOWEVER, that the Mortgagor may not exercise its rights under this Section if an Event of Default has occurred and is continuing, or any event which with the giving of notice or lapse of time or both would become an Event of Default has occurred and is continuing. On or before the first advance of proceeds from Notes issued under this section, the Mortgagor shall notify each Mortgagee of the refunding or refinancing. Additional Notes issued pursuant to this Section [2.02] will thereupon be secured equally and ratably with the Notes.

SECTION 2.03. *Other Additional Notes.* With the prior written consent of each Mortgagee, the Mortgagor may issue Additional Notes to the Government or any lender or lenders, which Notes will thereupon be secured equally and ratably with Notes without regard to whether any of the requirements of Sections [2.01] or [2.02] are satisfied.

SECTION 2.04. *Additional Lenders Entitled to the Benefits of This Mortgage:* Without the prior consent of any Mortgagee or any Noteholder, each new lender designated as a payee in any Additional Notes issued by the Mortgagor pursuant to Section [2.01] or [2.02] of this Mortgage shall become a Mortgagee hereunder upon the execution and delivery by the Mortgagor and such lender of a supplemental mortgage hereto designating such lender as a Mortgagee hereunder. Such new lender shall be entitled to the benefits of this Mortgage without further act or deed. Each Mortgagee and each person or entity that becomes a lender pursuant to Section [2.01] or

[2.02] of this Mortgage shall, upon the request of the Mortgagor to do so, execute and deliver a supplement to this Mortgage in substantially the form set forth in Section [2.05] to evidence the addition of such new lender as an additional Mortgagee entitled to the benefits of this Mortgage. The failure of any existing Mortgagee to enter into such supplemental mortgage shall not deprive the new lender of its rights under this Mortgage; provided that such additional indebtedness otherwise conforms in all respects with the requirements for issuing Additional Notes under this Mortgage.

SECTION 2.05. *Form of Supplemental Mortgage:* (a) The form of supplemental mortgage referred to in Section [2.04] is attached to this Mortgage as Exhibit B and hereby incorporated by reference as if set forth in full at this point.

(b) In the event that the Mortgagor subsequently issues Additional Notes pursuant to Sections [2.01] or [2.02] to any existing Mortgagee and that Mortgagee desires further assurance that such Additional Notes will be secured by the lien of the Mortgage, an instrument substantially in the form of the supplemental mortgage attached as Exhibit B may be used.

(c) In the event that the Mortgagor issues Additional Notes pursuant to Section [2.03] to either an existing Mortgagee or a new lender, in either case with the prior written consent of each Mortgagee, then an instrument substantially in the form of the supplemental mortgage attached as Exhibit B may also be used.

ARTICLE III—PARTICULAR COVENANTS OF THE MORTGAGOR

SECTION 3.01. *Payment of Debt Service on Notes:* The Mortgagor will duly and punctually pay the principal, premium, if any, and interest on the Notes in accordance with the terms of the Notes, the Loan Contracts, this Mortgage and any Supplemental Mortgage authorizing such Notes.

SECTION 3.02. *Warranty of Title:* (a) At the time of the execution and delivery of this instrument, the Mortgagor has good and marketable title in fee simple to the real property specifically described in Granting Clause First as owned in fee and good and marketable title to the interests in real property specifically described in Granting Clause [First], subject to no mortgage, lien, charge or encumbrance except as stated therein, and has full power and lawful authority to grant, bargain, sell, alien, remise, release, convey, assign, transfer, encumber, mortgage, pledge, set over and confirm said real property and interests in real property in the manner and form aforesaid.

(b) At the time of the execution and delivery of this instrument, the Mortgagor lawfully owns and is possessed of the personal property specifically described in Granting Clauses [First and Second], subject to no mortgage, lien, charge or encumbrance except as stated therein, and has full power and lawful authority to mortgage, assign, transfer, deliver, pledge and grant a continuing security interest in said property and, including any proceeds thereof, in the manner and form aforesaid.

(c) The Mortgagor hereby does and will forever warrant and defend the title to the property specifically described in Granting Clause First against the claims and demands of all persons whomsoever, except Permitted Encumbrances.

SECTION 3.03. *After-Acquired Property; Further Assurances; Recording:* (a) All property of every kind, other than Excepted Property, acquired by the Mortgagor after the date hereof, shall, immediately upon the acquisition thereof by the Mortgagor, and without any further mortgage, conveyance or assignment, become subject to the lien of this Mortgage; SUBJECT, HOWEVER, to Permitted Encumbrances and the exceptions, if any, to which all of the Mortgagees consent. Nevertheless, the Mortgagor will do, execute, acknowledge and deliver all and every such further acts, conveyances, mortgages, financing statements and assurances as any Mortgagee shall require for accomplishing the purposes of this Mortgage.

(b) The Mortgagor will cause this Mortgage and all Supplemental Mortgages and other instruments of further assurance, including all financing statements covering security interests in personal property, to be promptly recorded, registered and filed, and will execute and file such financing statements and cause to be issued and filed such continuation statements, all in such manner and in such places as may be required by law fully to preserve and protect the rights of all of the Mortgagees and Noteholders hereunder to all property comprising the Mortgaged Property. The Mortgagor will furnish to each Mortgagee:

(1) promptly after the execution and delivery of this instrument and of each Supplemental Mortgage or other instrument of further assurance, an Opinion of Counsel stating that, in the opinion of such Counsel, this instrument and all such Supplemental Mortgages and other instruments of further assurance have been properly recorded, registered and filed to the extent necessary to make effective the lien intended to be created by this Mortgage, and reciting the details of such action or referring to prior Opinions of Counsel in which such details are given, and stating that all financing statements and continuation statements have been executed and filed that are necessary fully to preserve and protect the rights of all of the Mortgagees and Noteholders hereunder, or stating that, in the opinion of such Counsel, no such action is necessary to make the lien effective; and

(2) within 30 days after _____ in each year beginning with the year ____, an Opinion of Counsel, dated as of such date, either stating that, in the opinion of such Counsel, such action has been taken with respect to the recording, registering, filing, re-recording, re-registering and re-filing of this instrument and of all Supplemental Mortgages, financing statements, continuation statements or other instruments of further assurances as is necessary to maintain the lien of this Mortgage (including the lien on any property acquired by the Mortgagor after the execution and delivery of this instrument and owned by the Mortgagor at the end of preceding calendar year) and reciting the details of such action or referring to prior Opinions of Counsel in which such details are given, and stating that all financing statements and continuation statements have been executed and filed that are necessary to fully preserve and protect the rights of all of the Mortgagee*s* and Noteholders hereunder, or stating that, in the opinion of such Counsel, no such action is necessary to maintain such lien.

SECTION 3.04. *Environmental Requirements and Indemnity:* (a) The Mortgagor shall, with respect to all facilities which may be part of the Mortgaged Property, comply with all Environmental Laws.

(b) The Mortgagor shall defend, indemnify, and hold harmless each Mortgagee, its successors and assigns, from and against any and all liabilities, losses, damages, costs, expenses (including but not limited to reasonable attorneys' fees and expenses), causes of actions, administrative proceedings, suits, claims, demands, or judgments of any nature arising out of or in connection with any matter related to the Mortgage Property and any Environmental Law, including but not limited to:

(1) the past, present, or future presence of any hazardous substance, contaminant, pollutant, or hazardous waste on or related to the Mortgaged Property;

(2) any failure at any time by the undersigned to comply with the terms of any order related to the Mortgaged Property and issued by any federal, state, or municipal department or agency (other than RUS) exercising its authority to enforce any Environmental Law; and

(3) any lien or claim imposed under any Environmental Law related to clause (1).

(c) Within 10 (ten) business days after receiving knowledge of any liability, losses, damages, costs, expenses (including but not limited to reasonable attorneys' fees and expenses), cause of action, administrative proceeding, suit, claim, demand, judgment, lien, reportable event including but not limited to the release of a hazardous substance, or potential or actual violation or non-compliance arising out of or in connection with the Mortgaged Property and any Environmental Law, the Mortgagor shall provide each Mortgagee with written notice of such matter. With respect to any matter upon which it has provided such notice, the Mortgagor shall immediately take any and all appropriate actions to remedy, cure, defend, or otherwise affirmatively respond to the matter.

SECTION 3.05. *Payment of Taxes:* The Mortgagor will pay or cause to be paid as they become due and payable all taxes, assessments and other governmental charges lawfully levied or assessed or imposed upon the Mortgaged Property or any part thereof or upon any income therefrom, and also (to the extent that such payment will not be contrary to any applicable laws) all taxes, assessments and other governmental charges lawfully levied, assessed or imposed upon the lien or interest of the Noteholders or of the Mortgagees in the Mortgaged Property, so that (to the extent aforesaid) the lien of this Mortgage shall at all times be wholly preserved at the cost of the Mortgagor and without expense to the Mortgagees or the Noteholders; PROVIDED, HOWEVER, that the Mortgagor shall not be required to pay and discharge or cause to be paid and discharged any such tax, assessment or governmental charge to the extent that the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings and the Mortgagor shall have established and shall maintain adequate reserves on its books for the payment of the same.

SECTION 3.06. *Authority to Execute and Deliver Notes, Loan Agreements and Mortgage; All Action Taken; Enforceable Obligations:* The Mortgagor is authorized under its articles of incorporation and bylaws [or code of regulations] and all applicable laws and by corporate action to execute and deliver the Notes, any Additional Notes, the Loan Agreements and this Mortgage. The Notes, the Loan Agreements and this Mortgage are, and any Additional Notes and Loan Agreements when executed and delivered will be, the valid and enforceable obligations of the Mortgagor in accordance with their respective terms.

SECTION 3.07. *Restrictions on Further Encumbrances on Property:* Except to secure Additional Notes, the Mortgagor will not, without the prior written consent of each Mortgagee, create or incur or suffer or permit to be created or incurred or to exist any Lien, charge, assignment, pledge, mortgage on any of the Mortgaged Property inferior to, prior to, or on a parity with the Lien of this Mortgage except for the Permitted Encumbrances. Subject to the provisions of Section [3.08], or unless approved by each of the Mortgagees, the Mortgagor will purchase all materials, equipment and replacements to be incorporated in or used in connection with the Mortgaged Property outright and not

subject to any conditional sales agreement, chattel mortgage, bailment, lease or other agreement reserving to the seller any right, title or Lien.

SECTION 3.08. *Restrictions On Additional Permitted Debt:* The Mortgagor shall not incur, assume, guarantee or otherwise become liable in respect of any debt for borrowed money and Restricted Rentals (including Subordinated Debt) other than the following: (''Permitted Debt'')

(1) Additional Notes issued in compliance with Article II hereof;

(2) Purchase money indebtedness in non-Utility System property, in an amount not exceeding 10% of Net Utility Plant;

(3) Restricted Rentals in an amount not to exceed 5% of Equity during any 12 consecutive calendar month period;

(4) Unsecured lease obligations incurred in the ordinary course of business except Restricted Rentals;

(5) Debt represented by dividends declared but not paid; and

(6) Subordinated Indebtedness approved by each Mortgagee.

PROVIDED, However, that the Mortgagor may incur Permitted Debt without the consent of the Mortgagee only so long as there exists no Event of Default hereunder and there has been no continuing occurrence which with the passage of time and giving of notice could become an Event of Default hereunder.

PROVIDED, FURTHER, by executing this Mortgage any consent of RUS that the Mortgagor would otherwise be required to obtain under this Section is hereby deemed to be given or waived by RUS by operation of law to the extent, but only to the extent, that to impose such a requirement of RUS consent would clearly violate existing federal laws or government regulations.

SECTION 3.09. *Preservation of Corporate Existence and Franchises:* The Mortgagor will, so long as any Outstanding Notes exist, take or cause to be taken all such action as from time to time may be necessary to preserve its corporate existence and to preserve and renew all franchises, rights of way, easements, permits, and licenses now or hereafter to be granted or upon it conferred the loss of which would have a material adverse affect on the Mortgagor's financial condition or business. The Mortgagor will comply with all laws, ordinances, regulations, orders, decrees and other legal requirements applicable to it or its property the violation of which could have a material adverse affect on the Mortgagor's financial condition or business.

SECTION 3.10. *Limitations on Consolidations and Mergers:* The Mortgagor shall not, without the prior written approval of each Mortgagee, consolidate or merge with any other corporation or convey or transfer the Mortgaged Property substantially as an entirety unless: (1) such consolidation, merger, conveyance or transfer shall be on such terms as shall fully preserve the lien and security hereof and the rights and powers of the Mortgagees hereunder; (2) the entity formed by such consolidation or with which the Mortgagor is merged or the corporation which acquires by conveyance or transfer the Mortgaged Property substantially as an entirety shall execute and deliver to the Mortgagees a mortgage supplemental hereto in recordable form and containing an assumption by such successor entity of the due and punctual payment of the principal of and interest on all of the Outstanding Notes and the performance and observance of every covenant and condition of this Mortgage; (3) immediately after giving effect to such transaction, no default hereunder shall have occurred and be continuing; (4) the Mortgagor shall have delivered to the Mortgagees a certificate of its general manager or other officer, in form and substance satisfactory to each of the Mortgagees, which shall state that such consolidation, merger, conveyance or transfer and such supplemental mortgage comply with this subsection and that all conditions precedent herein provided for relating to such transaction have been complied with; (5) the Mortgagor shall have delivered to the Mortgagees an opinion of counsel in form and substance satisfactory to each of the Mortgagees; and (6) the entity formed by such consolidation or with which the Mortgagor is merged or the corporation which acquires by conveyance or transfer the Mortgaged Property substantially as an entirety shall be an entity—(A) having Equity equal to at least 27% of its Total Assets on a pro forma basis after giving effect to such transaction, (B) having a pro forma TIER of not less than 1.25 and a pro forma DSC of not less than 1.25 for each of the two preceding calendar years, and (C) having Net Utility Plant equal to or greater than 1.0 times its Total Long-Term Debt on a pro forma basis. Upon any consolidation or merger or any conveyance or transfer of the Mortgaged Property substantially as an entirety in accordance with this subsection, the successor entity formed by such consolidation or with which the Mortgagor is merged or to which such conveyance or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of, the Mortgagor under this Mortgage with the same effect as if such successor entity had been named as the Mortgagor herein.

