

Estado Libre Asociado de Puerto Rico  
Gobierno Municipal de Guaynabo  
Asamblea Municipal

RESOLUCION

Número 2

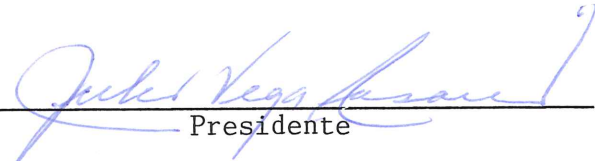
Presentada por: Administración

Serie 1994-95

PARA AUTORIZAR AL HON. ALCALDE DE GUAYNABO, HECTOR O'NEILL GARCIA, A INCLUIR EN LA PARTIDA NUM. 01-02-01-24-00-9228 (GASTOS DE ENERGIA ELECTRICA) SERVICIO DE ALUMBRADO PUBLICO EN P.R. 837, PUENTE SOBRE EL RIO GUAYNABO, AC-83703, JURISDICCION DE GUAYNABO, PUERTO RICO.

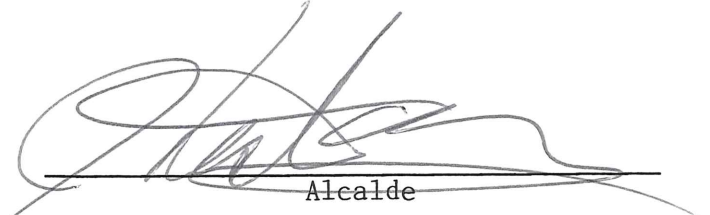
- Por Cuanto : La Autoridad de Carreteras solicita que el Gobierno Municipal de Guaynabo indique la disposición a pagar por el consumo de alumbrado público en el siguiente proyecto, jurisdicción de Guaynabo:
- P.R. 837, Puente Sobre el Río Guaynabo AC-83703
- Actualmente, en diseño final. Consumo aproximado, \$70.00 mensuales.
- Por Cuanto : Hemos sido notificados por la Autoridad de Carreteras que el caso mencionado en el Primer Por Cuanto de esta Resolución incluye un sistema de alumbrado basado en luminarias de sodio de 200 vatios y el diseño preliminar de iluminación indica un consumo de energía estimado en \$70.00 mensuales. Para la sección perteneciente a Guaynabo.
- Por Cuanto : La Autoridad de Carreteras solicita una Resolución aprobada por la Asamblea Municipal en la cual indique la disposición nuestra a pagar por el consumo de electricidad indicado.
- POR TANTO : RESUELVESE POR ESTA ASAMBLEA MUNICIPAL DE GUAYNABO, PUERTO RICO, REUNIDA EN SESION ORDINARIA HOY, DIA 11 DE OCTUBRE DE 1994.
- Sección 1ra : Autorizar, como por la presente se autoriza, al Honorable Alcalde de Guaynabo a incluir en la Partida Núm. 01-02-01-24-00-9228 (Gastos de Energía Eléctrica) la cantidad de \$70.00 mensuales por el servicio de alumbrado público del proyecto, jurisdicción de Guaynabo, que se detalla a continuación:
- PR 837, Puente Sobre el Río Guaynabo - AC 83703
- Actualmente, en diseño final. Consumo aproximado, \$70.00 mensuales.
- Sección 2da : Autorizar a la Directora de Finanzas de este Municipio a hacer los ajustes necesarios en los libros de contabilidad a su cargo para que dé fiel cumplimiento a lo dispuesto en esta Resolución.

Sección 3ra : Esta Resolución empezará a regir inmediatamente después de su aprobación y copia de la misma le será enviada a las agencias estatales y municipales que corresponda para los fines de rigor.

  
\_\_\_\_\_  
Presidente

  
\_\_\_\_\_  
Secretaria

Fue aprobada por el Hon. Héctor O'Neill García, Alcalde, el día 26 de octubre de 1994.

  
\_\_\_\_\_  
Alcalde

Estado Libre Asociado de Puerto Rico  
Gobierno Municipal de Guaynabo  
Asamblea Municipal

C E R T I F I C A C I O N

YO, SRA. ASUNCION CASTRO DE LOPEZ, Secretaria de la Asamblea Municipal de Guaynabo, Puerto Rico, por medio de la presente certifico que la que antecede es una copia fiel y exacta de la Resolución Núm. 2, Serie 1994-95, aprobada por en su sesión ordinaria del día 11 de octubre de 1994.

CERTIFICO, ADEMÁS, que la misma fue aprobada por unanimidad de los miembros presentes en dicha sesión, los Hons. Julio Vega Rosario, María del C. Rivera Hernández, Carmen Delgado Morales, Sonia Colón Santos, Marcos A. Díaz Laboy, Felipe Arroyo Moret, Carlos M. Santos Otero, Nelson A. Miranda Hernández, William López Garcés, Maggie Ginés de Soto, Francisco Nieves Figueroa, Lillian Jiménez López, Ramón Ruiz Sánchez, Elías González Mathews y Milagros Pabón.

Fue aprobada por el Hon. Héctor O'Neill García, Alcalde, el día 26 de octubre de 1994.

EN TESTIMONIO DE TODO LO CUAL, libro la presente certificación bajo mi firma y el sello oficial del Municipio de Guaynabo, Puerto Rico, a los veinticinco días del mes de octubre del año mil novecientos y cuatro.

  
Secretaria Asamblea Municipal

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Secretaria Asamblea Municipal

**DRAFT FOR DISCUSSION PURPOSES**

**NUMBER**

**DEED OF LEASE**

In the City of San Juan, Puerto Rico, this ( ) day of ,  
nineteen hundred ninety-four(1994).

**BEFORE ME**

attorney-at-law and Notary Public in and for the Commonwealth of  
Puerto Rico, with residence in San Juan Puerto Rico.

