

STATE OF SOUTH CAROLINA  
COUNTY OF LANCASTER

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)

ORDINANCE NO. 2015-1377

AN ORDINANCE

AUTHORIZING AND APPROVING THE TRANSFER OF A FEE IN LIEU OF TAX ARRANGEMENT BETWEEN LANCASTER COUNTY, SOUTH CAROLINA, AND THE GILLETTE COMPANY, AS SUCCESSOR TO DURACELL INC., UNDER TITLE 4, CHAPTER 29 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, TO AN ARRANGEMENT UNDER TITLE 12, CHAPTER 44 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED; AUTHORIZING AND APPROVING THE ASSIGNMENT OF THREE FEE IN LIEU OF TAX ARRANGEMENTS BETWEEN THE GILLETTE COMPANY AND THE COUNTY TO DURACELL MANUFACTURING, INC.; AND PROVIDING FOR OTHER MATTERS RELATED THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1.** Findings and determinations; Purpose.

(A) The Council finds and determines that:

(1) Lancaster County (the "County") and The Gillette Company (successor in interest to Duracell Inc.) (the "Company") entered into an Inducement Agreement and Millage Rate Agreement dated January 26, 1998 (the "Inducement Agreement"), a Lease Agreement dated as of June 1, 1998 (the "Lease Agreement"), a Memorandum of Lease and Option to Purchase dated as of June 26, 1998 (the "Memorandum of Lease"), an Indenture dated as of June 1, 1998 (the "Indenture"), and an Escrow Agreement among the Company, the County and Haynsworth, Marion, McKay & Guerard, L.L.P. dated as of June 1, 1998 (the "Escrow Agreement") and other documents, pursuant to which certain property and improvements, including machinery and equipment, fixtures, and other personal property (collectively the "Project") were conveyed to the County and leased back to the Company under a fee-in-lieu of taxes ("FILOT") arrangement under Title 4, Chapter 29, Code of Laws of South Carolina 1976, as amended (the "Title Act");

(2) the County is authorized by Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended (the "Non-Title Act"), to enter into a Fee Agreement with companies to induce such companies to locate in the State of South Carolina;

(3) Section 12-44-170(B) of the Non-Title Act provides for an election by an entity with property subject to an existing FILOT under the Title Act to transfer its FILOT arrangement under the Title Act to a substantially similar arrangement under the Non-Title Act;

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(4) the Company has requested that the County consent to its election to transfer the Company's FILOT arrangement under the Title Act to a substantially similar arrangement under the Non-Title Act;

(5) the Company has caused to be prepared and presented to Council the form of a Fee Agreement between the Company and the County for the purpose of meeting the requirements under the Non-Title Act (the "1998 Fee Agreement");

(6) the 1998 Fee Agreement provides that the Company continues to be liable for payments of fees in lieu of taxes as calculated under the Lease Agreement;

(7) the 1998 Fee Agreement, attached to this ordinance, is in appropriate form and is an appropriate instrument to be approved, executed, and delivered by the County for the purposes intended;

(8) such other documents as attached to this ordinance, including, but not limited to, a Title to Real Estate, a Bill of Sale, an Agreement to Terminate Lease Agreement, Indenture, Industrial Revenue Bonds, and Escrow Agreement, an Agreement for the Termination of Memorandum of Lease and Option to Purchase and Indenture, are all in appropriate form and are appropriate instruments to be approved, executed, and delivered by the County for the purposes intended; and

(9) the Company has also requested the County's consent to the transfer of all of its existing FILOT arrangements including the 1998 Fee Agreement, the Fee Agreement dated as of October 27, 2008 (the "2008 Fee Agreement"), and the Fee Agreement dated as of June 23, 2014 (the "2014 Fee Agreement") and all assets subject to a FILOT in the County (collectively, the "Duracell Assets") to Duracell Manufacturing, Inc. ("DMI") in connection with the divestiture of the Duracell Assets to Berkshire Hathaway, Inc. (the "Proposed Transaction").