SECTION 3.11. *Limitations on Transfers of Property:* The Mortgagor may not, except as provided in [Section 3.10] above, without the prior written approval of each Mortgagee, sell, lease or transfer any Mortgaged Property to any other person or entity (including any subsidiary or affiliate of the Mortgagor), unless (1) there exists no Event of Default or occurrence which with the passing of time

and the giving of notice would be an Event of Default, (2) fair market value is obtained for such property, (3) the aggregate value of assets so sold, leased or transferred in any 12-month period is less than 10% of Net Utility Plant, and (4) the proceeds of such sale, lease or transfer, less ordinary and reasonable expenses incident to such transaction, are immediately (i) applied as a prepayment of all Notes equally and ratably, (ii) in the case of dispositions of equipment, materials or scrap, applied to the purchase of other property useful in the Mortgagor's utility business, not necessarily of the same kind as the property disposed of, which shall forthwith become subject to the Lien of the Mortgage, or (iii) applied to the acquisition or construction of utility plant.

SECTION 3.12. *Maintenance of Mortgaged Property:* (a) So long as the Mortgagor holds title to the Mortgaged Property, the Mortgagor will at all times maintain and preserve the Mortgaged Property which is used or useful in the Mortgagor's business and each and every part and parcel thereof in good repair, working order and condition, ordinary wear and tear and acts of God excepted, and in compliance with Prudent Utility Practice and in compliance with all applicable laws, regulations and orders, and will from time to time make all needed and proper repairs, renewals and replacements, and useful and proper alterations, additions, betterments and improvements, and will, subject to contingencies beyond its reasonable control, at all times use all reasonable diligence to furnish the consumers served by it through the Mortgaged Property, or any part thereof, with an adequate supply of electric power and energy. If any substantial part of the Mortgaged Property is leased by the Mortgagor to any other party, the lease agreement between the Mortgagor and the lessee shall obligate the lessee to comply with the provisions of subsections (a) and (b) of this Section in respect of the leased facilities and to permit the Mortgagor to operate the leased facilities in the event of any failure by the lessee to so comply.

(b) If in the sole judgement of any Mortgagee, the Mortgaged Property is not being maintained and repaired in accordance with paragraph (a) of this section, such Mortgagee may send to the Mortgagor a written report of needed improvements and the Mortgagor will upon receipt of such written report promptly undertake to accomplish such improvements.

(c) The Mortgagor further agrees that upon reasonable written request of any Mortgagee, which request together with the requests of any other Mortgagees shall be made no more frequently than once every three years, the Mortgagor will supply promptly to each Mortgagee a certification (hereinafter called the ''Engineer's Certification''), in form satisfactory to the requestor, prepared by a professional engineer, who shall be satisfactory to the Mortgagees, as to the condition of the Mortgaged Property. If in the sole judgment of any Mortgagee the Engineer's Certification discloses the need for improvements to the condition of the Mortgaged Property or any other operations of the Mortgagor, such Mortgagee may send to the Mortgagor a written report of such improvements and the Mortgagor will upon receipt of such written report promptly undertake to accomplish such of these improvements as are required by such Mortgagee.

SECTION 3.13. *Insurance; Restoration of Damaged Mortgaged Property:* (a) The Mortgagor will take out, as the respective risks are incurred, and maintain the classes and amounts of insurance in conformance with generally accepted utility industry standards for such classes and amounts of coverages of utilities of the size and character of the Mortgagor and consistent with Prudent Utility Practice.

(b) The foregoing insurance coverage shall be obtained by means of bond and policy forms approved by regulatory authorities having jurisdiction, and, with respect to insurance upon any part of the Mortgaged Property, shall provide that the insurance shall be payable to the Mortgagees as their interests may appear by means of the standard mortgagee clause without contribution. Each policy or other contract for such insurance shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least 30 days after written notice to each Mortgagee of cancellation.

(c) In the event of damage to or the destruction or loss of any portion of the Mortgaged Property which is used or useful in the Mortgagor's business and which shall be covered by insurance, unless each Mortgagee shall otherwise agree, the Mortgagor shall replace or restore such damaged, destroyed or lost portion so that such Mortgaged Property shall be in substantially the same condition as it was in prior to such damage, destruction or loss, and shall apply the proceeds of the insurance for that purpose. The Mortgagor shall replace the lost portion of such Mortgaged Property or shall commence such restoration promptly after such damage, destruction or loss shall have occurred and shall complete such replacement or restoration as expeditiously as practicable, and shall pay or cause to be paid out of the proceeds of such insurance all costs and expenses in connection therewith.

(d) Sums recovered under any policy or fidelity bond by the Mortgagor for a loss of funds advanced under the Notes or recovered by any Mortgagee or any Noteholder for any loss under such policy or bond shall, unless

applied as provided in the preceding paragraph, be used to finance construction of utility plant secured or to be secured by this Mortgage, or unless otherwise directed by the Mortgagees, be applied to the prepayment of the Notes *pro rata* according to the unpaid principal amounts thereof (such prepayments to be applied to such Notes and installments thereof as may be designated by the respective Mortgagee at the time of any such prepayment), or be used to construct or acquire utility plant which will become part of the Mortgaged Property. At the request of any Mortgagee, the Mortgagor shall exercise such rights and remedies which they may have under such policy or fidelity bond and which may be designated by such Mortgagee, and the Mortgagor hereby irrevocably appoints each Mortgagee as its agent to exercise such rights and remedies under such policy or bond as such Mortgagee may choose, and the Mortgagor shall pay all costs and reasonable expenses incurred by the Mortgagee in connection with such exercise.

SECTION 3.14. *Mortgagee Right to Expend Money to Protect Mortgaged Property:* The Mortgagor agrees that any Mortgagee from time to time hereunder may, in its sole discretion, after having given 5 Business days prior written notice to Mortgagor, but shall not be obligated to, advance funds on behalf of Mortgagor, in order to insure the Mortgagor's compliance with any covenant, warranty, representation or agreement of the Mortgagor made in or pursuant to this Mortgage or any of the Loan Agreements, to preserve or protect any right or interest of the Mortgagees in the Mortgaged Property or under or pursuant to this Mortgage or any of the Loan Agreements, including without limitation, the payment of any insurance premiums or taxes and the satisfaction or discharge of any judgment or any Lien upon the Mortgaged Property or other property or assets of Mortgagor; *provided, however*, that the making of any such advance by or through any Mortgagee shall not constitute a waiver by any Mortgagee of any Event of Default with respect to which such advance is made nor relieve the Mortgagor of any such Event of Default. The Mortgagor shall pay to a Mortgagee upon demand all such advances made by such Mortgagee with interest thereon at a rate equal to that on the Note having the highest interest rate but in no event shall such rate be in excess of the maximum rate permitted by applicable law. All such advances shall be included in the obligations and secured by the security interest granted hereunder.

SECTION 3.15. *Time Extensions for Payment of Notes:* Any Mortgagee may, at any time or times in succession without notice to or the consent of the Mortgagor, or any other Mortgagee, and upon such terms as such Mortgagee may prescribe, grant to any person, firm or corporation who shall have become obligated to pay all or any part of the principal of (and premium, if any) or interest on any Note held by or indebtedness owed to such Mortgagee or who may be affected by the lien hereby created, an extension of the time for the payment of such principal, (and premium, if any) or interest, and after any such extension the Mortgagor will remain liable for the payment of such Note or indebtedness to the same extent as though it had at the time of such extension consented thereto in writing.

SECTION 3.16. *Application of Proceeds from Condemnation:* (a) In the event that the Mortgaged Property or any part thereof, shall be taken under the power of eminent domain, all proceeds and avails therefrom may be used to finance construction of utility plant secured or to be secured by this Mortgage. Any proceeds not so used shall forthwith be applied by the Mortgagor: first, to the ratable payment of any indebtedness secured by this Mortgage other than principal of or interest on the Notes; second, to the ratable payment of interest which shall have accrued on the Notes and be unpaid; third, to the ratable payment of or on account of the unpaid principal of the Notes, to such installments thereof as may be designated by the respective Mortgagee at the time of any such payment; and fourth, the balance shall be paid to whomsoever shall be entitled thereto.

(b) If any part of the Mortgaged Property shall be taken by eminent domain, each Mortgagee shall release the property so taken from the Mortgaged Property and shall be fully protected in so doing upon being furnished with:

(1) A certificate of a duly authorized officer of the Mortgagor requesting such release, describing the property to be released and stating that such property has been taken by eminent domain and that all conditions precedent herein provided or relating to such release have been complied with; and

(2) an opinion of counsel to the effect that such property has been lawfully taken by exercise of the right of eminent domain, that the award for such property so taken has become final and that all conditions precedent herein provided for relating to such release have been complied with.

SECTION 3.17. *Compliance with Loan Agreements; Notice of Amendments to and Defaults under Loan Agreements:* The Mortgagor will observe and perform all of the material covenants, agreements, terms and conditions contained in any Loan Agreement entered into in connection with the issuance of any of the Notes, as from time to time amended. The Mortgagor will send promptly to each Mortgagee notice of any default by the Mortgagor under any Loan Agreement and notice of any amendment to any Loan Agreement. Upon request of any Mortgagee, the Mortgagor will furnish to such Mortgagee single

copies of such Loan Agreements and amendments thereto as such Mortgagee may request.

SECTION 3.18. *Rights of Way, etc., Necessary in Business:* The Mortgagor will use its best efforts to obtain all such rights of way, easements from landowners and releases from lienors as shall be necessary or advisable in the conduct of its business, and, if requested by any Mortgagee, deliver to such Mortgagee evidence satisfactory to such Mortgagee of the obtaining of such rights of way, easements or releases.

SECTION 3.19. *Limitations on Providing Free Electric Services.* The Mortgagor will not furnish or supply or cause to be furnished or supplied any electric power, energy or capacity free of charge to any person, firm or corporation, public or private, and the Mortgagor will enforce the payment of any and all amounts owning to the Mortgagor by reason of the ownership and operation of the Utility System by discontinuing such use, output, capacity, or service, or by filing suit therefor within 90 days after any such accounts are due, or by both such discontinuance and by filing suit.

SECTION 3.20. *Keeping Books; Inspection by Mortgagee:* The Mortgagor will keep proper books, records and accounts, in which full and correct entries shall be made of all dealings or transactions of or in relation to the Notes and the Utility Systems, properties, business and affairs of the Mortgagor in accordance with the Accounting Requirements. The Mortgagor will at any and all times, upon the written request of any Mortgagee and at the expense of the Mortgagor, permit such Mortgagee by its representatives to inspect the Utility Systems and properties and properties, books of account, records, reports and other papers of the Mortgagor and to take copies and extracts therefrom, and will afford and procure a reasonable opportunity to make any such inspection, and the Mortgagor will furnish to each Mortgagee any and all such information as such Mortgagee may request, with respect to the performance by the Mortgagor of its covenants under this Mortgage, the Notes and the Loan Agreements.

ARTICLE IV

EVENTS OF DEFAULT AND REMEDIES

SECTION 4.01. *Events of Default:* Each of the following shall be an ''Event of Default'' under this Mortgage:

(a) default shall be made in the payment of any installment of or on account of interest on or principal of (or premium, if any associated with) any Note or Notes for more than five (5) Business Days after the same shall be required to be made;

(b) default shall be made in the due observance or performance of any other of the covenants, conditions or agreements on the part of the Mortgagor, in any of the Notes, Loan Agreements or in this Mortgage, and such default shall continue for a period of thirty (30) days after written notice specifying such default and requiring the same to be remedied and stating that such notice is a ''Notice of Default'' hereunder shall have been given to the Mortgagor by any Mortgagee; PROVIDED, HOWEVER that in the case of a default on the terms of a Note or Loan Agreement of a particular Mortgagee, the ''Notice of Default'' required under this paragraph may only be given by that Mortgagee;

(c) the Mortgagor shall file a petition in bankruptcy or be adjudicated a bankrupt or insolvent, or shall make an assignment for the benefit of its creditors, or shall consent to the appointment of a receiver of itself or of its property, or shall institute proceedings for its reorganization or proceedings instituted by others for its reorganization shall not be dismissed within sixty (60) days after the institution thereof;

(d) a receiver or liquidator of the Mortgagor or of any substantial portion of its property shall be appointed and the order appointing such receiver or liquidator shall not be vacated within sixty (60) days after the entry thereof;

(e) the Mortgagor shall forfeit or otherwise be deprived of its corporate charter or franchises, permits, easements, or licenses required to carry on any material portion of its business;

(f) a final judgment for an amount of more than $_____ shall be entered against the Mortgagor and shall remain unsatisfied or without a stay in respect thereof for a period of sixty (60) days; or,

(g) any material representation or warranty made by the Mortgagor herein, in the Loan Agreements or in any certificate or financial statement delivered hereunder or thereunder shall prove to be false or misleading in any material respect at the time made.