**APPEAR**

**AS PARTY OF THE FIRST PART:** The Municipality of Guaynabo, a  
governmental instrumentality created under the laws of the  
Commonwealth of Puerto Rico, (hereinafter referred to as the  
"Lessor"). represented in this act by

Social Security Number

, of legal age, married and resident of Guaynabo, Puerto Rico, who  
states that he is duly authorized to represent said Municipality  
and binds himself to establish such authority whenever and wherever  
properly required to do so.

**AS PARTY OF THE SECOND PART:** Pegasus Ferrous Recycling, Inc.,  
Employer's Identification Number

( ), a corporation duly organized and validly existing  
under the laws of the Commonwealth of Puerto Rico, (hereinafter  
referred to as the "Lessee"), herein represented by its President  
José Victor Lanza Ramirez, Social Security Number Five Eight Four  
Dash Four Two Dash Six Eight Zero Nine (584-42-6809), who is of  
legal age, married and resident of San Juan, Puerto Rico, who  
states that he is duly authorized to represent said Corporation and

binds himself to show such authority whenever and wherever properly required to do so.

I, the Notary, do hereby attest that I personally know the natural persons appearing herein for the Lessee and that I identified the natural person appearing herein for the Lessor according to the appearing natural person for the Lessee who I personally know and who certifies that he personally knows the appearing party for Lessor, pursuant to Section Seventeen (17)(b) of the Notarial Law of Puerto Rico, and from their statements I also attest as to their age, civil status, occupation, and residence. They assure me that they have, and in my judgment they do have, the necessary legal capacity and knowledge of the English language to execute this deed, and for that purpose they do freely and voluntarily.

**STATE**

**FIRST: TITLE, LIENS AND ENCUMBRANCES.**

The Lessor represents and warrants that it is the owner in fee simple title ("pleno dominio") of a parcel of land located in the Municipality of Guaynabo, Puerto Rico, and more fully described in the spanish language as follows (hereinafter the "Property"):

"RUSTICA: Parcela de terreno que radica en el barrio Río, antes barrios Río y Mamey de Guaynabo, con una cabida de cincuenta y dos punto seis mil seiscientos cincuenta y siete cuerdas (52.6657), equivalentes a veinte hectáreas (20), sesenta y nueve áreas (69) y noventa y siete punto mil doscientos quince centiáreas (97.1215), en lindes por el NORTE, con la finca principal, el Río Guaynabo, Guaynabo Ready Mix Corporation, Fraternidad Alpha Phi Sigma y Juan Pedroza; por el SUR, con la finca principal y terrenos de Julio Rosario; por el ESTE, con el Río Guaynabo, la finca principal y Carretera Estatal #1 y por el OESTE, con terrenos pertenecientes a Guaynabo Ready Mix Corporation, Air Products of

Puerto Rico, Fraternidad Alpha Phi Sigma, Félix Baerga, Juan Pedroza, Secundino Torres y Marcolina de Jesús".

The subject described property is recorded at page (Folio) number one hundred sixty one (161), of volume (Tomo) five hundred thirty seven (537), property number twenty two thousand one hundred ninety eight (22,198), at the Property Registry of Guaynabo. Of the fifty two point six thousand six hundred fifty eight (52.6658) "cuerdas" as per description in the enclosed Plan prepared by Engineer \_\_\_\_\_, dated \_\_\_\_\_, which forms part of this Deed, a portion of six point two thousand one hundred seventy one (6.2171) cuerdas of land are subject to this Lease ( the "Leased Property"). Under no circumstances shall it be understood that the Leased Property constitutes a segregation. The six point two thousand one hundred seventy one (6.2171) cuerdas of land related to this Lease are described in the enclosed Plan, which is identified as Exhibit "A". Free access to and from the Leased Property is through state highway number one, utilizing the existing internal site road system identified in Exhibit "A" of this Lease Agreement.

As per title search prepared by \_\_\_\_\_

, dated \_\_\_\_\_ ( ) Nineteen Hundred Ninety Four (1994), the described Property is subject to the following liens and encumbrances:

**SECOND: LEASE AGREEMENT**

WHEREAS, Lessee desires to lease from Lessor a portion of the described Property owned by the Lessor; and

WHEREAS, Lessee desires to erect and/or construct upon such Property, recycling equipment, certain structures and or buildings, and improvements; and

WHEREAS, final plans and specifications for the construction of the structures and or buildings and improvements will be subject to approval by the Lessor at a later date;

NOW, THEREFORE, for and in consideration of the premises and of the covenants and agreements herein contained, the parties hereto hereby obligate themselves as follows:

**ONE (1) DEMISE:**

Lessor hereby leases to Lessee, and Lessee hereby Leases from Lessor, upon and subject to the terms and conditions, covenants and provisions hereof, the portion of six point two thousand one hundred seventy one (6.2171) "cuerdas" of the Property described in Exhibit A.

**TWO (2): STRUCTURES AND OR BUILDINGS/VALID PERMITS:**

Lessee should obtain a valid land use consultation permit approved by the Puerto Rico Planning Board ("Junta de Planificación") for the installation of an automobile and scrap material shredding plant and related equipment on the specified demised land along with a valid Pre-Project ("Ante proyecto") permit issued by the Regulations and Permits Administration ("Administración de Reglamentos y Permisos"). However, Lessor agrees to transfer or assign to Lessee all of the existing valid permits issued by the corresponding Commonwealth agencies to Lessor.

Lessee agrees to erect and/or construct upon the Leased Property, and hereinafter referred to as the "demised lands", first class recycling equipment structures and or buildings and improvements in a good workmanlike manner and in compliance with all applicable



building, zoning and environmental regulations and restrictive covenants of record.