B. It is the purpose of this ordinance to provide for the approval of the above-referenced requests of the Company.

## **Section 2. Additional findings and determinations.**

Council makes the following additional findings and determinations for purposes of the 1998 Fee Agreement, the 2008 Fee Agreement, the 2014 Fee Agreement, the transfer of the Duracell Assets, and the request for the transfer of the FILOT under the Title Act to a FILOT under the Non-Title Act:

(a) The Project will constitute a "project" as the term is referred to and defined in the Act, and the County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Title Act.

(b) The Project and the payments in lieu of taxes set forth herein are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made.

(c) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.

(d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.

(e) The purposes to be accomplished by the Project, *i.e.*, economic development and addition to the tax base of the County, are proper governmental and public purposes.

(f) The benefits of the Project to the public will be greater than the costs to the public.

**Section 3.      Approval of transfer of FILOT arrangement.**

To the extent necessary and required, the County, pursuant to the Non-Title Act, hereby expressly recognizes, consents to, approves, and ratifies for any and all purposes the transfer of the FILOT arrangement provided in the Lease Agreement with the Company under the Title Act to a FILOT arrangement under the Non-Title Act.

**Section 4.      Consent to transfer of title and cancellation of agreements.**

In accordance with the Title Act and the Lease Agreement, the County consents to the transfer of title to all property both real and personal back to the Company and to the cancellation of the Lease Agreement and the Memorandum of Lease and Option to Purchase (to the extent said agreements are not cancelled by operation of law) without payment or penalty to the County under any such agreements, subject to the terms of the Agreement to Terminate Lease Agreement, Indenture, Industrial Revenue Bonds, and Escrow Agreement, the Agreement for the Termination of the Memorandum of Lease and Option to Purchase and Indenture, and the terms of the 1998 Fee Agreement.

**Section 5.      Approval of documents.**

The form, terms, and provisions of (i) the 1998 Fee Agreement, attached hereto as Exhibit A; (ii) the Title to Real Estate, attached hereto as Exhibit B; (iii) the Bill of Sale, attached hereto as Exhibit C; (iv) the Agreement to Terminate Lease Agreement, Indenture, Industrial Revenue Bonds, and Escrow Agreement, attached hereto as Exhibit D; and (v) the Termination of Memorandum of Lease and Option to Purchase and Indenture, attached hereto as Exhibit E (collectively, Exhibits A, B, C, D and E are referred to as the "Documents") are approved. All of the terms, provisions, and conditions of the Documents are incorporated into this ordinance by reference as fully as if the Documents were set out in this ordinance in their entirety. The Council Chair and Council Secretary are each, individually, authorized, empowered, and directed to acknowledge, execute, and deliver the Documents to the Company. The Documents are to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such officer's execution thereof to constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form of the Documents attached to this ordinance.

**Section 6.      Authority to act.**

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized and directed to do any and all things necessary to effect the execution and delivery of the Documents and the performance of all obligations of the County under and pursuant to the Documents. The County agrees to take such other actions as may be reasonably necessary to achieve the purposes stated in this ordinance and reasonably requested by the Company to evidence the consent, approval, and ratification of these matters described in this Ordinance.

**Section 7.      Consent of transfer to DMI.**

The County consents to the transfer of all of the Duracell Assets, including the 1998 Fee Agreement, the 2008 Fee Agreement, and the 2014 Fee Agreement, by the Company to DMI and/or its subsidiaries upon closing of the Proposed Transaction.

**Section 8.      Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 9.      Controlling Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 10.    Effective Date.**

This ordinance is effective upon third reading.