SECTION 4.02. *Acceleration of Maturity; Rescission and Annulment:*

(a) If an Event of Default described in Section [4.01(a)] has occurred and is continuing, any Mortgagee upon which such default has occurred may declare the principal of all its Notes secured hereunder to be due and payable immediately by a notice in writing to the Mortgagor and to the other Mortgagees (failure to provide said notice to any other Mortgagee shall not affect the validity of any acceleration of the Note or Notes by such Mortgagee), and upon such declaration, all unpaid principal (and premium, if any) and accrued interest so declared shall become due and payable immediately, anything contained herein or in any Note or Notes to the contrary notwithstanding.

(b) If any other Event of Default shall have occurred and be continuing, any Mortgagee

may declare the principal of all its Notes secured hereunder to be due and payable immediately by a notice in writing to the Mortgagor and to the other Mortgagees (failure to provide said notice to any other Mortgagee shall not affect the validity of any acceleration of the Note or Notes by such Mortgagee), and upon such declaration, all unpaid principal (and premium, if any) and accrued interest so declared shall become due and payable immediately, anything contained herein or in any Note or Notes to the contrary notwithstanding.

(c) Upon receipt of actual knowledge of or any notice of acceleration by any Mortgagee, any other Mortgagee may declare the principal of all of its Notes to be due and payable immediately by a notice in writing to the Mortgagor and upon such declaration, all unpaid principal (and premium, if any) and accrued interest so declared shall become due and payable immediately, anything contained herein or in any Note or Notes or Loan Agreements to the contrary notwithstanding.

(d) If after the unpaid principal of (and premium, if any) and accrued interest on any of the Notes shall have been so declared to be due and payable, all payments in respect of principal and interest which shall have become due and payable by the terms of such Note or Notes (other than amounts due as a result of the acceleration of the Notes) shall be paid to the respective Mortgagees, and (i) all other defaults under the Loan Agreements, the Notes and this Mortgage shall have been made good or cured to the satisfaction of the Mortgagees representing at least 80% of the aggregate unpaid principal balance of all of the Notes then Outstanding, (ii) proceedings to foreclose the lien of this Mortgage have not been commenced, and (iii) all reasonable expenses paid or incurred by the Mortgagees in connection with the acceleration shall have been paid to the respective Mortgagees, then in every such case such Mortgagees representing at least 80% of the aggregate unpaid principal balance of all of the Notes then Outstanding may by written notice to the Mortgagor, for purposes of this Mortgage, annul such declaration and waive such default and the consequences thereof, but no such waiver shall extend to or affect any subsequent default or impair any right consequent thereon.

SECTION 4.03. *Remedies of Mortgagees:* If one or more of the Events of Default shall occur and be continuing, any Mortgagee personally or by attorney, in its or their discretion, may, in so far as not prohibited by law:

(a) take immediate possession of the Mortgaged Property, collect and receive all credits, outstanding accounts and bills receivable of the Mortgagor and all rents, income, revenues, proceeds and profits pertaining to or arising from the Mortgaged Property, or any part thereof, whether then past due or accruing thereafter, and issue binding receipts therefor; and manage, control and operate the Mortgaged Property as fully as the Mortgagor might do if in possession thereof, including, without limitation, the making of all repairs or replacements deemed necessary or advisable by such Mortgagee in possession;

(b) proceed to protect and enforce the rights of all of the Mortgagees by suits or actions in equity or at law in any court or courts of competent jurisdiction, whether for specific performance of any covenant or any agreement contained herein or in aid of the execution of any power herein granted or for the foreclosure hereof or hereunder or for the sale of the Mortgaged Property, or any part thereof, or to collect the debts hereby secured or for the enforcement of such other or additional appropriate legal or equitable remedies as may be deemed necessary or advisable to protect and enforce the rights and remedies herein granted or conferred, and in the event of the institution of any such action or suit the Mortgagee instituting such action or suit shall have the right to have appointed a receiver of the Mortgaged Property and of all proceeds, rents, income, revenues and profits pertaining thereto or arising therefrom, whether then past due or accruing after the appointment of such receiver, derived, received or had from the time of the commencement of such suit or action, and such receiver shall have all the usual powers and duties of receivers in like and similar cases, to the fullest extent permitted by law, and if application shall be made for the appointment of a receiver the Mortgagor hereby expressly consents that the court to which such application shall be made may make said appointment; and

(c) sell or cause to be sold all and singular the Mortgaged Property or any part thereof, and all right, title, interest, claim and demand of the Mortgagor therein or thereto, at public auction at such place in any county (or its equivalent locality) in which the property to be sold, or any part thereof, is located, at such time and upon such terms as may be specified in a notice of sale, which shall state the time when and the place where the sale is to be held, shall contain a brief general description of the property to be sold, and shall be given by mailing a copy thereof to the Mortgagor at least fifteen (15) days prior to the date fixed for such sale and by publishing the same once in each week for two successive calendar weeks prior to the date of such sale in a newspaper of general circulation published in said locality or, if no such newspaper is published in such locality, in a newspaper of general circulation in such locality, the first such publication to be not less than fifteen (15) days nor more than thirty (30) days prior to the date fixed for such sale. Any sale to be made under this subparagraph (c) of this Section [4.03] may be

adjourned from time to time by announcement at the time and place appointed for such sale or for such adjourned sale or sales, and without further notice or publication the sale may be had at the time and place to which the same shall be adjourned; *provided, however*, that in the event another or different notice of sale or another or different manner of conducting the same shall be required by law the notice of sale shall be given or the sale be conducted, as the case may be, in accordance with the applicable provisions of law. The expense incurred by any Mortgagee (including, but not limited to, receiver's fees, counsel fees, cost of advertisement and agents' compensation) in the exercise of any of the remedies provided in this Mortgage shall be secured by this Mortgage.

(d) In the event that a Mortgagee proceeds to enforce remedies under this Section, any other Mortgagee may join in such proceedings. In the event that the Mortgagees are not in agreement with the method or manner of enforcement chosen by any other Mortgagee, the Mortgagees representing a majority of the aggregate unpaid principal balance on the then Outstanding Notes may direct the method and manner in which remedial action will proceed.

SECTION 4.04. *Application of Proceeds from Remedial Actions:* Any proceeds or funds arising from the exercise of any rights or the enforcement of any remedies herein provided after the payment or provision for the payment of any and all costs and expenses in connection with the exercise of such rights or the enforcement of such remedies shall be applied first, to the ratable payment of indebtedness hereby secured other than the principal of or interest on the Notes; second, to the ratable payment of interest which shall have accrued on the Notes and which shall be unpaid; third, to the ratable payment of or on account of the unpaid principal of the Notes; and the balance, if any, shall be paid to whomsoever shall be entitled thereto.

SECTION 4.05. *Remedies Cumulative; No Election:* Every right or remedy herein conferred upon or reserved to the Mortgagees or to the Noteholders shall be cumulative and shall be in addition to every other right and remedy given hereunder or now or hereafter existing at law, or in equity, or by statute. The pursuit of any right or remedy shall not be construed as an election.

SECTION 4.06. *Waiver of Appraisement Rights; Marshaling of Assets Not Required:* The Mortgagor, for itself and all who may claim through or under it, covenants that it will not at any time insist upon or plead, or in any manner whatever claim, or take the benefit or advantage of, any appraisement, valuation, stay, extension or redemption laws now or hereafter in force in any locality where any of the Mortgaged Property may be situated, in order to prevent, delay or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Mortgaged Property, or any part thereof, or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser or purchasers thereat, and the Mortgagor, for itself and all who may claim through or under it, hereby waives the benefit of all such laws unless such waiver shall be forbidden by law. Under no circumstances shall there be any marshalling of assets upon any foreclosure or to other enforcement of this Mortgage.

SECTION 4.07. *Notice of Default:* The Mortgagor covenants that it will give immediate written notice to each Mortgagee of the occurrence of any Event of Default or in the event that any right or remedy described in Sections [4.02] and [4.03] hereof is exercised or enforced or any action is taken to exercise or enforce any such right or remedy.

ARTICLE V—POSSESSION UNTIL DEFAULT-DEFEASANCE CLAUSE

SECTION 5.01. *Possession Until Default:* Until some one or more of the Events of Default shall have happened, the Mortgagor shall be suffered and permitted to retain actual possession of the Mortgaged Property, and to manage, operate and use the same and any part thereof, with the rights and franchises appertaining thereto, and to collect, receive, take, use and enjoy the rents, revenues, issues, earnings, income, proceeds, products and profits thereof or therefrom, subject to the provisions of this Mortgage.

SECTION 5.02. *Defeasance:* If the Mortgagor shall pay or cause to be paid the whole amount of the principal of (and premium, if any) and interest on the Notes at the times and in the manner therein provided, and shall also pay or cause to be paid all other sums payable by the Mortgagor hereunder or under any Loan Agreement and shall keep and perform, all covenants herein required to be kept and performed by it, then and in that case, all property, rights and interest hereby conveyed or assigned or pledged shall revert to the Mortgagor and the estate, right, title and interest of the Mortgagee so paid shall thereupon cease, determine and become void and such Mortgagee, in such case, on written demand of the Mortgagor but at the Mortgagor's cost and expense, shall enter satisfaction of the Mortgage upon the record. In any event, each Mortgagee, upon payment in full to such Mortgagee by the Mortgagor of all principal of (and premium, if any) and interest on any Note held by such Mortgagee and the payment and discharge by the Mortgagor of all charges due to such Mortgagee hereunder or under any Loan Agreement, shall execute and deliver to the Mortgagor such

instrument of satisfaction, discharge or release as shall be required by law in the circumstances.

SECTION 5.03. *Special Defeasance:* Other than any Notes excluded by the foregoing Sections 5.01 and 5.02 and Notes which have become due and payable, the Mortgagor may cause the Lien of this Mortgage to be defeased with respect to any Note for which it has deposited or caused to be deposited in trust solely for the purpose an amount sufficient to pay and discharge the entire indebtedness on such Note for principal (and premium, if any) and interest to the date of maturity thereof; PROVIDED, HOWEVER, that depository serving as trustee for such trust must first be accepted as such by the Mortgagee whose Notes are being defeased under this section. In such event, such a Note will no longer be considered to be an Outstanding Note for purposes of this Mortgage and the Mortgagee shall execute and deliver to the Mortgagor such instrument of satisfaction, discharge or release as shall be required by law in the circumstances.

ARTICLE VI

MISCELLANEOUS

SECTION 6.01. *Property Deemed Real Property:* It is hereby declared to be the intention of the Mortgagor that any electric generating plant or plants and facilities and all electric transmission and distribution lines, or other Electric System or Utility System facilities, embraced in the Mortgaged Property, including (without limitation) all rights of way and easements granted or given to the Mortgagor or obtained by it to use real property in connection with the construction, operation or maintenance of such plant, lines, facilities or systems, and all other property physically attached to any of the foregoing, shall be deemed to be real property.

SECTION 6.02. *Mortgage to Bind and Benefit Successors and Assigns:* All of the covenants, stipulations, promises, undertakings and agreements herein contained by or on behalf of the Mortgagor shall bind its successors and assigns, whether so specified or not, and all titles, rights and remedies hereby granted to or conferred upon the Mortgagees shall pass to and inure to the benefit of the successors and assigns of the Mortgagees and shall be deemed to be granted or conferred for the ratable benefit and security of all who shall from time to time be a Mortgagee. The Mortgagor hereby agrees to execute such consents, acknowledgements and other instruments as may be reasonably requested by any Mortgagee in connection with the assignment, transfer, mortgage, hypothecation or pledge of the rights or interests of such Mortgagee hereunder or under the Notes or in and to any of the Mortgaged Property.

SECTION 6.03. *Headings:* The descriptive headings of the various articles and sections of this Mortgage and also the table of contents were formulated and inserted for convenience only and shall not be deemed to affect the meaning or construction of any of the provisions hereof.

SECTION 6.04. *Severability Clause:* In case any provision of this Mortgage or in the Notes or in the Loan Agreements shall be invalid or unenforceable, the validity, legality and enforceability of the remaining provisions thereof shall not in any way be affected or impaired, nor shall any invalidity or unenforceability as to any Mortgagee hereunder affect or impair the rights hereunder of any other Mortgagee.

SECTION 6.05. *Mortgage Deemed Security Agreement:* To the extent that any of the property described or referred to in this Mortgage is governed by the provisions of the UCC this Mortgage is hereby deemed a ''security agreement'' under the UCC, and, if so elected by any Mortgagee, a ''financing statement'' under the UCC for said security agreement. The mailing addresses of the Mortgagor as debtor, and the Mortgagees as secured parties are as set forth in Section [1.05] hereof. If any Mortgagee so directs the Mortgagor to do so, the Mortgagor shall file as a financing statement under the UCC for said security agreement and for the benefit of all of the Mortgagees, an instrument other than this Mortgage. In such case, the instrument to be filed shall be in a form customarily accepted by the filing office as a financing statement. PROCEEDS OF COLLATERAL ARE COVERED HEREBY.