Said recycling equipment structures and or buildings, and improvements (hereinafter referred to as "Equipment, structures and or buildings and improvements"), shall be used by the Lessee for the establishment and operation of a recycling operation for shredding scrap metals; and for any other kind of business related to recycling operations in general, that Lessee deems appropriate with the written consent of Lessor.

Specifically the Lessee will install a Super Heavy Duty material shredding plant which, along with all associated structures and or buildings and improvements, all to be in accordance with final plans and specifications to be prepared by Lessee. A copy of such plans and specifications to be approved by the parties hereto and identified by the initials of an officer of the Lessor and an Officer of the Lessee.

Lessee shall deliver to Lessor final plans and specifications, which plans and specifications shall include all of the recycling equipment structures and or buildings and improvements to be constructed by Lessee.

The six point two thousand one hundred seventy one (6.2171) cuerdas site will be developed and utilized on the following approximate percentage basis:

For the storage of unprocessed materials and finished products a thirty four percent (34%) and ten percent (10%) respectively, of the Leased Property shall be utilized. Under no circumstances shall the pile for such storage shall be higher than twenty five (25) feet. For production, plant and equipment twenty percent (20%); for roadways open space and weigh scales twenty one percent (21%); for

office and car parking a seven percent (7%) and for landscaping an eight percent (8%) of the Leased Property shall be utilized.

In the event of any violation to the above mentioned restriction for storage, Lessee will pay Lessor the amount of Two Hundred Fifty Dollars (\$250.00) for each day in which Lessee stays in default.

Lessor agrees that approval of Lessee's plans and specifications shall not be unreasonably withheld or delayed. If Lessor fails to notify Lessee of its approval or disapproval within [TWENTY] [20] days after its receipt of such plans and specifications they shall, for all purposes hereunder, be deemed to have been approved.

The following provisions are Lessor's requirements to Lessee's construction of the structures and or buildings and improvements.

(a) Lessee agrees to demolish, under Lessor's supervision, at its sole cost and risk, within one hundred eighty (180) days from date of signing this agreement, in good workmanlike manner and using the appropriate machinery and equipment used for these purposes, any existing structures and or buildings, specifically the office and weigh scale located in the demised lands in order to prepare the demised lands for the purpose of erecting recycling equipment structures and or buildings and improvements. Lessee agrees to relocate and rebuild the office and weigh scale at its exclusive cost and expense, at the place indicated by Lessor.

(b) No substantial modification shall be made in the said plans and specifications without prior written consent of the Lessor. The Lessee, in constructing the structures and or buildings and improvements, will use quality materials and comply with all Federal, State and Municipal laws and rules and regulations of any governmental agencies having jurisdiction of the demised lands. Any

necessary significant substitution of materials because of lack or shortage of specified materials will be immediately submitted to the Lessor, and the Lessor shall thereupon approve these substitutions, provided they do not alter the quality of the structures and or buildings and improvements.

(c) Lessee shall have the right to make changes, substitutions, or eliminations in the plans and specifications because of any mechanical changes or addition desired by the Lessee, or because of any revisions of Lessee's fixture layouts, with the written consent of Lessor which consent shall not be unreasonably withheld or denied.

(d) Lessee agrees to always duly and timely comply, at its exclusive cost and expenses, with all provisions and requirements of all applicable federal and local laws, regulations, ordinances, decrees, and/or judgements which may now or hereafter be in effect, or that may be applicable to its operations at the demised lands, including but not limited to all federal and local environmental laws and regulations, and all other similar and or related legal dispositions and regulations, as they may be now or hereafter enacted and or amended.

**THREE (3): COVENANT OF LESSOR:**

Lessor covenants for itself and for anyone claiming by, through or under Lessor, that it will put Lessee in actual possession of the demised lands as of the date of execution of this Lease as the same are described herein, and that Lessee, on paying the said rental and performing the covenants herein agreed by it to be performed, shall be able to and may peaceably and quietly have, hold and occupy the demised lands, structures and or buildings and improvements for the terms of this Lease.

**FOUR(4): TERM:**

Lessee is to have the demised lands, together with the recycling equipment structures and or buildings and related improvements to be constructed thereon, for a primary term of ten (10) consecutive years. The date upon which the Term herein commences shall be the Commencement Date, followed by a secondary term of ten (10) years at Lessees sole option. For purposes of this Lease Agreement "Commencement Date" shall mean one hundred eighty (180) days following Delivery of Possession of the demised land. Delivery of Possession shall be deemed to have occurred when Lessor shall have made the land available to Lessee for the installation of the recycling equipment structures and or buildings and related improvements to be constructed thereon.

It is understood and agreed that Delivery of Possession prior to such Commencement Date shall not affect the expiration date of the Term of this Lease.

**FIVE (5): RENT:**

Lessee agrees to pay to Lessor, without any prior demand therefore and without any setoff or deduction whatsoever an annual rent of One Hundred Fifty Thousand Dollars (\$150,000.00), payable in equal monthly installments, in advance, on the first day of each calendar month from the Commencement Date (as defined in Article Four) and up to the last day of the Tenth (10) Lease year of the primary lease term. However, the parties hereby agree that the payment of the first monthly installments of rent shall be deferred and paid in a lump sum payment upon sixty (60) days after the Commencement Date.

Said total rent of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) agreed to be paid under this Lease shall be paid in lawful currency of the United States of America.

The annual rent payable for the second ten (10) years lease term (should Lessees option be exercised) shall be subject to review six (6) months prior to the commencement of the second ten (10) years term period. The revised annual rent (if any) will be based on the annual Gross Sales multiplied by two percent (2) and the resulting product will be the annual rent. But in no event will the revised annual rent be more than one hundred eighty thousand dollars (\$180,000.00) or less <sup>than</sup> one hundred fifty thousand dollars (\$150,000.00).