**AND IT IS SO ORDAINED**, this 9<sup>th</sup> day of November, 2015.

LANCASTER COUNTY, SOUTH CAROLINA

  
\_\_\_\_\_  
Bob Bundy, Chair, County Council

  
\_\_\_\_\_  
Steve Harper, Secretary, County Council

ATTEST:

  
\_\_\_\_\_  
Debbie C. Hardin, Clerk to Council

First Reading:            October 12, 2015  
Second Reading:        October 26, 2015  
Public Hearing:           November 9, 2015  
Third Reading:          November 9, 2015

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**Exhibit A to Ordinance No. 2015-1377**

**1998 Fee Agreement**

**Lancaster County and The Gillette Company, as successor to Duracell Inc.**

See attached.

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**Exhibit B to Ordinance No. 2015-1377**

**Title to Real Estate**

See attached.

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**Exhibit C to Ordinance No. 2015-1377**

**Bill of Sale**

See attached.

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**Exhibit D to Ordinance No. 2015-1377**

**Agreement to Terminate  
Lease Agreement, Indenture, Industrial Revenue Bonds, and Escrow Agreement**

See attached.

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**Exhibit E to Ordinance No. 2015-1377**

**Agreement for the Termination of Memorandum of Lease and Option to Purchase and Indenture**

See attached.

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**Exhibit A to Ordinance No. 2015-1377**

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FEE AGREEMENT

between

LANCASTER COUNTY, SOUTH CAROLINA

and

THE GILLETTE COMPANY,  
AS SUCCESSOR TO DURACELL INC.

\_\_\_\_\_, 2015  
Effective December 1, 1997

Transferring property under the fee in lieu of tax arrangement provided for in the Lease Agreement between Lancaster County, South Carolina and Duracell Inc., a Delaware corporation, dated as of June 1, 1998, to a fee agreement under Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended, to be effective as of December 1, 1997.

RECAPITULATION OF CONTENTS OF  
FEE AGREEMENT PURSUANT TO S.C. CODE ANN. § 12-44-55(A)

The parties have agreed to waive this requirement pursuant to S.C. Code Ann. § 12-44-55(B).

## **FEE AGREEMENT**

This FEE AGREEMENT (the "Agreement") made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, to be effective as of the 1st day of December, 1997 ("Effective Date"), by and between LANCASTER COUNTY, SOUTH CAROLINA (hereinafter referred to as the "County"), a body politic and corporate and a political subdivision of the State of South Carolina, and THE GILLETTE COMPANY, AS SUCCESSOR TO DURACELL INC., a corporation duly organized and existing under the laws of the State of Delaware and authorized to do business in the State of South Carolina (hereinafter referred to as the "Company").

### **WITNESSETH:**

WHEREAS, the County and the Company entered into an Inducement Agreement and Millage Rate Agreement dated January 26, 1998 (the "Inducement Agreement"), a Lease Agreement dated as of June 1, 1998 (the "Lease Agreement"), a Memorandum of Lease and Option to Purchase dated as of June 26, 1998 (the "Memorandum of Lease"), an Indenture dated as of June 1, 1998 (the "Indenture"), and an Escrow Agreement among the Company, the County and Haynsworth, Marion, McKay & Guerard, L.L.P. dated as of June 1, 1998 (the "Escrow Agreement") and other documents, pursuant to which certain property and improvements, including machinery and equipment, fixtures, and other personal property (collectively the "Project") were conveyed to the County and leased back to the Company under a fee-in-lieu of taxes ("FILOT") arrangement under Title 4, Chapter 29, Code of Laws of South Carolina 1976, as amended (the "Title Act"); and

WHEREAS, the County is authorized by Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended (the "Non-Title Act"), to enter into a Fee Agreement with companies to induce such companies to locate in the State of South Carolina; and

WHEREAS, Section 12-44-170(B) of the Non-Title Act provides for an election by an entity with property subject to a FILOT arrangement under the Title Act to transfer its FILOT arrangement under the Title Act to a substantially similar arrangement under the Non-Title Act; and

WHEREAS, the Company has requested that the County consent to its election to transfer the Company's FILOT arrangement under the Title Act to a substantially similar arrangement under the Non-Title Act; and