SECTION 6.06. *Indemnification by Mortgagor of Mortgagees:* The Mortgagor agrees to indemnify and save harmless each Mortgagee against any liability or damages which any of them may incur or sustain in the exercise and performance of their rightful powers and duties hereunder. For such reimbursement and indemnity, each Mortgagee shall be secured under this Mortgage in the same manner as the Notes and all such reimbursements for expense or damage shall be paid to the Mortgagee incurring or suffering the same with interest at the rate specified in Section [3.14] hereof. The Mortgagor's obligation to indemnify the Mortgagees under this section and under Section [3.04] shall survive the satisfaction of the Notes, the reconveyance or foreclosure of this Mortgage, the acceptance of a deed in lieu of foreclosure, or any transfer or abandonment of the Mortgaged Property.

IN WITNESS WHEREOF, _____ as Mortgagor, has caused this Restated Mortgage and Security Agreement to be signed in its name and its corporate seal to be hereunto affixed and attested by its officers thereunto duly authorized, and UNITED STATES OF AMERICA, as Mortgagee, and as Mortgagee, has caused this Restated

Mortgage and Security Agreement to be signed in its name by duly authorized persons, all as of the day and year first above written.

_____

(SEAL)

By: _____
President

Attest: _____
Title: _____

Executed by the Mortgagor in the presence of:

_____

_____

Witnesses

UNITED STATES OF AMERICA

By: Director, of the _____ Rural Utilities Service

Executed by the United States of America, Mortgagee, in the presence of:

_____

_____

Witnesses

By:

(SEAL)

Attest: _____
Title: _____

Executed by the above-named Mortgagee in the presence of:

_____

_____

Witnesses

SCHEDULE A

1. The Maximum Debt Limit is _____.

2. The Original Mortgage as described in the [first] WHEREAS clause above is _____.

3. The outstanding secured indebtedness described in the [fourth] WHEREAS clause above as evidenced by the Original Notes is as follows:

[Note this requires computation of principal balances, not merely a toting up of the original face amounts of the notes. Alternative approaches may be used by the parties where legally effective and mutually agreeable.]

SCHEDULE B—PROPERTY SCHEDULE

The fee and leasehold interests in real property referred to in Section Subclause (a) of Granting Clause One are _____.

The counties referred to in Subclause (B) of Granting Clause One are _____.

SCHEDULE C—EXCEPTED PROPERTY

STATE OF _____
COUNTY OF _____

On this _____ day of _____, 19 ____, before me appeared _____ and _____ personally known, by me and having been duly sworn by me, did say that they are the President and Secretary, respectively, of _____, a _____ corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board, and said _____ and _____ acknowledged that the execution of said instrument was a free act and deed of said corporation.

IN WITNESS whereof, I have hereunto set my hand and official seal the day and year last above written.

_____

Notary Public

(Notarial Seal)

My commission expires:

DISTRICT OF COLUMBIA) SS

The foregoing instrument was acknowledged before me this _____ day of 19____, by _____ Director, _____ Regional Division of the Rural Utilities Service, acknowledging an agency of the United States of America, on behalf of the Rural Utilities Service, United States of America.

_____

Notary Public

(Notarial Seal)

My Commission expires:

COMMONWEALTH OF VIRGINIA) SS

BEFORE ME, a Notary Public, in and for the Commonwealth of Virginia, appeared in person _____, signing for the Governor of the National Rural Utilities cooperative Finance Corporation, to me personally known, and known to be the identical person who subscribed the name of said corporation to the foregoing instrument, being by me duly sworn, and who stated that she/he is duly authorized to execute the foregoing instrument on behalf of said corporation, and further stated and acknowledged that she/he executed the foregoing instrument as a free and voluntary act and deed of said corporation for the consideration therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this _____ day of _____, 19____.

_____

Notary Public

(Notarial Seal)

My commission expires:

EXHIBIT A—MANAGER'S CERTIFICATE

MANAGER'S CERTIFICATE REQUIRED UNDER MORTGAGE SECTION 2.01 FOR ADDITIONAL NOTES

On behalf on _____ [Name of Borrower] (the ''Borrower''), I

_____ hereby certify as follows:

1. I am the Manager of the Borrower and have been duly authorized to deliver this certificate in connection with the Additional Note or Notes to be issued on or about _____ [Date Note or Notes are to be Signed] pursuant to Section [2.01] of the Mortgage dated _____.

2. No Event of Default has occurred and is continuing under the Mortgage, or any event which with the giving of notice or lapse of time or both would become an Event of Default has occurred and is continuing.

3. The Additional Notes described in paragraph 1 are for the purpose of funding Property Additions being constructed, acquired, procured or replaced that are or will become part of the Borrower's Utility System.

4. The Property Additions referred to in paragraph 3 are Eligible Property Additions, i.e. Property Additions acquired or whose construction was completed not more than 5 years prior to the issuance of additional Notes and Property Additions acquired or whose construction is started and/or completed not more than 4 years after issuance of the additional Notes, but shall exclude any Property Additions financed by any other debt secured under the Mortgage at the time additional Notes are issued.

5. I have reviewed the certificate of the Independent certified public accountant also being delivered to each of the Mortgagees pursuant to Section [2.01] in connection with the aforesaid Additional Note or Notes and concur with the conclusions expressed therein.

6. Capitalized terms that are used in this certificate but are not defined herein have the meanings defined in the Mortgage.

[Signed] _____

[Dated] _____

[Name] _____

[Title] _____

[Name and Address of Borrower] _____

_____

_____

EXHIBIT B—FORM OF SUPPLEMENTAL MORTGAGE

_____

Supplemental Mortgage and Security Agreement, dated as of _____, _____, _____, (hereinafter sometimes called this ''Supplemental Mortgage'') is made by and between _____ (hereinafter called the ''Mortgagor''), a corporation existing under the laws of the State of _____, and the UNITED STATES OF AMERICA acting by and through the Administrator of the Rural Utilities Service (hereinafter called the ''Government''), _____ (Supplemental Lender) (hereinafter called _____), a _____ existing under the laws of _____, and intended to confer rights and benefits on both the Government and _____ and _____ in accordance with this Supplemental Mortgage and the Original Mortgage (hereinafter defined) (the Government and the Supplemental Lenders being herein sometimes collectively referred to as the ''Mortgagees'').

RECITALS

Whereas, the Mortgagor, the Government and _____ are parties to that certain Restated Mortgage and Security Agreement, as supplemented, amended or restated (the ''Original Mortgage'' identified in Schedule ''A'' of this Mortgage) originally entered into between the Mortgagor, the Government acting by and through the Administrator of the Rural Utilities Service (hereinafter called ''RUS''), and _____; and

Whereas, the Mortgagor deems it necessary to borrow money for its corporate purposes and to issue its promissory notes and other debt obligations therefor, and to mortgage and pledge its property hereinafter described or mentioned to secure the payment of the same, and to enter into this Supplemental Mortgage pursuant to which all secured debt of the Mortgagor hereunder shall be secured on parity, and to add _____ as a secured party hereunder and under the Original Mortgage (the Supplemental Mortgage and the Original Mortgage, as it may have been previously amended or supplemented, hereinafter may be called collectively the ''RUS Mortgage''); and

Whereas, the RUS Mortgage, as supplemented hereby, preserves the priority of the Original Mortgage for the pro rata benefit of all the Mortgagees and secures the payment of all of the Mortgagor's outstanding indebtedness as listed in the Instruments Recital of Schedule ''A''; and

Whereas, all acts necessary to make this Supplemental Mortgage a valid and binding legal instrument for the security of such notes and obligations, subject to the terms of the RUS Mortgage, have been in all respects duly authorized:

Now, Therefore, This Supplemental Mortgage Witnesseth: That to secure the payment of the principal of (and premium, if any) and interest on all Notes issued hereunder according to their tenor and effect, and the performance of all provisions therein and herein contained, and in consideration of the covenants herein contained and the purchase or guarantee of Notes by the guarantors or holders thereof, the Mortgagor has mortgaged, pledged and granted a continuing security interest in, and by these presents does hereby grant, bargain, sell, alienate, remise, release, convey, assign, transfer, hypothecate, pledge, set over and confirm, pledge and grant a continuing security interest in for the purposes hereinafter expressed [other language may be required under various state laws], unto the Mortgagees all property, rights, privileges and franchises of the

Mortgagor of every kind and description, real, personal or mixed, tangible and intangible, of the kind or nature specifically mentioned herein or any other kind or nature, except any Excepted Property set forth on Schedule ''C'' hereof owned or hereafter acquired by the Mortgagor (by purchase, consolidation, merger, donation, construction, erection or in any other way) wherever located, including (without limitation) all and singular the following:

A. All of those fee and leasehold interests in real property set forth in Schedule ''B'' hereto, subject in each case to those matters set forth in such Schedule; and

B. All of those fee and leasehold interests in real property set forth in Schedule ''B'' of the Original Mortgage or in any restatement, amendment or supplement thereto, subject in each case to those matters set forth in such Schedule; and

C. All of the kinds, types or items of property, now owned or hereafter acquired, described as Mortgaged Property in the Original Mortgage or in any restatement, amendment to supplement thereto as Mortgaged Property.

It is Further Agreed and Covenanted That the Original Mortgage, as previously restated, amended or supplemented, and this Supplement shall constitute one agreement and the parties hereto shall be bound by all of the terms thereof and, without limiting the foregoing.

1. All capitalized terms not defined herein shall have the meaning given in Article I of the Original Mortgage.

2. This Supplemental Mortgage is one of the Supplemental Mortgages contemplated by Article II of the Original Mortgage.

In Witness Whereof, _____ as Mortgagor.

[ACKNOWLEDGEMENTS]

SUPPLEMENTAL MORTGAGE SCHEDULE A—MAXIMUM DEBT LIMIT AND OTHER INFORMATION

1. The Maximum Debt Limit is _____.

2. The Original Mortgage as described in the first WHEREAS clause above is _____.

3. The outstanding secured indebtedness described in the third WHEREAS clause above is _____.

SUPPLEMENTAL MORTGAGE SCHEDULE B—PROPERTY SCHEDULE

The fee and leasehold interests in real property referred to in clause A of the granting clause are _____.

SUPPLEMENTAL MORTGAGE SCHEDULE C—EXCEPTED PROPERTY

[60 FR 36888, July 18, 1995, as amended at 60 FR 67410, Dec. 29, 1995; 65 FR 51749, Aug. 25, 2000]

Subpart C—Loan Contracts With Distribution Borrowers

SOURCE: 60 FR 67410, Dec. 29, 1995, unless otherwise noted.

§ 1718.100 General.

(a) *Purpose*. The purpose of this subpart is to set forth the policies, requirements, and procedures governing loan contracts entered into between the Rural Utilities Service (RUS) and distribution borrowers or, in some cases, other electric borrowers.

(b) *Flexibility for individual circumstances*. The intent of this subpart is to provide the flexibility to address the different needs and different credit risks of individual borrowers, and other special circumstances of individual lending situations. The model loan contract contained in appendix A of this subpart provides an example of what a loan contract with an ''average'' or ''typical'' distribution borrower may look like under ''average'' or ''typical'' circumstances. Depending on the credit risks and other circumstances of individual loans, RUS may execute loan contracts with provisions that are substantially different than those set forth in the model. RUS may develop alternative model loan contract provisions. If it does, such provisions will be made available to the public.

(c) *Resolution of any differences in contractual provisions*. If any provision of the loan contract appears to be in conflict with provisions of the mortgage, the loan contract shall have precedence with respect to the contractual relationship between the borrower and RUS with respect to such provision. If either document is silent on a matter addressed in the other document, the other document shall have precedence with respect to the contractual relationship between the borrower and RUS with respect to such matter.

(d) *Certain loan contract provisions subject to subsequent rulemaking*. If a

loan contract provision imposes an obligation or limitation on the borrower whose interpretation or specification is subject to RUS regulations or the discretion of the Administrator or RUS, such interpretation or specification shall be subject to subsequent rulemaking. Such interpretation or specification of the borrower's obligations or limitations may not exceed the authority granted to the Administrator or RUS in the loan contract provision.

§ 1718.101 Applicability.

(a) *Distribution borrowers.* The provisions of this subpart apply to all distribution borrowers that obtain a loan or loan guarantee from RUS approved on or after January 29, 1996. Distribution borrowers that obtain a lien accommodation or any other form of financial assistance from RUS after January 29, 1996, may be required to execute a new loan contract and new mortgage. Moreover, any distribution borrower may submit a request to RUS that a new loan contract and new mortgage be executed. Within the constraints of time and staff resources, RUS will attempt to honor such requests. Borrowers must first obtain the concurrence of any other mortgagees on their existing mortgage before a new mortgage can be executed.

(b) *Other borrowers.* Borrowers other than distribution borrowers may also submit requests for execution of a new loan contract pursuant to this subpart and a new mortgage pursuant to subpart B of this part. RUS may approve such requests if it determines that such approval is in the government's financial interest. If other mortgagees are on the borrower's existing mortgage, their concurrence would be required before a new mortgage could be executed.