**SIX (6) NET LEASE:**

It is the understanding and agreement of the parties hereto that this is a clear "net" lease obligation, the Lessee to bear all expenses and make all payments consistent with the principle of the "net" Lease; and the Lessee hereby assumes and agrees to perform all duties and obligations with relation to the demised lands, the structures and or buildings and improvements thereon, and the appurtenances thereto, and the use, operation and maintenance thereof, even though such duties and obligations would otherwise be construed to be those of the Lessor.

**SEVEN (7) PAYMENT OF REAL PROPERTY TAXES AND AGREEMENTS**

The parties hereto agree that, as part of the consideration for the Lease and in addition to the rent hereinbefore provided, the Lessee shall, after the commencement of the term of this Lease, and during the remainder of the term of this Lease and any renewal or extension thereof, pay to the public officers charged with the

collection thereof, promptly as the same became due, all taxes, levies, licenses, excises, franchises, imposts, penalties and charges, general and special, ordinary and extraordinary, of whatever name, nature and kind, which are not or may hereafter be levied, assessed, charged or imposed, which are or may become a lien (whether federal, state, city, county or other public authority) upon this Lease, the above described premises, the use or occupancy thereof, the structures and or buildings and improvements now or hereafter situated thereon, or upon the occupants in respect thereof, with the exception of those due or resulting from pollution and/or contamination existing in the demised lands as of the date of execution of this deed.

**EIGHT (8) INSURANCE:**

At its cost the Lessee agrees to obtain, concurrent with the taking of occupancy of the demised lands, structures and or buildings and improvements, and to maintain at all times during the term of this Lease, with insurance companies qualified to do business in the Commonwealth of Puerto Rico and having a general policy holder's rating of A plus and a financial rating of AAA, fire and extended coverage insurance upon the demised lands, structures and or buildings and improvements in the amount equal to the replacement cost of the structures and or buildings and improvements thereon, excluding, however, cost of foundation, underground pipes and wiring and outside paving. Such policy or policies of insurance shall have endorsed thereon "Inflation Guard Endorsement" to cover cost of living increase so that the insurance coverage herein required shall be automatically increased as the cost of living increases. In lieu of such "Inflation Guard Endorsement" Lessee shall automatically increase the amount of coverage annually to cover the replacement cost of the improvements (less the cost of foundation, underground pipes and wiring and

outside paving), as the cost of such cost of living increases. Such policy or policies of insurance shall be so drawn and shall contain such provisions as will protect both Lessor and Lessee as their respective interests appear. All policies of insurance or certificates thereof as provided for in this Article and in Article Nine (9) below shall be delivered to Lessor and shall be renewed from time to time by Lessee so that at all times the insurance protection herein provided shall continuously exist, and evidence of each renewal shall be submitted unto Lessor at least ten (10) days prior to the expiration date of each policy. Lessee may maintain the insurance coverage through Lessee's blanket policy or policies and in such event, Lessee shall deliver to Lessor certificates of insurance and Lessee shall retain the original policies thereof.

In the event of the destruction of the structures and or buildings and improvements located on the demised lands so as to render the demised lands, structures and or buildings and improvements or a portion thereof untenable by the Lessee, it shall be the obligation of the Lessee, as hereinafter provided for, to promptly repair or rebuild the structures and or buildings and improvements as best as possible to their original condition, and the proceeds collected from the insurance policy or policies herein described shall be made available to Lessee for the purposes of effecting such repair or restoration, and the parties hereto agree that such insurance proceeds shall be first applied to the cost of any repairs and restoration before using any portion thereof for any other purposes.

In the event that there shall remain any portion of the proceeds of such insurance policy or policies after the repair and reconstruction of any building or improvements to a condition equal to the former condition thereof and provided no condition of default exists on the part of the Lessee herein under the terms of

this Lease, then any such excess shall be paid unto Lessee herein. Lessee shall be entitled to all insurance proceeds representing the value of the leasehold improvements being paid for by Lessee (together with all replacements thereof and additions thereto).

Lessee covenants and agrees with Lessor that Lessee will pay the premiums for all of the insurance policies which Lessee is obligated to carry under the terms of this Lease and will deliver to Lessor evidence of such payment before the payment of any such premiums becomes in default; and Lessee will cause renewals of expiring policies to be written and the policies or copies thereof, as Lessor may require, to be delivered to the Lessor at least ten (10) days before the expiration date of such expiring policies same may not be canceled without the giving of at least fifteen (15) days notice to Lessor of intent to cancel.

**NINE (9) PUBLIC LIABILITY INSURANCE:**

The Lessee covenants and agrees with Lessor that during the entire term of this Lease the Lessee will indemnify and save harmless the Lessor against any and all claims, debts, demands or obligations which may be made against the Lessor or against the Lessor's title in the demised lands arising solely by reason of any negligent acts or omissions of the Lessee, its officers, agents or employee in occupying the demised lands, structures and or buildings and improvements; and not by reason of any negligent acts or omissions of the Lessor, its officers, agents or employee. If it becomes necessary for the Lessor to defend any action seeking to impose any such liability on the Lessee, the Lessee will pay the Lessor all costs of court and reasonable attorneys' fees incurred by Lessor in such defense, in addition to any other sums which said Lessor may be called upon to pay by reason of the entry of a judgment or decree against the Lessor in the litigation in which such claim is



asserted. And to this end, Lessee further contracts and agrees to procure and carry at its own expense insurance against all such liability in a sum no less than ONE MILLION DOLLARS (\$1,000,000.00) for injury to one person or one accident; THREE MILLION DOLLARS (\$3,000,000.00) for injury to two or more persons; and FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for property damage. Lessee shall cause said insurance policy or policies to specifically name Lessor as an additional insured and furnish Lessor with a certificate of said policy or policies. The Lessor and Lessee shall not do or permit any act or thing that shall render such policy invalid or which shall affect the validity thereof. If Lessee fails or neglects to carry such insurance as herein provided and to pay all insurance premiums therefor, or if said policy of insurance shall be canceled for any cause whatsoever and Lessee does not promptly obtain other insurance prior to or simultaneously with such cancellation, the Lessor may effect such insurance in its own name to the extent herein provided and pay the premium therefor, and any sums paid by Lessor shall be deemed additional rent hereby reserved and shall be payable by Lessee on demand of Lessor, together with interest at the rate of ten percent (10%) per annum.