WHEREAS, pursuant to Ordinance No. 2015-\_\_\_\_, enacted by the County on \_\_\_\_\_, 2015 (the "Ordinance"), the County has consented to the transfer of the FILOT arrangement under the Title Act to a FILOT arrangement under the Non-Title Act and to the execution of a Fee Agreement and all other documents necessary to evidence the transfer; and

WHEREAS, the County has found that: (a) the Project (as defined herein) is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (b) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against its general credit or taxing power; (c) the purposes to be accomplished by the

Project are proper governmental and public purposes; and (d) the benefits of the Project are greater than the costs.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the County and the Company agree as follows:

## ARTICLE 1

### DEFINITIONS

**SECTION 1.1 Definitions.** In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings unless the context or use indicates another or different meaning or intent.

“Act” or “Non-Title Act” shall mean Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended.

“Administration Expenses” means the reasonable and necessary out-of-pocket expenses, including attorneys’ fees, incurred by the County with respect to: (i) the preparation, review, approval and execution of this Agreement, (ii) the preparation, review, approval and execution of other documents related to the Agreement and any multi-county park documents, including, but not limited to, any and all documents related to the transfer of the FILOT arrangement provided for in the Lease Agreement between Lancaster County, South Carolina and Duracell Inc., a Delaware corporation, dated as of June 1, 1998, to this Agreement; and (iii) the fulfillment of its obligations under this Agreement and any multi-county park documents, and in the implementation and administration of the terms and provisions of the documents after the date of execution thereof, but only in each case if such are incurred as a result of a request by the Company for a modification, assignment, or a termination of such documents by the Company, or as a result of a bankruptcy of the Company or a default by the Company under the terms of the aforementioned documents.

“Code” shall mean the Code of Laws of South Carolina 1976, as amended.

“Completed Segment” shall mean a segment of the Project completed after the date of the Inducement Agreement and up to the Minimum Investment Date.

“Cost” or “Cost of the Project” shall mean the cost of acquiring, by construction and purchase, the Project and shall be deemed to include, whether incurred prior to or after the Effective Date: (a) obligations of the Company incurred for labor, materials and other expenses to contractors, builders and materialmen in connection with the acquisition, construction and installation of the Project; (b) the cost of contract bond and of insurance of all kinds that may be required or necessary during the course of construction of the Project, which are not paid by the contractor or contractors or otherwise provided for; (c) the expenses of the Company for test borings, surveys, test and pilot operations, estimates, plans and specifications and preliminary investigations therefor, and for supervising construction, as well as for the performance of all other duties required by or reasonably necessary in connection with the acquisition, construction and installation of the Project; (d) all other costs which the Company shall be required to pay

under the terms of any contract or contracts for the acquisition, construction and installation of the Project; (e) costs incurred by the Company for the acquisition of an interest in the land upon which the Project is located; and (f) any sums required to reimburse the Company for advances made by it for any of the above items, or for any other work done and costs incurred by the Company which are for the acquisition of land or property of a character subject to the allowance for depreciation provided for under Section 167 of the Internal Revenue Code of 1986, as amended, and included in the Project.

“Company” shall mean The Gillette Company, a Delaware corporation and successor in interest to Duracell Inc. and any surviving, resulting or transferee corporation in any merger, consolidation or transfer of assets as permitted under the Act.

“County” shall mean Lancaster County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina.

“County Council” shall mean the governing body of the County.

“Default” shall mean an event or condition, the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default as defined in Section 11.1 hereof.

“Department” means the South Carolina Department of Revenue or its successor entity.

“Equipment” shall have the meaning ascribed to it in Section 6.2 of this Agreement.

“Land” shall mean the real estate described in Exhibit A attached hereto.

“Minimum Investment Date” shall mean the date five (5) years from the end of the property tax year from which this Agreement is effective, as such date may have been extended from time to time.

“Person” shall mean and include any individual, association, unincorporated organization, corporation, partnership, joint venture, or government or agency or political subdivision thereof.