§ 1718.102 Definitions.

For the purposes of this subpart:

Borrower means any organization that has an outstanding loan made or guaranteed by the Rural Utilities Service (RUS) or its predecessor, the Rural Electrification Administration, for rural electrification, or that is seeking such financing.

Distribution borrower means a borrower that sells or intends to sell electric power and energy at retail in rural areas, the latter being defined in 7 CFR 1710.2.

Loan documents means the mortgage (or other security instrument acceptable to RUS), the loan contract, and the promissory note entered into between the borrower and RUS.

§ 1718.103 Loan contract provisions.

Loan contracts executed pursuant to this subpart shall contain such provisions as RUS determines are appropriate to further the purposes of the RE Act and to ensure that the security for the loan will be reasonably adequate and that the loan will be repaid according to the terms of the promissory note. Such loan contracts will contain provisions addressing, but not necessarily limited to, the following matters:

(a) Description of the purpose of the loan;

(b) Specification of the interest to be charged on the loan, including the method for determining the interest rate if it is not fixed for the entire term of the loan;

(c) Specification of the method for repaying the loan principal, including the final maturity of the loan;

(d) The conditions under which the loan may be prepaid before its maturity date, including but not limited to requirements regarding the prepayment of loans made concurrently by RUS and another secured lender;

(e) The method for making scheduled payments on the loan;

(f) Accounting principles and system of accounts, and RUS authority to approve the accountant used by the borrower;

(g) The method and time period for advancing loan funds and the conditions precedent to the advance of funds;

(h) Representations and warranties by the borrower as a condition of obtaining the loan, including but not limited to: the legal authority of the borrower to enter into the loan contract and operate its system; that the loan documents will be a legal, valid and binding obligation of the borrower enforceable according to their terms; compliance of the borrower in all material respects with all federal, state,

and local laws, regulations, codes, and orders; existence of any pending or threatened legal actions that could have a material adverse effect on the borrower's ability to perform its obligations under the loan documents; the accuracy and completeness of all information provided by the borrower in the loan application and with respect to the loan contract, and the existence of any material adverse change since the information was provided; and the existence of any material defaults under other agreements of the borrower;

(i) Representations, warranties, and covenants with respect to environmental matters;

(j) Reports and notices required to be submitted to RUS, including but not limited to: annual financial statements; notice of defaults; notice of litigation; notice of orders or other directives received by the borrower from regulatory authorities; notice of any matter that has resulted in or may result in a material adverse change in the condition or operations of the borrower; and such other information regarding the condition or operations of the borrower as RUS may reasonably require;

(k) Annual written certification that the borrower is in compliance with its loan contract, note, mortgage, and any other agreement with RUS, or if there has been a default in the fulfillment of any obligation under said agreements, specifying each such default and the nature and status thereof;

(l) Requirement that the borrower design and implement rates for utility services to meet certain minimum coverage of interest expense and/or debt service obligations;

(m) Requirement that the borrower maintain and preserve its mortgaged property in compliance with prudent utility practice and all applicable laws, which may include certain specific actions and certifications set forth in the borrower's loan contract or mortgage;

(n) Requirement that the borrower plan, design and construct its electric system according to standards and other requirements established by RUS, and if directed by the Administrator, that the borrower follow RUS planning, design and construction standards and requirements for other utility systems constructed by the borrower;

(o) Limitations on extensions and additions to the borrower's electric system without approval by RUS;

(p) Limitations on contracts and contract amendments that the borrower may enter into without approval by RUS;

(q) Limitations of the transfer of mortgaged property by the borrower;

(r) Limitations on dividends, patronage refunds, and cash distributions paid by the borrower;

(s) Limitations on investments, loans, and guarantees made by the borrower;

(t) Authority of RUS to approve a new general manager and to require that an existing general manager be replaced if the borrower is in default under its mortgage, loan contract, or any other agreements with RUS;

(u) Description of events of default under the loan contract and the remedies available to RUS;

(v) Applicability of state and federal laws;

(w) Severability of the individual provisions of the loan documents;

(x) Matters relating to the assignment of the loan contract;

(y) Requirements relating to federal laws and regulations, including but not limited to the following matters: area coverage for electric service; civil rights and equal employment opportunity; access to buildings and other matters relating to the handicapped; design and construction standards relating to earthquakes; the National Environmental Policy Act of 1969 and other environmental laws and regulations; flood hazard insurance; debarment and suspension from federal assistance programs; and delinquency on federal debt; and

(z) Special requirements applicable to individual loans, and such other provisions as RUS may require to ensure loan repayment and reasonably adequate loan security.

§ 1718.104 Availability of model loan contract.

Single copies of the model loan contract (RUS Informational Publication 1718 C) are available from the Rural

Utilities Service, United States Department of Agriculture, Washington, DC 20250–1533. This document may be reproduced.

APPENDIX A TO SUBPART C OF PART 1718—MODEL FORM OF LOAN CONTRACT FOR ELECTRIC DISTRIBUTION BORROWERS

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LOAN CONTRACT

AGREEMENT, dated _____, 199____, between _____ (''Borrower''), a corporation organized and existing under the laws of the State of _____ (the ''State'') and the UNITED STATES OF AMERICA acting by

and through the Administrator of the Rural Utilities Service (''RUS'').

RECITALS

The Borrower has applied to RUS for a loan for the purpose(s) set forth in Schedule 1 hereto.

RUS is willing to make such a loan to the Borrower pursuant to the Rural Electrification Act of 1936, as amended, on the terms and conditions stated herein.

THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree and bind themselves as follows:

ARTICLE I—DEFINITIONS

Capitalized terms that are not defined herein shall have the meanings as set forth in the Mortgage. The terms defined herein include the plural as well as the singular and the singular as well as the plural.

''Act'' shall mean the Rural Electrification Act of 1936, as amended.

''Advance'' or ''Advances'' shall mean advances by RUS to Borrower pursuant to the terms and conditions of this Agreement.

''Agreement'' shall mean this Loan Contract together with all schedules and exhibits and also any subsequent supplements or amendments.

''Business Day'' shall mean any day that RUS is open for business.

''Contemporaneous Loan'' shall mean any loan which the Borrower has used to satisfy RUS Regulations or loan conditions requiring that supplemental financing be obtained in order to obtain a loan from RUS. Any loan used to refinance or refund a Contemporaneous Loan is also considered to be a Contemporaneous Loan.

''Coverage Ratios'' shall mean, collectively, the following financial ratios: (i) TIER of 1.25; (ii) Operating TIER of 1.1; (iii) DSC of 1.25; and Operating DSC of 1.1.

''Debt Service Coverage Ratio'' (''DSC'') shall have the meaning provided in the Mortgage.

''Distributions'' shall mean for the Borrower to, in any calendar year, declare or pay any dividends, or pay or determine to pay any patronage refunds, or retire any patronage capital or make any other Cash Distributions, to its members, stockholders or consumers; provided, however, that for the purposes of this Agreement a ''Cash Distribution'' shall be deemed to include any general cancellation or abatement of charges for electric energy or services furnished by the Borrower, but not the repayment of a membership fee upon termination of a membership or the rebate of an abatement of wholesale power costs previously incurred pursuant to an order of a state regulatory authority or a wholesale power cost adjustment clause or similar power pricing agreement between the Borrower and a power supplier.

''Electric System'' shall have the meaning as defined in the Mortgage.

''Equity'' shall mean the Borrower's total margins and equities computed pursuant to RUS Accounting Requirements but excluding any Regulatory Created Assets.

''Event of Default'' shall have the meaning as defined in Section [7.1].

''Independent'' when used with respect to any specified person or entity means such a person or entity who (1) is in fact independent, (2) does not have any direct financial interest or any material indirect financial interest in the Borrower or in any affiliate of the Borrower and (3) is not connected with the Borrower as an officer, employee, promoter, underwriter, trustee, partner, director or person performing similar functions.

''Interest Expense'' shall mean the interest expense of the Borrower computed pursuant to RUS Accounting Requirements.

''Loan'' shall mean the loan described in Article III which is being made pursuant to the RUS Commitment in furtherance of the objectives of the Act.

''Loan Documents'' shall mean, collectively, this Agreement, the Mortgage and the Note.

''Long-Term Debt'' shall mean the total of all amounts included in the long-term debt of the Borrower pursuant to RUS Accounting Requirements.

''Maturity Date'' shall have the meaning as defined in the Note.

''Monthly Payment Date'' shall have the meaning as defined in the Note.

''Mortgage'' shall have the meaning as described in Schedule 1 hereto.

''Mortgaged Property'' shall have the meaning as defined in the Mortgage.

''Net Utility Plant'' shall mean the amount constituting the Total Utility Plant of the Borrower, less depreciation, computed in accordance with RUS Accounting Requirements.

''Note'' shall mean a promissory note executed by the Borrower in the form of exhibit A hereto, and any note executed and delivered to RUS to refund, or in substitution for such a note.

''Operating DSC'' or ''ODSC'' shall mean Operating Debt Service Coverage calculated as:

$$\mathrm{ODSC} = \frac{A + B + C}{D}$$

Where:

All amounts are for the same calendar year and are computed pursuant to RUS Accounting Requirements and RUS form 7;

A = Depreciation and Amortization Expense of the Electric System;

B = Interest Expense on Total Long-Term Debt of the Electric System, except that such Interest Expense shall be increased by ⅓ of the amount, if any, by which the Restricted Rentals of the Electric System exceed 2 percent of the Mortgagor's Equity;

C = Patronage capital & operating margins of the Electric System, (which equals operating revenue and patronage capital of Electric System operations, less total cost of electric service, including Interest Expense on Total Long-Term Debt of the Electric System) plus cash received from the retirement of patronage capital by suppliers of electric power and by lenders for credit extended for the Electric System; and

D = Debt service billed which equals the sum of all payments of principal and interest required to be made on account of Total Long-Term Debt of the Electric System during the calendar year, plus ⅓ of the amount, if any, by which Restricted Rentals of the Electric System exceed 2 percent of the Mortgagor's Equity.

''Operating TIER'' or ''OTIER'' shall mean Operating Times Interest Earned Ratio calculated as:

$$\text{OTIER} = \frac{A + B}{A}$$

Where:

All amounts are for the same calendar year and are computed pursuant to RUS Accounting Requirements and RUS form 7;

A = Interest Expense on Total Long-Term Debt of the Electric System, except that such Interest Expense shall be increased by ⅓ of the amount, if any, by which Restricted Rentals of the Electric System exceed 2 percent of the Mortgagor's Equity; and

B = Patronage capital & operating margins of the Electric System, (which equals operating revenue and patronage capital of Electric System operations, less total cost of electric service, including Interest Expense on Total Long-Term Debt of the Electric System) plus cash received from the retirement of patronage capital by suppliers of electric power and by lenders for credit extended for the Electric System.

''Payment Notice'' shall mean a notice furnished by RUS to Borrower that indicates the precise amount of each payment of principal and interest and the total amount of each payment.

''Permitted Debt'' shall have the meaning as defined in section [6.13].

''Prior Loan Contracts'' shall have the meaning as defined in section 9.15.

''Regulatory Created Assets'' shall mean the sum of any amounts properly recordable as unrecovered plant and regulatory study costs or as other regulatory assets, computed pursuant to RUS Accounting Requirements.

''RUS Accounting Requirements'' shall mean any system of accounts prescribed by RUS Regulations as such RUS Accounting Requirements exist at the date of applicability thereof.

''RUS Commitment'' shall have the meaning as defined in schedule 1 hereto.

''RUS Regulations'' shall mean regulations of general applicability published by RUS from time to time as they exist at the date of applicability thereof, and shall also include any regulations of other Federal entities which RUS is required by law to implement.

''Special Construction Account'' shall have the meaning as defined in section 5.21.

''Subsidiary'' shall mean a corporation that is a subsidiary of the Borrower and subject to the Borrower's control, as defined by RUS Accounting Requirements.

''Termination Date'' shall have the meaning as defined in the Note.

''Times Interest Earned Ratio'' (''TIER'') shall have the meaning provided in the Mortgage.

''Total Assets'' shall mean an amount constituting the total assets of the Borrower as computed pursuant to RUS Accounting Requirements, but excluding any Regulatory Created Assets.

''Total Utility Plant'' shall mean the amount constituting the total utility plant of the Borrower computed in accordance with RUS Accounting Requirements.

''Utility System'' shall have the meaning as defined in the Mortgage.

ARTICLE II—REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties.

To induce RUS to make the Loan, and recognizing that RUS is relying hereon, the Borrower represents and warrants as follows:

(a) *Organization; Power, Etc.* The Borrower: (i) is duly organized, validly existing, and in good standing under the laws of its state of incorporation; (ii) is duly qualified to do business and is in good standing in each jurisdiction in which the transaction of its business makes such qualification necessary; (iii) has all requisite corporate and legal power to own and operate its assets and to carry on its business and to enter into and perform the Loan Documents; (iv) has duly and lawfully obtained and maintained all licenses, certificates, permits, authorizations, approvals, and the like which are material to the conduct of its business or which may be otherwise required by law; and (v) is eligible to borrow from RUS.