In addition to the insurance herein required to be furnished by the Lessee, the Lessee agrees that it will secure such insurance as may be necessary to provide protection and coverage against the happening of a catastrophe in an amount of at least seventy five (75%) of the replacement cost of the structures and or buildings and improvements. Such insurance may be in the form of a blanket policy, it being the intent hereof that the interest of the Lessor and the Lessee shall be protected against the happening of a catastrophe wherein the damages sustained exceed the amount of insurance coverage provided for in Article eight (8) and in this Article. Lessor and Lessee each waive any claim against the other for any damage to property covered by insurance. Each party agrees

to obtain a waiver of subrogation from its insurance carrier permitting this waiver.

#### **TEN (10) UTILITY CHARGES**

The Lessee agrees and covenants to pay all utility charges, including, but not limited to, water, gas, electricity, sewage, and to pay the same monthly or as they shall become due.

#### **ELEVEN (11) FIXTURES AND PERSONAL PROPERTY**

It is agreed between the parties hereto that Lessee may install any trade fixtures, equipment and other personal property on the demised lands of a temporary or permanent nature, and Lessor agrees that Lessee shall have the right at any time, to remove any and all such trade fixtures, equipment and other personal property which it may have stored or installed in the demised lands; provided further, however, that in such event Lessee shall restore the premises lands substantially to the same condition, except for ordinary wear and tear, in which they were at the time Lessee took possession. Lessee shall not be obligated to restore the demised lands substantially to the same condition in which they were at the time Lessee took possession in the event of changes and alterations made upon the written approval of the Lessor or in the event the demised lands are surrendered because of default on the part of the Lessor.

The provisions hereof shall not be construed to prevent the Lessee from financing or refinancing the purchase of equipment or machinery, and the Lessor shall execute such reasonable documents in favor of any financial institution holding security thereon, subordinating rights of the Lessor thereof. Nor shall there be a lien on any work in process of Lessee.

**TWELVE (12) LAWFUL USE OF PREMISES**

Lessee further covenants and agrees that said demised land and all structures and or buildings and improvements thereon during the term of this Lease shall be used only and exclusively for lawful purposes; and that said Lessee shall not knowingly use or suffer anyone to use said demised lands or structures and or buildings for any purpose in violation of the laws of the United States, the Commonwealth of Puerto Rico, or any other governmental unit wherein the demised lands may be located.

**THIRTEEN (13) COMPLIANCE WITH REGULATIONS OF PUBLIC BODIES:**

The Lessee covenants and agrees that it will, at its own cost, make such structures and or buildings and improvements on the premises and perform such acts and do such things as may be lawfully required by any public body having jurisdiction over said property in order to comply with such sanitary, zoning, setback and other similar requirements designed to protect the public, applicable only to the manner of Lessee's use and occupancy of the demised lands. Lessee also agrees to comply with all deed restrictions, as listed in Exhibit B.

**FOURTEEN (14) ENVIRONMENTAL MATTERS**

As recognition of the fact that demised land forms part of the historical landfill site area, the Lessee will not accept, and Lessor does not intend to transfer, any responsibility for pollution and/or contamination, which may already be existing in the demised lands as of the date of execution of this contract and Lessor covenants and agrees with Lessee that during the term of this Lease the Lessor will indemnify and save harmless the Lessee against any and all claims, debts, demands or obligations which may

be made against the Lessee by reason of any pollution or contamination already existing in the demised lands as of the date of execution of this Lease. However, Lessee shall respond for all pollution and/or contamination caused by it, as well as for any aggravation of the pollution and/or contamination thereon presently existing that it may cause subsequent to the execution of this Lease.

With respect to its operations in the demised lands, Lessee covenants and agrees to fully comply with all federal, state and local statutes, ordinances, regulations and rules relating to environmental quality, health, safety, contamination and clean up, including, without limitation, the Clean Air Act; the Clear Water Act; the Water Quality Act of nineteen hundred eighty seven (1987); the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"); the Marine Protection, Research and Sanctuaries Act; the National Environmental Policy Act; the Noise Control Act; the Occupational Safety and Health Act; the Resources Conservation and Recovery Act ("RCRA"), as amended by the Hazardous and Solid Waste Amendments of nineteen hundred eighty four (1984); the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right-to-Know Act, and Radon Gas and Indoor Air Quality Research Act; the Toxic Substance Control Act ("TSCA"); the Atomic Energy Act and the Nuclear Waste Policy Act of nineteen hundred eighty two (1982). Environmental laws shall also include all laws, regulations and ordinances of the Commonwealth of Puerto Rico or any instrumentality thereof insofar as they are equivalent or similar to the laws recited above or purport to regulate Hazardous materials (as hereinafter defined) and common law doctrines of nuisance and waste.