“Plans and Specifications” shall mean the plans and specifications prepared for the Project, on file at the Company’s office, as the same may be implemented and detailed from time to time and as the same may be revised from time to time prior to the completion of the acquisition, construction and installation of the Project in accordance with Section 4.3 hereof.

“Project” shall mean (i) all buildings and appurtenances which are presently under construction or are or have been constructed on the Land as of the Effective Date hereof, as they may at any time exist, including any air conditioning and heating systems (which shall be deemed fixtures); (ii) all buildings, structures, and appurtenances located on the Land; (iii) all machinery, equipment, furniture, fixtures or personal property located on the Land; (iv) all other machinery, equipment, other fixtures or personal property which is installed in or on the equipment described in clause (ii) or in the foregoing buildings or on the Land in substitution or replacement of parts of such equipment; and (v) any personal property acquired hereafter which

becomes so attached, integrated or affixed to any item described in the foregoing clauses (i), (ii), (iii) or (iv) that it cannot be removed without impairing the operating utility of such item as originally designed or damaging such item.

“Term” shall mean the duration of this Agreement as set forth in Section 5.1.

SECTION 1.2 References to Agreement. The words “hereof”, “herein”, “hereunder” and other words of similar import refer to this Agreement as a whole.

## **ARTICLE 2**

### **REPRESENTATIONS AND COVENANTS**

SECTION 2.1 Representations and Warranties by County. The County represents and warrants that: (i) it is a body politic and corporate and a political subdivision of the State; (ii) it is authorized by the Act to enter into this Fee Agreement; (iii) it has approved this Fee Agreement in accordance with the procedural requirements of the Act and any other applicable state law; and (iv) it has authorized its officials to execute and deliver this Fee Agreement.

SECTION 2.2 Representations and Warranties by Company. (a) The Company represents and warrants that it: (i) is or will be validly existing and in good standing under the laws of the state of organization or incorporation; (ii) is or will be authorized to transact business in the State of South Carolina; (iii) has the power to enter into this Fee Agreement; (iv) has by proper action approved this Fee Agreement; and (v) has authorized its officials to execute and deliver this Fee Agreement.

(b) The Company intends to operate the Project as a “project” within the meaning of the Act as in effect on the date hereof. The Company intends to operate the Project for the purposes of manufacturing batteries, and for such other purposes that the Act permits as the Company may deem appropriate.

## **ARTICLE 3**

**[RESERVED]**

## **ARTICLE 4**

### **ACQUISITION BY CONSTRUCTION AND PURCHASE OF PROJECT; REVISION OF PLANS AND SPECIFICATIONS; AMENDMENTS TO EXHIBITS**

SECTION 4.1 Acquisition by Construction and Purchase of Project. The Company hereby agrees to acquire by construction and purchase the Project in accordance with the Plans and Specifications and to acquire by construction and purchase all other things deemed necessary by the Company in connection with the Project. The Company agrees to maintain such records in connection with the acquisition by construction and purchase of the Project as to permit ready identification thereof. The Company represents and warrants that it expended for the acquisition

and expansion of the Project not less than \$45,000,000 within five (5) years from the Effective Date.

SECTION 4.2 [RESERVED]

SECTION 4.3 Revision of Plans and Specifications. The Company may revise the Plans and Specifications at any time and from time to time.

SECTION 4.4 [RESERVED]

SECTION 4.5 [RESERVED]

SECTION 4.6 [RESERVED]

**ARTICLE 5**

**TERM**

SECTION 5.1 Term. Subject to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect beginning on the Effective Date and ending on December 31, 2022, unless sooner terminated as herein permitted.

SECTION 5.2 Administration Expenses; Indemnification Payments. (A) The Company agrees to reimburse the County from time to time for its Administrative Expenses promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County. The written request shall include a description of the nature of the Administrative Expenses.

(B) The Company agrees to reimburse the County for expenses incurred by the County for accountants and similar experts used by the County in the computation, preparation and verification of the annual payment in lieu of taxes to be made pursuant to this Agreement, *provided, however*, the maximum annual reimbursement pursuant to this subsection is capped at one thousand dollars (\$1000.00).