(b) *Authority*. The execution, delivery and performance by the Borrower of this Agreement and the other Loan Documents and the performance of the transactions contemplated thereby have been duly authorized by all necessary corporate action and shall not violate any provision of law or of the Articles of Incorporation or By-Laws of the Borrower or result in a breach of, or constitute a default under, any agreement, indenture or other instrument to which the Borrower is a party or by which it may be bound.

(c) *Consents*. No consent, permission, authorization, order, or license of any governmental authority is necessary in connection with the execution, delivery, performance, or enforcement of the Loan Documents, except (i) such as have been obtained and are in full force and effect and (ii) such as have been disclosed on Schedule 1 hereto.

(d) *Binding Agreement*. Each of the Loan Documents is, or when executed and delivered shall be, the legal, valid, and binding obligation of the Borrower, 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, profits 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 to RUS in writing.

(g) *Title to Property*. As to property which is presently included in the description of Mortgaged 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 except the Liens specifically identified on Schedule 2 attached hereto (the ''Existing Liens''), and Permitted Encumbrances or Liens 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 connection 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 to RUS in writing.

(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 shall 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.* All payments which the Borrower sends to RUS on any outstanding obligation owed to RUS shall be applied in the manner provided in the Borrower's loan documents to which such payments relate and in a manner consistent with RUS policies, practices, and procedures for obligations that have been similarly classified by RUS.

(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 shall 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 shall 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 for sales for resale 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 shall 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 having special flood hazards, or to finance any facilities or materials to be located in any such building, or in any building owned or occupied by the Borrower and located in such a flood hazard area, the Borrower has submitted evidence, in form and substance satisfactory to RUS, or RUS has otherwise

determined, that (i) the community in which such area is located is then participating in the national flood insurance program, as required by the Flood Insurance Act and any Rules, and (ii) the Borrower has obtained flood insurance coverage with respect to such building and contents as may then be required pursuant to the Flood Insurance Act and any Rules.

(m) *Compliance With Loan Contract and Mortgage*. That the Borrower is in material compliance with all provisions of this Agreement and the Mortgage.

Section 4.2. Special Conditions

The obligation of RUS to make any Advance hereunder is also subject to satisfaction, on or before the date of such Advance, of each of the special conditions, if any, listed in Schedule 1 hereto.

ARTICLE V—AFFIRMATIVE COVENANTS

Section 5.1. Generally

Unless otherwise agreed to in writing by RUS, while this Agreement is in effect, whether or not any Advance is outstanding, the Borrower agrees to duly observe each of the affirmative covenants contained in this Article:

Section 5.2. Annual Certificates

(a) *Performance Under Loan Documents*. The Borrower shall duly observe and perform all of its obligations under each of the Loan Documents.

(b) *Annual Certification*. Within ninety (90) days after the close of each calendar year, commencing with the year following the year in which the initial Advance hereunder shall have been made, the Borrower shall deliver to RUS a written statement signed by its General Manager, stating that during such year the Borrower has fulfilled all of its obligations under the Loan Documents throughout such year in all material respects or, if there has been a default in the fulfillment of any such obligations, specifying each such default known to said person and the nature and status thereof.

Section 5.3. Simultaneous Prepayment of Contemporaneous Loans

If the Borrower shall at any time prepay in whole or in part the Contemporaneous Loan described on Schedule 1, the Borrower shall prepay the RUS Note correspondingly in order to maintain the ratio that the Contemporaneous Loan bears to the RUS Commitment. If the RUS Note calls for a prepayment penalty or premium, such amount shall be paid but shall not be used in computing the amount needed to be paid to RUS under this section to maintain such ratio. In the case of Contemporaneous Loans and RUS Notes existing prior to the date of this Agreement under previous agreements, prepayments shall be treated as if governed by this section. Provided, however, in all cases prepayments associated with refinancing or refunding a Contemporaneous Loan pursuant to Article II of the Mortgage are not considered to be prepayments for purposes of this Agreement if they satisfy each of the following requirements:

(a) *Principal*. The principal amount of such refinancing or refunding loan is not less than the amount of loan principal being refinanced; and

(b) *Weighted Average Life*. The weighted average life of the refinancing or refunding loan is materially equal to the weighted average remaining life of the loan being refinanced.

Section 5.4 Rates To Provide Revenue Sufficient to Meet Coverage Ratios Requirements

(a) *Prospective Requirement*. The Borrower shall design and implement rates for utility service furnished by it to provide sufficient revenue (along with other revenue available to the Borrower in the case of TIER and DSC) (i) to pay all fixed and variable expenses when and as due, (ii) to provide and maintain reasonable working capital, and (iii) to maintain, on an annual basis, the Coverage Ratios. In designing and implementing rates under this paragraph, such rates should be capable of producing at least enough revenue to meet the requirements of this paragraph under the assumption that average weather conditions in the Borrower's service territory shall prevail in the future, including average Utility System damage and outages due to weather and the related costs.

(b) The average Coverage Ratios achieved by the Borrower in the 2 best years out of the 3 most recent calendar years must be not less than any of the following:

TIER = 1.25
DSC = 1.25
OTIER = 1.1
ODSC = 1.1

(c) *Prospective Notice of Change in Rates*. The Borrower shall give thirty (30) days prior written notice of any proposed change in its general rate structure to RUS if RUS has requested in writing that it be notified in advance of such changes.

(d) *Routine Reporting of Coverage Ratios*. Promptly following the end of each calendar year, the Borrower shall report, in writing, to RUS the TIER, Operating TIER, DSC and Operating DSC levels which were achieved during that calendar year.

(e) *Reporting Non-achievement of Retrospective Requirement*. If the Borrower fails to achieve the average levels required by paragraph (b) of this section, it must promptly notify RUS in writing to that effect.

(f) *Corrective Plans.* Within 30 days of sending a notice to RUS under paragraph (e) of this section, or of being notified by RUS, whichever is earlier, the Borrower in consultation with RUS, shall provide a written plan satisfactory to RUS setting forth the actions that shall be taken to achieve the required Coverage Ratios on a timely basis.

(g) *Noncompliance.* Failure to design and implement rates pursuant to paragraph (a) of this section and failure to develop and implement the plan called for in paragraph (f) of this section shall constitute an Event of Default under this Agreement in the event that REA so notifies the Borrower to that effect under section [7.1(d)] of this Agreement.

Section 5.5. Depreciation Rates

The Borrower shall adopt as its depreciation rates only those which have been previously approved for the Borrower by RUS.

Section 5.6. Property Maintenance

The Borrower shall maintain and preserve its Utility System in compliance in all material respects with the provisions of the Mortgage, RUS Regulations and all applicable laws.

Section 5.7. Financial Books

The Borrower shall at all times keep, and safely preserve, proper books, records and accounts in which full and true entries shall be made of all of the dealings, business and affairs of the Borrower and its Subsidiaries, in accordance with any applicable RUS Accounting Requirements.

Section 5.8. Rights of Inspection

The Borrower shall afford RUS, through its representatives, reasonable opportunity, at all times during business hours and upon prior notice, to have access to and the right to inspect the Utility System, any other property encumbered by the Mortgage, and any or all books, records, accounts, invoices, contracts, leases, payrolls, canceled checks, statements and other documents and papers of every kind belonging to or in the possession of the Borrower or in anyway pertaining to its property or business, including its Subsidiaries, if any, and to make copies or extracts therefrom.

Section 5.9. Area Coverage

(a) The Borrower shall make diligent effort to extend electric service to all unserved persons within the service area of the Borrower who (i) desire such service and (ii) meet all reasonable requirements established by the Borrower as a condition of such service.

(b) If economically feasible and reasonable considering the cost of providing such service and/or the effects on consumers' rates, such service shall be provided, to the maximum extent practicable, at the rates and minimum charges established in the Borrower's rate schedules, without the payment of such persons, other than seasonal or temporary consumers, of a contribution in aid of construction. A seasonal consumer is one that demands electric service only during certain seasons of the year. A temporary consumer is a seasonal or year-round consumer that demands electric service over a period of less than five years.

(c) The Borrower may assess contributions in aid of construction provided such assessments are consistent with this section.

Section 5.10. Real Property Acquisition

In acquiring real property, the Borrower shall comply in all material respects with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the ''Uniform Act''), as amended by the Uniform Relocation Act Amendments of 1987, and 49 CFR part 24, referenced by 7 CFR part 21, to the extent the Uniform Act is applicable to such acquisition.

Section 5.11. ''Buy American'' Requirements

The Borrower shall use or cause to be used in connection with the expenditures of funds advanced on account of the Loan only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States or any eligible country, and only such manufactured articles, materials, and supplies as have been manufactured in the United States or any eligible country substantially all from articles, materials, and supplies mined, produced or manufactured, as the case may be, in the United States or any eligible country, except to the extent RUS shall determine that such use shall be impracticable or that the cost thereof shall be unreasonable. For purposes of this section, an ''eligible country'' is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and United States suppliers to the markets of that country, as determined by the United States Trade Representative.

Section 5.12. Power Requirements Studies

The Borrower shall prepare and use power requirements studies of its electric loads and future energy and capacity requirements in conformance with RUS Regulations.

Section 5.13. Long Range Engineering Plans and Construction Work Plans

The Borrower shall develop, maintain and use up-to-date long-range engineering plans and construction work plans in conformance with RUS Regulations.

Section 5.14. Design Standards, Construction Standards, and List of Materials

The Borrower shall use design standards, construction standards, and lists of acceptable materials in conformance with RUS Regulations.

Section 5.15. Plans and Specifications

The Borrower shall submit plans and specifications for construction to RUS for review and approval, in conformance with RUS Regulations, if the construction will be financed in whole or in part by a loan made or guaranteed by RUS.

Section 5.16. Standard Forms of Construction Contracts, and Engineering and Architectural Services Contracts

The Borrower shall use the standard forms of contracts promulgated by RUS for construction, procurement, engineering services and architectural services in conformance with RUS Regulations, if the construction, procurement, or services are being financed in whole or in part by a loan being made or guaranteed by RUS.

Section 5.17. Contract Bidding Requirements

The Borrower shall follow RUS contract bidding procedures in conformance with RUS Regulations when contracting for construction or procurement financed in whole or in part by a loan made or guaranteed by RUS.

Section 5.18. Nondiscrimination

(a) *Equal Opportunity Provisions in Construction Contracts.* The Borrower shall incorporate or cause to be incorporated into any construction contract, as defined in Executive Order 11246 of September 24, 1965 and implementing regulations, which is paid for in whole or in part with funds obtained from RUS or borrowed on the credit of the United States pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any RUS program involving such grant, contract, loan, insurance or guarantee, the equal opportunity provisions set forth in Exhibit B hereto entitled Equal Opportunity Contract Provisions.

(b) *Equal Opportunity Contract Provisions Also Bind the Borrower.* The Borrower further agrees that it shall be bound by such equal opportunity clause in any federally assisted construction work which it performs itself other than through the permanent work force directly employed by an agency of government.

(c) *Sanctions and Penalties.* The Borrower agrees that it shall cooperate actively with RUS and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor, that it shall furnish RUS and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it shall otherwise assist the administering agency in the discharge of RUS's primary responsibility for securing compliance. The Borrower further agrees that it shall refrain from entering into any contract or contract modification subject to Executive Order 11246 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to Part II, Subpart D of Executive Order 11246 and shall carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by RUS or the Secretary of Labor pursuant to Part II, Subpart D of Executive Order 11246. In addition, the Borrower agrees that if it fails or refuses to comply with these undertakings RUS may cancel, terminate or suspend in whole or in part this contract, may refrain from extending any further assistance under any of its programs subject to Executive Order 11246 until satisfactory assurance of future compliance has been received from such Borrower, or may refer the case to the Department of Justice for appropriate legal proceedings.

Section 5.19. Financial Reports

The Borrower shall cause to be prepared and furnished to RUS a full and complete annual report of its financial condition and of its operations in form and substance satisfactory to RUS, audited and certified by Independent certified public accountants satisfactory to RUS and accompanied by a report of such audit in form and substance satisfactory to RUS. The Borrower shall also furnish to RUS from time to time such other reports concerning the financial condition or operations of the Borrower, including its Subsidiaries, as RUS may reasonably request or RUS Regulations require.

Section 5.20. Miscellaneous Reports and Notices

The Borrower shall furnish to RUS:

(a) *Notice of Default.* Promptly after becoming aware thereof, notice of: (i) the occurrence of any default; and (ii) the receipt of any notice given pursuant to the Mortgage with respect to the occurrence of any event which with the giving of notice or the passage of time, or both, could become an ''Event of Default'' under the Mortgage.

(b) *Notice of Non-Environmental Litigation.* Promptly after the commencement thereof, notice of the commencement of all actions, suits or proceedings before any court, arbitrator, or governmental department, commission, board, bureau, agency, or instrumentality affecting the Borrower 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.

(c) *Notice of Environmental Litigation*. Without limiting the provisions of Section [5.20(b)] above, promptly after receipt thereof, notice of the receipt of all pleadings, orders, complaints, indictments, or other communications alleging a condition that may require the Borrower to undertake or to contribute to a cleanup or other response under laws relating to environmental protection, or which seek penalties, damages, injunctive relief, or criminal sanctions related to alleged violations of such laws, or which claim personal injury or property damage to any person as a result of environmental factors or conditions for which the Borrower is not fully covered by insurance, or 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.