"Hazardous Materials" shall mean and include the following, including mixtures thereof: any hazardous substance, pollutant, contaminant, waste, by-product petroleum products and natural gas, natural gas liquids, liquefied natural gas and synthetic gas usable for fuel; pesticides regulated under the FIFRA; asbestos and asbestos - containing materials, PCB's, and other substances regulated under the TSCA; source material, special nuclear material, by-product materials and any other radioactive materials or radioactive wastes, however, produced regulated under the Atomic Energy Act or the Nuclear Waste Policy Act; chemicals subject to the OSHA Hazard Communication; and industrial process and pollution control wastes defined as hazardous within the meaning of applicable federal and local statutes and regulations.

During the term of this Lease, Lessee shall comply at its own cost with all Environmental Laws; shall not conduct or authorize the management of any Hazardous materials or wastes on the Leased premises, including installation of any underground storage tanks, without prior written disclosure to and approval by the Lessor; Lessee shall not cause or allow the release of any Hazardous materials or, to or from the Leased property; Lessee shall arrange at its own cost for the lawful transportation and off-site disposal of all Hazardous materials that it might generate; and Lessee shall not take any action that would subject the Lease premises to permit requirements under RCRA for storage, treatment or disposal of Hazardous materials.

**FIFTEEN(15) SIGNS:**

During the term of this Lease, Lessee may install such signs at the highway entrance to the landfill site or on the demised lands or structures and or buildings as may be reasonable, provided, however, that such sign shall be first approved by Lessor, which

approval shall not be unreasonably withheld. Such signs may be attached to said demised lands or structures and or buildings in such manner as may be necessary, provided that upon the termination of this Lease or any removal or extension thereof, the same shall be removed by Lessee and that such part of the property at which said sign may have been attached shall be restored, at the expense of the Lessee, to the same condition as prior to the placing of said sign.

**SIXTEEN (16) DEFAULT BY LESSOR OR LESSEE:**

In the event that either the Lessor or the Lessee shall violate, or incur default, under any of the terms or provisions of this Lease, each shall, as the case may be, indemnify and pay to the prevailing party all costs and expenses, including, but not limited to, reasonable attorneys fees incurred in any court action including attorneys fees which may be incurred on appeal, which the prevailing party may incur or pay by reason of the other party's default or Lease violation.

**SEVENTEEN (17) LESSOR'S RIGHTS TO INSPECT PREMISES:**

The Lessee agrees and covenants that the Lessor or its agents, for the purpose of examining or inspecting the condition of the demised lands, structures and or buildings and improvements, shall have access to the said demised lands, structures and or buildings or improvements not more frequently than once every ninety (90) days and then, upon the giving of ten (10) days notice by the Lessor to the Lessee of the Lessor's intent to examine or inspect the demised lands structures and or buildings and improvements.

Notwithstanding the foregoing, the Lessor, in the event of none compliance by Lessee with the terms and conditions of this

agreement, or any emergency such as, but not limited to a fire, flood or severe windstorm, shall have free, access to said demised lands, structures and or buildings and improvements for the purposes of examining or inspecting damage done to the demised lands, structures and or buildings and improvements. Lessor shall have the right to show the demised lands, structures and buildings and improvements during the ninety (90) days prior to termination of this lease to prospective Lessees at reasonable times during normal business hours, and subject to a one (1) day prior notice to the Lessee.

Except in the event of an emergency, Lessor shall not have entrance to the demised lands, structures and or buildings and improvements without the accompaniment of an employee of Lessee.

**EIGHTEEN (18) ASSIGNMENT OR SUBLETTING:**

Lessee may, with the written consent of Lessor, which consent shall not be unreasonably withheld or denied, assign this Lease or sublet in whole or in part the demised lands provided that Lessee herein shall continue to remain liable and responsible for the payment of rental due hereunder.

**NINETEEN (19) REPAIRS:**

Lessee, after the commencement of the term of this Lease, shall, at its own expense, maintain the demised lands, structures and or buildings and improvements in as good condition and repair as the same were upon the commencement of this term, except for reasonable wear and use during the term of this Lease, or any extension thereof.

**TWENTY (20) DESTRUCTION OR DAMAGE BY FIRE OR OTHER HAZARD:**

The parties hereto agree that if the structures and or buildings and/or improvements erected or to be erected upon the demised lands are partially or totally destroyed or damaged by fire or other hazard then the Lessee shall promptly repair and restore such improvements as soon as it is reasonably practical to restore them so that they are restored substantially to the prior existing condition, due allowance, however, shall be made for reasonable time necessary for Lessee to adjust the loss with the insurance companies insuring the demised lands, structure and or buildings and improvements at the time of the happening of the fire or the casualty, but in no event shall such adjustment result in the Lessee not being obligated to make such restoration, and in any event the restoration must commence within sixty (60) days after the happening of such fire or other casualty, and the completion thereof must be completed within nine (9) months after such fire, casualty or the disaster with reasonable allowance made for delay occasioned by strike, lockouts, or conditions beyond the control or the Lessee.

In the event that there is total destruction of the demised lands, structure and or buildings and improvements and the Lessee fails to completely restore and rebuild the same within twelve (12) months after such fire, casualty or other disaster, then, Lessee may, at its option, elect to terminate and cancel this Lease, in which event the Lease shall be terminated upon written notice by the Lessee to the Lessor and neither party shall thereafter have any further obligation with respect to the other.

Should the demised lands, structures and or buildings and improvements or any portion thereof be rendered untenable by reason of the damage or destruction thereof caused by fire, casualty or disaster during the term of this Lease as provided for in this section, rent shall be abated in proportion to the areas of



the demised lands, structures and or buildings and improvements rendered untenable from the date of the happening of the fire or other casualty or disaster up to the date of restoration of the same. However, no rent shall accrue for any portion of the demised lands, structures and or buildings and improvements unless Lessee is able to conduct its usual business on that portion of the demised lands, structures and or buildings and improvements that remain untenable. If after the date of the happening at the fire or other casualty or disaster, the Lessee shall have paid any rents for a period beyond such date, the Lessee shall be entitled to a proportionate refund.