(C) The Company agrees to pay indemnification payments, as provided pursuant to Sections 8.10 and 8.15 of this Agreement, when and as they shall become due, but in no event later than thirty (30) days after receiving written notice from the County.

(D) In the event Company should fail to make any of the payments required in this Section 5.2, the item so in Default shall continue as an obligation of the Company until the amount in Default shall have been fully paid, and the Company agrees to pay the same with interest thereon (to the extent permitted by law) at the rate per annum which is equal to the prime rate until paid.

SECTION 5.3 [RESERVED]

SECTION 5.4 [RESERVED]



SECTION 5.5 [RESERVED]

**ARTICLE 6**

**REMOVAL OF EQUIPMENT; PAYMENTS IN LIEU OF TAXES;  
AD VALOREM TAXES**

SECTION 6.1 [RESERVED]

SECTION 6.2 Removal of Equipment. The parties hereto understand that certain machinery, equipment and related property (herein "Equipment") shall be installed on the Land. If no Default under this Agreement shall have happened and be continuing, in any instance where the Company in its discretion determines that any items of Equipment have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary for operations on the Land, the Company may remove such items of Equipment from the Land and sell, trade-in, exchange or otherwise dispose of them (as a whole or in part) without consent of the County. The Company shall have the right, pursuant to the provisions of the Act, including Section 12-44-60 thereof, to replace any Equipment. Any additional payments due pursuant to Section 12-44-50(B)(2) of the Act as a result of the early termination of all or part of this Agreement with respect to all or part of the Project shall be due with the Company's tax bill for such year.

SECTION 6.3 Payments in Lieu of Taxes. It is recognized that under the Act, the County may provide for a payment in lieu of taxes by the Company for the Project. In accordance with the provisions of the Act, during the Term of the Agreement the Company shall make with respect to the Project (1) a payment equal to the taxes that would otherwise be due on any portion of the Project consisting of undeveloped land if it were taxable, and (2) twenty annual payments in lieu of taxes calculated as set forth in the next succeeding paragraph of this Agreement for each Completed Segment of the Project, including that portion of the Project consisting of substitution or replacement property; and (3) after the payments due pursuant to clause (2) hereinabove, then Completed Segment payments equal to normal ad valorem taxes.

Such annual payments under clause (2) above shall be subject to collection and enforcement as provided in Section 12-44-90 of the Act. The amount of such annual payments shall be determined by:

(a) Using an assessment ratio of 6%, a millage rate of 375.9 mills, and a fair market value estimate as determined by the Department using original cost less allowable depreciation for the personal property as provided in Section 12-37-930 of the Code; and

(b) And then determining an equal annual payment based on a net present value of the sum of the fees for the period of twenty annual payments in lieu of taxes not less than the net present value of the fee schedule as calculated pursuant to subitem (a) above and using a discount rate of 6.04%.

For each Completed Segment of the Project, the amount of each of the twenty annual payments in lieu of taxes shall be calculated using the methodology applied in the example contained in Schedule A.

The total payment due shall equal the sum of the payments due for each Completed Segment.