(d) *Notice of Change of Place of Business*. Promptly in writing, notice of any change in location of its principal place of business or the office where its records concerning accounts and contract rights are kept.

(e) *Regulatory and Other Notices*. Promptly after receipt thereof, copies of any notices or other communications received from any governmental authority with respect to any matter or proceeding 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.

(f) *Material Adverse Change*. Promptly, notice of any matter which has resulted or may result in a material adverse change in the condition, financial or otherwise, operations, properties, or business of the Borrower, or the ability of the Borrower to perform its obligations under the Loan Documents.

(g) *Other Information*. Such other information regarding the condition, financial or otherwise, or operations of the Borrower as RUS may, from time to time, reasonably request.

Section 5.21. Special Construction Account

The Borrower shall hold all moneys advanced to it by RUS hereunder in trust for RUS and shall deposit such moneys promptly after the receipt thereof in a bank or banks which meet the requirements of Section [6.7] of this Agreement. Any account (hereinafter called ''Special Construction Account'') in which any such moneys shall be deposited shall be insured by the Federal Deposit Insurance Corporation or other federal agency acceptable to RUS and shall be designated by the corporate name of the Borrower followed by the words ''Trustee, Special Construction Account.'' Moneys in any Special Construction Account shall be used solely for the construction and operation of the Utility System and may be withdrawn only upon checks, drafts, or orders signed on behalf of the Borrower and countersigned by an executive officer thereof.

Section 5.22. Additional Affirmative Covenants

The Borrower also agrees to comply with any additional affirmative covenant(s) identified in Schedule 1 hereto.

ARTICLE VI—NEGATIVE COVENANTS

Section 6.1. General

Unless otherwise agreed to in writing by RUS, while this Agreement is in effect, whether or not any Advance is outstanding hereunder, the Borrower shall duly observe each of the negative covenants set forth in this Article.

Section 6.2. Limitations on System Extensions and Additions

(a) The Borrower shall not extend or add to its Electric System either by construction or acquisition without the prior written approval of RUS if the construction or acquisition is financed or will be financed, in whole or in part, by a RUS loan or loan guarantee.

(b) The Borrower shall not extend or add to its Electric System with funds from other sources without prior written approval of RUS in the case of:

(1) Generating facilities if the combined capacity of the facilities to be built, procured, or leased, including any future facilities included in the planned project, will exceed the lesser of 5 Megawatts or 30 percent of the Borrower's Equity;

(2) Existing electric facilities or systems in service whose purchase price, or capitalized value in the case of a lease, exceeds ten percent of the Borrower's Net Utility Plant; and

(3) Any project to serve a customer whose annual Kwh purchases or maximum annual Kw demand is projected to exceed 25 percent of the Borrower's total Kwh sales or maximum Kw demand in the year immediately preceding the acquisition or start of construction of facilities.

Section 6.3. Limitations on Changing Principal Place of Business

The Borrower shall not change its principal place of business or keep property in a county not shown on a schedule to the Mortgage if the change would cause the lien in favor of RUS to become unperfected or fail to become perfected, as the case may be, unless, prior thereto, the Borrower shall have taken all steps required by law in order to assure that the lien in favor of RUS remains

or becomes perfected, as the case may be, and, in either event, such lien has the priority accorded by the Mortgage.

Section 6.4. Limitations on Employment and Retention of Manager

At any time any Event of Default, or any occurrence which with the passage of time or giving of notice would be an Event of Default, occurs and is continuing the Borrower shall not employ any general manager of the Utility System or the Electric System or any person exercising comparable authority to such a manager unless such employment shall first have been approved by RUS. If any Event of Default, or any occurrence which with the passage of time or giving of notice would be an Event of Default, occurs and is continuing and RUS requests the Borrower to terminate the employment of any such manager or person exercising comparable authority, or RUS requests the Borrower to terminate any contract for operating the Utility System or the Electric System, the Borrower shall do so within thirty (30) days after the date of such notice. All contracts in respect of the employment of any such manager or person exercising comparable authority, or for the operation of the Utility System or the Electric System, shall contain provisions to permit compliance with the foregoing covenants.

Section 6.5. Limitations on Certain Types of Contracts

Without the prior approval of RUS in writing, the Borrower shall not enter into any of the following contracts:

(a) *Construction Contracts.* Any contract for construction or procurement or for architectural and engineering services in connection with its Electric System if the project is financed or will be financed, in whole or in part, by a RUS loan or loan guarantee;

(b) *Large retail power contracts.* Any contract to sell electric power and energy for periods exceeding two (2) years if the kWh sales or kW demand for any year covered by such contract shall exceed 25 percent of the Borrower's total kWh sales or maximum kW demand for the year immediately preceding the execution of such contract;

(c) *Wholesale power contracts.* Any contract to sell electric power or energy for resale and any contract to purchase electric power or energy that, in either case, has a term exceeding two (2) years;

(d) *Power supply arrangements.* Any interconnection agreement, interchange agreement, wheeling agreement, pooling agreement or similar power supply arrangement that has a term exceeding two (2) years;

(e) *System management and maintenance contracts.* Any contract for the management and operation of all or substantially all of its Electric System; or

(f) *Other contracts.* Any contracts of the type described on Schedule 3.

Section 6.6. Limitations on Mergers and Sale, Lease or Transfer of Capital Assets

(a) The Borrower shall not consolidate with, or merge, or sell all or substantially all of its business or assets, to another entity or person except to the extent it is permitted to do so under the Mortgage. The exception contained in this paragraph (a) is subject to the additional limitation set forth in paragraph (b) of this section.

(b) The Borrower shall not, without the written approval of the Administrator, voluntarily or involuntarily sell, convey or dispose of any portion of its business or assets (including, without limitation, any portion of its franchise or service territory) to another entity or person if such sale, conveyance or disposition could reasonably be expected to reduce the Borrower's existing or future requirements for energy or capacity being furnished to the Borrower under any wholesale power contract which has been pledged as security to RUS.

Section 6.7. Limitations on Using non-FDIC Insured Depositories

Without the prior written approval of RUS, the Borrower shall not place the proceeds of the Loan or any loan which has been made or guaranteed by RUS in the custody of any bank or other depository that is not insured by the Federal Deposit Insurance Corporation or other federal agency acceptable to RUS.

Section 6.8. Limitation on Distributions

Without the prior written approval of RUS, the Borrower shall not in any calendar year make any Distributions (exclusive of any Distributions to the estates of deceased natural patrons) to its members, stockholders or consumers except as follows:

(a) Equity above 30%. If, after giving effect to any such Distribution, the Equity of the Borrower shall be greater than or equal to 30% of its Total Assets; or

(b) Equity above 20%. If, after giving effect to any such Distribution, the aggregate of all Distributions made during the calendar year when added to such Distribution shall be less than or equal to 25% of the prior year's margins.

Provided however, that in no event shall the Borrower make any Distributions if there is unpaid when due any installment of principal of (premium, if any) or interest on its Notes, if the Borrower is otherwise in default hereunder or if, after giving effect to any such Distribution, the Borrower's current and accrued assets would be less than its current and accrued liabilities.

Section 6.9. Limitations on Loans, Investments and Other Obligations

The Borrower shall not make any loan or advance to, or make any investment in, or purchase or make any commitment to purchase any stock, bonds, notes or other securities of, or guaranty, assume or otherwise become obligated or liable with respect to the obligations of, any other person, firm or corporation, except as permitted by the Act and RUS Regulations.

Section 6.10. Depreciation Rates

The Borrower shall not file with or submit for approval of regulatory bodies any proposed depreciation rates which are inconsistent with RUS Regulations.

Section 6.11. Historic Preservation

The Borrower shall not, without approval in writing by RUS, use any Advance to construct any facilities which shall involve any district, site, building, structure or object which is included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior pursuant to the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966.

Section 6.12. Rate Reductions

Without the prior written approval of RUS, the Borrower shall not decrease its rates if it has failed to achieve all of the Coverage Ratios for the calendar year prior to such reduction.

Section 6.13. Limitations on Additional Indebtedness

Except as expressly permitted by Article II of the Mortgage and subject to the further limitations expressed in the next section, the Borrower shall not incur, assume, guarantee or otherwise become liable in respect of any debt for borrowed money and Restricted Rentals (including Subordinated Indebtedness) other than the following: (''Permitted Debt'')

(a) Additional Notes issued in compliance with Article II of the Mortgage;

(b) Purchase money indebtedness in non-Utility System property, in an amount not exceeding 10% of Net Utility Plant;

(c) Restricted Rentals in an amount not to exceed 5% of Equity during any 12 consecutive calendar month period;

(d) Unsecured lease obligations incurred in the ordinary course of business except Restricted Rentals;

(e) Unsecured indebtedness for borrowed money, except when the aggregate amount of such indebtedness exceeds 15% of Net Utility Plant and after giving effect to such unsecured indebtedness the Borrower's Equity is less than 30% of its Total Assets;

(f) Debt represented by dividends declared but not paid; and

(g) Subordinated Indebtedness approved by RUS.

PROVIDED, However, that the Borrower may incur Permitted Debt without the consent of RUS only so long as there exists no Event of Default hereunder and there has been no continuing occurrence which with the passage of time and giving of notice could become an Event of Default hereunder.

PROVIDED, FURTHER, by executing this Agreement any consent of RUS that the Borrower would otherwise be required to obtain under this Section is hereby deemed to be given or waived by RUS by operation of law to the extent, but only to the extent, that to impose such a requirement of RUS consent would clearly violate federal laws or RUS Regulations.

Section 6.14. Limitations on Issuing Additional Indebtedness Secured Under the Mortgage

(a) The Borrower shall not issue any Additional Notes under the Mortgage to finance Eligible Property Additions without the prior written consent of RUS unless the following additional requirements are met in addition to the requirements set forth in the Mortgage for issuing Additional Notes:

(1) The weighted average life of the loan evidenced by such Notes does not exceed the weighted average of the expected remaining useful lives of the assets being financed;

(2) The principal of the loan evidenced by such Notes is amortized at a rate that shall yield a weighted average life that is not greater than the weighted average life that would result from level payments of principal and interest; and

(3) The principal of the loan being evidenced by such Notes has a maturity of not less than 5 years.

(b) The Borrower shall not issue any Additional Notes under the Mortgage to refund or refinance Notes without the prior written consent of RUS unless, in addition to the requirements set forth in the Mortgage for issuing Refunding or Refinancing Notes, the weighted average life of any such Refunding or Refinancing Notes is not greater than the weighted average remaining life of the Notes being refinanced.

(c) Any request for consent from RUS under this section, shall be accompanied by a certificate of the Borrower's manager substantially in the form attached to this Agreement as Exhibit C–1 in the case of Notes being issued under Section [2.01] of the Mortgage and C–2 in the case of Notes being issued under Section [2.02] of the Mortgage.

Section 6.15. Impairment of Contracts Pledged to RUS

The Borrower shall not materially breach any obligation to be paid or performed by

the Borrower on any contract, or take any action which is likely to materially impair the value of any contract, which has been pledged as security to RUS by the Borrower or any other entity.

Section 6.16. Additional Negative Covenants

The Borrower also agrees to comply with any additional negative covenant(s) identified in Schedule 1 hereto.

ARTICLE VII—DEFAULT

Section 7.1. Events of Default

The following shall be Events of Default under this Agreement:

(a) *Representations and Warranties.* Any representation or warranty made by the Borrower in Article II hereof or any certificate furnished to RUS hereunder or under the Mortgage shall prove to have been incorrect in any material respect at the time made and shall at the time in question be untrue or incorrect in any material respect and remain uncured;

(b) *Payment.* Default shall be made in the payment of or on account of interest on or principal of the Note when and as the same shall be due and payable, whether by acceleration or otherwise, which shall remain unsatisfied for five (5) Business Days;

(c) *Borrowing Under the Mortgage in Violation of the Loan Contract.* Default by the Borrower in the observance or performance of any covenant or agreement contained in Section 6.14 of this Agreement.

(d) *Other Covenants.* Default by the Borrower in the observance or performance of any other covenant or agreement contained in any of the Loan Documents, which shall remain unremedied for 30 calendar days after written notice thereof shall have been given to the Borrower by RUS;

(e) *Corporate Existence.* The Borrower shall forfeit or otherwise be deprived of its corporate charter, franchises, permits, easements, consents or licenses required to carry on any material portion of its business;

(f) *Other Obligations.* Default by the Borrower in the payment of any obligation, whether direct or contingent, for borrowed money or in the performance or observance of the terms of any instrument pursuant to which such obligation was created or securing such obligation;

(g) *Bankruptcy.* A court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Borrower in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official, or ordering the winding up or liquidation of its affairs, and such decree or order shall remain unstayed and in effect for a period of ninety (90) consecutive days or the Borrower shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian or trustee, of a substantial part of its property, or make any general assignment for the benefit of creditors; and

(h) *Dissolution or Liquidation.* Other than as provided in the immediately preceding subsection, the dissolution or liquidation of the Borrower, or failure by the Borrower promptly to forestall or remove any execution, garnishment or attachment of such consequence as shall impair its ability to continue its business or fulfill its obligations and such execution, garnishment or attachment shall not be vacated within 30 days. The term ''dissolution or liquidation of the Borrower'', as used in this subsection, shall not be construed to include the cessation of the corporate existence of the Borrower resulting either from a merger or consolidation of the Borrower into or with another corporation following a transfer of all or substantially all its assets as an entirety, under the conditions permitting such actions.