In the event of complete or total destruction of the structures and or buildings and/or improvements, or destruction to such an extent that the same are rendered untenable by the Lessee, the Lessee shall not be required to restore or rebuild the improvements in the event there are less than five (5) years remaining of the term of this Lease, unless the parties hereto agree to extend the term of this Lease for not less than five (5) years from the date of completion by the Lessee of such restoration.

In the event that the Lease is canceled as provided for in this Article, Lessee shall be entitled to all insurance proceeds representing the value of leasehold improvements paid for or agreed to be paid for by the Lessee together with all replacements thereof and additions thereto, and all proceeds representing the value of property of the Lessee which is damaged or destroyed, including the replacement value of the structure and or buildings and improvements; subject to the condition that Lessee should leave clean the demised lands and in the same condition in which they were at the time Lessee took possession. Otherwise, the insurance proceeds will be retained by Lessor up to the amount of the cost of cleaning or reconditioning the demised land.

**TWENTY ONE (21) DEFAULT BY LESSEE:**

Each of the following shall be deemed a default by the Lessee and a breach of this Lease:

A. The filing of a petition by or against the Lessee for adjudication as a bankrupt under the Bankruptcy Act, as now or hereafter amended or supplemented, or for reorganization within the meaning of Chapter Eleven (XI) of said Bankruptcy Act, or for arrangement within the meaning of Chapter Eleven (XI) of said Bankruptcy Act, or the filing of any petition by or against the Lessee under any further bankruptcy act for the same or similar relief. The dissolution or the commencement of any action or proceeding for the dissolution or liquidation of the Lessee, whether instituted by or against the Lessee or for the appointment of a receiver or trustee of the property of the Lessee.

B. The taking possession of the premises or property of the Lessee upon the premises by any governmental officer or agency pursuant to statutory authority for the dissolution, rehabilitation, reorganization or liquidation of the Lessee.

C. The making by the Lessee of any "assignment for the benefit of creditors."

If "A" shall be involuntary on the part of the Lessee, the event in question shall not be deemed a default within the meaning of this Lease in the absence of any adjudication thereof or final order thereon, and if either "A", "B" or "C" above shall be involuntary on the part of the Lessee, there shall be no default within the meaning of this Lease, if such event is dismissed or vacated by the Lessee within sixty (60) days from the occurrence of such event, otherwise such event shall constitute a default hereunder.

D. A failure to pay the monthly rent herein provided, or any part thereof, for a period of ten (10) days after delivery by Lessor of written notice to Lessee that any such payment has become due as provided in Article Five (5) herein.

E. Fails to cure, immediately after notice from Lessor, any hazardous condition which Lessee has created or suffered to be created in violation of law or of this Lease.

F. Failure in the performance of any other covenant or condition of this Lease on the part of the Lessee to be performed, for a period of thirty (30) days after receipt written notice.

(i) For the purposes of subdivision "B" of this Article, no failure on the part of the Lessee in the performance of work required to be performed or acts to be done or conditions to be modified shall be deemed to exist if steps shall have, in good faith, been commenced promptly by the Lessee to rectify the same and shall be prosecuted to completion with diligence and continuity. If the matter in question shall involve building construction and if the Lessee shall be subject to unavoidable delay, either by reason of governmental regulations restricting the availability of labor or materials, or by strikes or other labor troubles, or by reason of conditions beyond the control of the Lessee, the Lessee's time to perform under said subdivision "F" of this Article shall be extended for a period commensurate with such delay.

(ii) In the event of any such default of the Lessee, the Lessor may serve a written notice upon the Lessee that the Lessor elects to terminate this Lease upon a specified date not less than thirty (30) days after the date of the serving of such notice, in the case of a default under subdivision "D" hereof for non-payment of rent, in which event such date shall not be less than ten (10) days after the expiration of any ten (10) day notice given under said

subdivision "D", and if the default remains uncured or the time period is not extended as herein provided, this Lease shall then expire on the date so specified as if that date had been originally fixed as the expiration date of the term herein granted.

(iii) In the event this Lease shall be terminated as hereinbefore provided, or by summary proceedings or otherwise, or in the event the demised lands or any part thereof shall be abandoned by the Lessee, the Lessor, or its agents, servants or representative, may immediately or at any time thereafter, re-enter and resume possession of said demised lands or such part thereof, and remove all persons and property therefrom, either by summary dispossession proceedings or by a suitable action or proceedings at law, without being liable for any damages therefor. Moving out of the demised lands or leaving the demised lands vacant shall not be deemed an abandonment of the premises, provided that Lessee continues to pay the rent as an when due.

In the event that this lease is terminated by summary proceedings, or otherwise as provided herein, or if the demised lands shall have been abandoned and whether or not the premises be relet, the entire amount of rent which would be paid to the expiration date of this Lease shall become due and payable. In the event of such termination or abandonment, the Lessor shall be obligated to use its best efforts to mitigate any damages it may have against the Lessee. In the event the demised lands are relet by the Lessor, the Lessor shall be entitled to recover from the Lessee, and the Lessee shall pay to the Lessor, in addition to any other damages becoming due hereunder, an amount equal to the amount of all rents and additional rent reserved under this Lease, less the net rent, if any, collected by the Lessor on reletting the demised lands, which shall be due and payable by the Lessee to the Lessor on the several days on which the rent and additional rent reserved in this Lease would have become due and payable; that is to say, upon each of

such days the Lessee shall pay to the Lessor the amount of deficiency then existing. Such net rent collected on reletting by the Lessor shall be computed by deducting from the gross rents collected all reasonable expenses incurred by the Lessor in connection with the reletting of the demised lands or any part thereof, including brokers' commission and the cost of repairing, renovating or remodeling said demised lands; however, the expenses to be deducted in computing the net rent collected on reletting shall not include the cost of performing any covenant contained herein required to be performed by Lessee.