ARTICLE VIII—REMEDIES

Section 8.1. Generally

Upon the occurrence of an Event of Default, then RUS may pursue all rights and remedies available to RUS that are contemplated by this Agreement or the Mortgage in the manner, upon the conditions, and with the effect provided in this Agreement or the Mortgage, including, but not limited to, a suit for specific performance, injunctive relief or damages. Nothing herein shall limit the right of RUS to pursue all rights and remedies available to a creditor following the occurrence of an Event of Default listed in Article VII hereof. Each right, power and remedy of RUS shall be cumulative and concurrent, and recourse to one or more rights or remedies shall not constitute a waiver of any other right, power or remedy.

Section 8.2. Suspension of Advances

In addition to the rights, powers and remedies referred to in the immediately preceding section, RUS may, in its absolute discretion, suspend making Advances hereunder if (i) any Event of Default, or any occurrence which with the passage of time or giving of notice would be an Event of Default, occurs and is continuing; (ii) there has occurred a change in the business or condition, financial or otherwise, of the Borrower which in the opinion of RUS materially and adversely affects the Borrower's ability to meet its obligations under the Loan Documents, or (iii) RUS is authorized to do so under RUS Regulations.

ARTICLE IX—MISCELLANEOUS

Section 9.1. Notices

All notices, requests and other communications provided for herein including, without limitation, any modifications of, or waivers, requests or consents under, this Agreement shall be given or made in writing (including, without limitation, by telecopy) and delivered to the intended recipient at the ''Address for Notices'' specified below; or, as to any party, at such other address as shall be designated by such party in a notice to each other party. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given when transmitted by telecopier or personally delivered or, in the case of a mailed notice, upon receipt, in each case given or addressed as provided for herein. The Address for Notices of the respective parties are as follows:

Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250–1500
Fax: (202) xxx-xxxx
Attention: [Administrator]
The Borrower:
The address set forth in Schedule 1 hereto

Section 9.2. Expenses

To the extent allowed by law, the Borrower shall pay all costs and expenses of RUS, including reasonable fees of counsel, incurred in connection with the enforcement of the Loan Documents or with the preparation for such enforcement if RUS has reasonable grounds to believe that such enforcement may be necessary.

Section 9.3. Late Payments

If payment of any amount due hereunder is not received at the United States Treasury in Washington, DC, or such other location as RUS may designate to the Borrower within five (5) Business Days after the due date thereof or such other time period as RUS may prescribe from time to time in its policies of general application in connection with any late payment charge (such unpaid amount being herein called the ''delinquent amount'', and the period beginning after such due date until payment of the delinquent amount being herein called the ''late-payment period''), the Borrower shall pay to RUS, in addition to all other amounts due under the terms of the Note, the Mortgage and this Agreement, any late-payment charge as may be fixed by RUS Regulations from time to time on the delinquent amount for the late-payment period.

Section 9.4. Filing Fees

To the extent permitted by law, the Borrower agrees to pay all expenses of RUS (including the fees and expenses of its counsel) in connection with the filing or recordation of all financing statements and instruments as may be required by RUS in connection with this Agreement, including, without limitation, all documentary stamps, recordation and transfer taxes and other costs and taxes incident to recordation of any document or instrument in connection herewith. Borrower agrees to save harmless and indemnify RUS from and against any liability resulting from the failure to pay any required documentary stamps, recordation and transfer taxes, recording costs, or any other expenses incurred by RUS in connection with this Agreement. The provisions of this subsection shall survive the execution and delivery of this Agreement and the payment of all other amounts due hereunder or due on the Note.

Section 9.5. No Waiver

No failure on the part of RUS to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof nor shall any single or partial exercise by RUS of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

Section 9.6. Governing Law

EXCEPT TO THE EXTENT GOVERNED BY APPLICABLE FEDERAL LAW, THE LOAN DOCUMENTS SHALL BE DEEMED TO BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE [IN WHICH THE BORROWER IS INCORPORATED].

Section 9.7. Holiday Payments

If any payment to be made by the Borrower hereunder shall become due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in computing any interest in respect of such payment.

Section 9.8. Rescission

The Borrower may elect not to borrow the RUS Commitment in which event RUS shall release the Borrower from its obligations hereunder, provided the Borrower complies with such terms and conditions as RUS may impose for such release and provided also that if the Borrower has any remaining obligations to RUS for loans made or guaranteed by RUS under any Prior Loan Contracts, RUS may, under Section [9.15] of this Loan Contract, withhold such release until all such obligations have been satisfied and discharged.

Section 9.9. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the Borrower and RUS and their respective successors and assigns,

except that the Borrower may not assign or transfer its rights or obligations hereunder without the prior written consent of RUS.

Section 9.10. Complete Agreement; Amendments

Subject to RUS Regulations, this Agreement and the other Loan Documents are intended by the parties to be a complete and final expression of their agreement. However, RUS reserves the right to waive its rights to compliance with any provision of this Agreement and the other Loan Documents. No amendment, modification, or waiver of any provision hereof or thereof, and no consent to any departure of the Borrower herefrom or therefrom, shall be effective unless approved in writing by RUS in the form of either a RUS Regulation or other writing signed by or on behalf of RUS, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

Section 9.11. Headings

The headings and sub-headings contained in the titling of this Agreement are intended to be used for convenience only and do not constitute part of this Agreement.

Section 9.12. Severability

If any term, provision or condition, or any part thereof, of this Agreement or the Mortgage shall for any reason be found or held invalid or unenforceable by any governmental agency or court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of such term, provision or condition nor any other term, provision or condition, and this Agreement, the Note, and the Mortgage shall survive and be construed as if such invalid or unenforceable term, provision or condition had not been contained therein.

Section 9.13. Right of Setoff

Upon the occurrence and during the continuance of any Event of Default, RUS is hereby authorized at any time and from time to time, without prior notice to the Borrower, to exercise rights of setoff or recoupment and apply any and all amounts held or hereafter held, by RUS or owed to the Borrower or for the credit or account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing hereunder or under the Note. RUS agrees to notify the Borrower promptly after any such setoff or recoupment and the application thereof, provided that the failure to give such notice shall not affect the validity of such setoff, recoupment or application. The rights of RUS under this section are in addition to any other rights and remedies (including other rights of setoff or recoupment) which RUS may have. Borrower waives all rights of setoff, deduction, recoupment or counterclaim.

Section 9.14. Schedules and Exhibits

Each Schedule and Exhibit attached hereto and referred to herein is each an integral part of this Agreement.

Section 9.15. Prior Loan Contracts

It is understood and agreed that with respect to all loan agreements previously entered into by and between RUS and the Borrower (hereinafter being referred to as ''Prior Loan Contracts'') the Borrower shall be required, after the date hereof, to meet affirmative and negative covenants as set forth in this Agreement rather than those set forth in the Prior Loan Contracts. In addition, any remaining obligation of RUS to make additional advances on promissory notes of the Borrower that have been previously delivered to RUS under Prior Loan Contracts shall, after the date hereof, be subject to the conditions set forth in this Agreement. In the event of any conflict between any provision set forth in a Prior Loan Contract and any provision in this Agreement, the requirements as set forth in this Agreement shall apply. Nothing in this section shall, however, eliminate or modify any special condition, special affirmative covenant or special negative covenant, if any, unless specifically agreed to in writing by RUS.

Section 9.16. Authority of Representatives of RUS

In the case of any consent, approval or waiver from RUS that is required under this Agreement or any other Loan Document, such consent, approval or waiver must be in writing and signed by an authorized RUS representative to be effective. As used in this section, ''authorized RUS representative'' means the Administrator of RUS, and also means a person to whom the Administrator has officially delegated specific or general authority to take the action in question.

Section 9.17. Term

This Agreement shall remain in effect until one of the following two events has occurred:

(a) The Borrower and RUS replace this Agreement with another written agreement; or

(b) All of the Borrower's obligations under the prior loan contracts and this Agreement have been discharged and paid.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

(Name of Borrower)

(SEAL)

By _____
President
Attest: _____
Secretary

RURAL UTILITIES SERVICE

By _____
Administrator

SCHEDULE 1

[citations subject to change]

1. The purpose of this loan is _____ and such other purposes that RUS may agree to in writing in order to carry out the purposes of the Rural Electrification Act.

2. The Mortgage shall mean the Restated Mortgage and Security Agreement, dated as of _____, between the Borrower and RUS, as it may have been or shall be supplemented, amended, consolidated, or restated from time to time.

3. The governmental authority referred to in Section [2.1(c)] is _____.

4. The exception being taken to the representations in Section [2.1(e)] concerning material compliance with laws is as follows: _____.

5. The litigation referred to in Section [2.1(f)] is described as follows: _____.

6. The date of the Borrower's financial information referred to in Section [2.1(h)] is _____.

7. The principal place of business of the Borrower referred to in Section [2.1(i)] is _____.

8. All of the property of the Borrower is located in the counties of _____.

9. The subsidiary (or subsidiaries) referred to in Section [2.1(k)] is (are): _____.

10. The Contemporaneous Loan referred to in Section [5.3] is described as follows: _____.

Lender: _____

Amount: _____

Year of Final Maturity: _____

11. The RUS Commitment referred to in the definitions means a loan in the principal amount of $_____ which is being made by RUS to the Borrower at the _____ Hardship Rate _____ Municipal Rate (CHECK ONE) pursuant to the Rural Electrification Act and RUS Regulations.

12. Amortization of Advance shall be based upon the method indicated below:

_____ level principal

_____ level debt service

_____ other

13. The SPECIAL condition(s) referred to in Section [4.2] is (are): _____.

14. The additional AFFIRMATIVE covenant(s) referred to in Section [5.22] is (are) as follows: _____. 15. The additional NEGATIVE covenant(s) referred to in Section [6.16] is (are) as follows: _____.

16. The address of the Borrower referred to in Section [9.1]. is _____.

SCHEDULE 2—EXISTING LIENS

The Existing Liens referred to in Section [2.1(g)] are as follows:

[INSERT DESCRIPTION OF EXISTING LIENS, IF ANY, HERE]

SCHEDULE 3—ADDITIONAL CONTRACTS

The additional contracts referred to in Section [6.5(f)] are described as follows:

[INSERT LIST OF ANY ADDITIONAL CONTRACTS HERE]

EXHIBIT A—FORM OF PROMISSORY NOTE

[INSERT EITHER MUNICIPAL or HARDSHIP RATE PROMISSORY NOTE FORM HERE]

EXHIBIT B—EQUAL OPPORTUNITY CONTRACT PROVISIONS

During the performance of this contract, the contractor agrees as follows:

(a) The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(b) The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex or national origin.

(c) The contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(e) The contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliances with such rules, regulations and orders.

(f) In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(g) The contractor shall include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246, dated September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The contractor shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

EXHIBIT C–1—MANAGER'S CERTIFICATE REQUIRED UNDER LOAN CONTRACT SECTION 6.14 FOR ADDITIONAL NOTES

On behalf on _____ [Name of Borrower] _____ I hereby certify that the Additional Note or Notes to be issued under Section [2.01] of the Mortgage on or about _____ [Date Note or Notes are to be Signed] _____ meet all of the requirements of Section [6.14] of the Loan Contract, namely:

(a) The weighted average life of the loan evidenced by such Notes (_____ years) does not exceed the weighted average of the expected remaining useful lives of the assets being financed (_____ years) as evidenced by the attached calculation of said weighted average lives.

(b) The principal of the loan evidenced by such Notes shall either be [check one and provide evidence in the second case]:

_____ (1) repaid based on level payments of principal and interest throughout the life of the loan, or

_____ (2) amortized at a rate that shall yield a weighted average life that is not greater than the weighted average life that would result from level payments of principal and interest throughout the life of the loan as evidenced by the attached analysis of said weighted average lives.

(c) The principal of the loan evidenced by such Notes has a maturity of not less than 5 years.

[Signed] _____

[Dated] _____

[Name] _____

[Title] _____

[Name and Address of Borrower] _____

_____

_____

EXHIBIT C–2—MANAGER'S CERTIFICATE REQUIRED UNDER LOAN CONTRACT SECTION 6.14 FOR REFINANCING NOTES

On behalf on _____ [Name of Borrower] _____ I hereby certify that the Additional Note or Notes to be issued under Section [2.02] of the Mortgage on or about _____ [Date Note or Notes are to be Signed] _____ meet the requirement of Section [6.14] of the Loan Contract that the weighted average life of such Notes is not greater than the weighted average remaining life of the Notes being refinanced, as evidenced by the attached calculation of said weighted average lives.

[Signed] _____

[Dated] _____

[Name] _____

[Title] _____

[Name and Address of Borrower] _____

_____

_____

[60 FR 67410, Dec. 29, 1995, as amended at 65 FR 51749, Aug. 25, 2000]

PART 1719—RURAL ENERGY SAVINGS PROGRAM

Subpart A—General Provisions

Sec.

1719.1 Purpose.
1719.2 Definitions.
1719.3 Policy and Federal Register Notices.