The obligation of the Lessor to use its best efforts to mitigate any damages it may have against the Lessee shall not preclude the right of the Lessor to obtain by judicial process a Judgment for the entire amount of rent which would be paid to the expiration date of this Lease, if said Lease is terminated by summary proceedings or otherwise as provided herein. In the event the Lessor obtains a Judgment in such manner, the Lessor shall be obligated to use its best efforts to mitigate any damages it may have recovered in accordance with the provisions of this paragraph.

**TWENTY TWO (22) INDEMNIFICATION:**

Lessee hereby agrees to forever save harmless, defend and indemnify Lessor, all at Lessee's exclusive cost and expense, from any and all claims and complaints, of any nature whatsoever (including from any and all resulting procedures, decrees, resolutions and or judgments), which at any time may be presented by any individual(s), entities, federal or local public authorities or anyone, and which may arise from, and or be based on, any violation and or non-compliance, or alleged violation and or non compliance, by Lessee, any employee, representative, assignee, of the provisions and requirements of the laws, regulations, ordinances,

decrees, and or judgments stated on Article Two (d) (2(d)) of this agreement.

**TWENTY THREE (23) NOTICES:**

All notices required by the law and this Lease to given by one party to the other shall be in writing, and the same shall be served by Certified Mail, Return Receipt Requested, in postage prepaid envelopes addressed to the following addresses or such other addresses as may be by one party to the other designated in writing.

AS TO LESSOR

AS TO LESSEE:

PEGASUS FERROUS RECYCLING, INC.

P.O. BOX 2519

TOA BAJA, PUERTO RICO, 00951

**TWENTY FOUR (24) EASEMENTS:**

The Lessor agrees that it will grant to the Lessee easements in favor of third parties for the purposes of installing public utilities to the demised lands such as, but not limited to, electrical or telephone lines, which lines should be used to connect the demised lands with the public utilities facilities outside of the demised lands.

**TWENTY FIVE (25) SECURITY BONDS:**

As security for the full, timely and faithful observance and performance by Lessee of each and every term, covenant, and condition of this Lease, Lessee shall, at its exclusive cost and

*Commencement*

expense, procure, obtain and deliver to Lessor prior to the Commencement Date of the lease, two (2) unconditional guarantee bonds in such form and substance as shall be satisfactory to Lessor and from an insurance company acceptable to Lessor which is authorized to operate, and do business in good standing, under the Laws of the Commonwealth of Puerto Rico. The first bond shall be to guarantee the annual rent amount of One Hundred Fifty Thousand Dollars (\$150,000.00), and the second bond will be a Contract Performance Bond for the total amount of Two Hundred and Fifty Thousand Dollars (\$250,000.00) to guarantee compliance with the terms and conditions of this contract. Said bonds shall be renewed by Lessee at its exclusive cost and expense, and delivered to Lessor at least thirty (30) days prior to the expiration date of each Lease year of the Lease term. Lessee hereby acknowledges Lessor unconditional right to collect directly against the guarantee bonds in the event of a default on the part of Lessee.

#### **TWENTY SIX (26) HANDLING OF FLUFF**

Lessee agrees to deposit all fluff generated from its recycling operations at the Lessor's landfill, and obligate to pay Lessor Twenty Five Dollars (\$25.00) per longtone, as long as the Lessor be in condition to receive such fluff.

#### **TWENTY SEVEN (27) CLOSURE OF LANDFILL**

In the event that any Federal or Commonwealth agencies require the closing of the Lessor's Landfill based on, any violation or alleged violation of the law, court judgments, and due to any of said reasons Lessee is obligated to close its recycling operation, Lessor will not accept any responsibility for damages casue to Lessee for its business close.

#### **TWENTY EIGHT (28) MISCELLANEOUS**

The covenants and agreements contained herein shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, executive, administrators and assigns. The titles and the headings of this Lease Agreement are placed herein for convenience of reference only and in case of any conflict, the context of this instrument, rather than such titles and headings, shall control.

The validity and effect of this Lease agreement and the rights and obligations of all parties hereto shall be construed and determined in accordance with the laws of the Commonwealth of Puerto Rico. In case any provisions of this Lease Agreement shall be held illegal or invalid for any reason whatsoever said illegality or invalidity shall not affect the remaining parts of this Lease Agreement, and this Lease shall be construed and enforced as if said illegal and invalid provisions had never been inserted herein. Whenever used, the singular number shall include the plural; the plural, the singular, and the use of any gender shall be applicable to all genders. All covenants, agreements and undertaking shall be joint and several.

This contract represents the entire agreement between the parties hereto, and no change, alteration, amendment, addition, or other modification hereof shall be valid unless in writing and signed by the parties hereto.

#### **ACCEPTANCE, WARNINGS AND EXECUTION**

The appearing parties accepts, ratify and confirm this deed as drafted because it has been drawn up in accordance with their instructions, stipulations, terms and conditions.

I, the Notary, do hereby certify that I have advised the appearing parties of the necessary legal warnings and of the legal effects of



this Deed and that each of them waived their right to have attesting witnesses present at the execution hereof, after having been duly advised of such right.

I, the Notary, also certify that this document was read personally by each of the appearing parties, who have found it in accordance with their instructions, stipulations, terms and conditions, approved and ratify the contents hereof and confirm the statements contained herein as the true and exact embodiment of their agreement; and that thereupon each of the appearing parties affixed their initials on each and every page and sign~ the original of this Deed, before me, the Notary.

To all of which, under my signature and seal, and after signing, sealing, marking and flourishing the same according to law, I, the undersigned Notary,

**ATTEST AND GIVE FAITH.**