In the event that a final order of a court of competent jurisdiction from which no further appeal is allowable declares the Act and/or the herein-described payments in lieu of taxes invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions to reform such payments so as to effectuate most closely the intent thereof and so as to afford the Company with the benefits to be derived herefrom, the intention of the County being to offer the Company a strong inducement to locate and maintain the Project in the County. Reformation of the payments includes the County's agreement that in case the FILOT incentive described herein is found to be invalid or otherwise does not provide the Company with the economic benefit it is intended to receive from the County as an inducement to locate in the County, the savings lost as a result of such invalidity will be considered a special source revenue credit or infrastructure improvement credit to the Company to the maximum extent permitted by law, and the County will provide a special source revenue credit or infrastructure improvement credit against all FILOT payments or fee payments made or to be made by the Company equal to the amount that the Company would have saved if the FILOT had been valid, to the maximum extent permitted by law. If the Project is deemed to be subject to *ad valorem* taxation, this Agreement shall terminate, and the Company shall pay the County regular *ad valorem* taxes from the date of termination, but with appropriate reductions equivalent to all tax exemptions which are afforded to the Company. Any amount determined to be due and owing to the County from the Company, with respect to a year or years for which the Company previously remitted payments in lieu of taxes to the County hereunder, shall (i) take into account all applicable tax exemptions to which the Company would be entitled if the Project was not and had not been subject a fee-in-lieu of tax arrangement under the Act; and (ii) be reduced by the total amount of payments in lieu of taxes the Company had made with respect to the Project pursuant to the terms hereof. Notwithstanding anything contained herein to the contrary, neither the Company nor any successor in title or interest shall be required to pay FILOT payments and *ad valorem* taxes for the same property over the same period in question.

In the event that the Cost of the Project has not exceeded \$45,000,000 by the fifth anniversary of the Effective Date, the portions of the Project subject to this Agreement shall revert retroactively to the tax treatment required pursuant to the Act and the unpaid taxes due thereby shall be subject to interest as provided in Section 12-54-25 of the Code.

SECTION 6.4 Ad Valorem Taxes. The County and the Company acknowledge that pursuant to the Act, no part of the Project subject to this Agreement will be subject to ad valorem taxation in South Carolina.

SECTION 6.5 [RESERVED]

SECTION 6.6 Annual Filings.

(A) Each year during the term of this Agreement, the Company shall deliver to the County, the County Auditor, the County Assessor, and the County Treasurer, a copy of its most recent annual filings with the Department with respect to the Project, not later than 30 days following delivery thereof to the Department.

(B) The Company shall cause the filing of a copy of this Agreement, as well as a copy of the completed Form PT-443 of the Department, to be filed with the County Auditor and the County Assessor of the County and Chester County and the Department within 30 days after the date of execution and delivery of this Agreement by all parties.

SECTION 6.7 Cessation of Operations. Notwithstanding any other provision of this Agreement, the Company acknowledges and agrees that County's obligation to provide the FILOT incentive ends, and this Agreement is terminated, if the Company ceases operations. For purposes of this Section 6.7, "ceases operations" means closure of the facility. The Company agrees that if the Agreement is terminated pursuant to this section, that under no circumstance shall the County be required to refund or pay any monies to the Company.

## **ARTICLE 7**

### **CASUALTY AND CONDEMNATION**

SECTION 7.1 Damage and Destruction. [RESERVED]

SECTION 7.2 [RESERVED]

SECTION 7.3 [RESERVED]

## **ARTICLE 8**

### **PARTICULAR COVENANTS AND AGREEMENTS**

SECTION 8.1 [RESERVED]

SECTION 8.2 [RESERVED]

SECTION 8.3 [RESERVED]

SECTION 8.4 [RESERVED]

SECTION 8.5 Right to Inspect; Confidential Information.

(A) The Company agrees that the County and its authorized agents have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project and to have access to and examine and inspect all the Company's books and records pertaining to the Project. The right of examination and inspection shall be exercised only upon reasonable and necessary terms and conditions prescribed by the Company to protect the

Company's confidentiality and proprietary rights. Any such entrance upon and examination and inspection of the Project shall be at the County's expense.

(B) The County acknowledges and understands that the Company may have and maintain at the Project certain confidential and proprietary information, including, but not limited to, trade secrets, financial, sales or other information concerning the Company's operations and processes ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to the Company and could have a significant detrimental impact on the Company's employees and also upon the County. Except as required by law, including, without limitation, court orders, the County agrees to use its best reasonable efforts to keep confidential, and to cause employees, agents and representatives of the County to keep confidential, the Confidential Information which may be obtained from the Company, its agents or representatives, when the Confidential Information is clearly marked and identified as Confidential Information and known to the County to be Confidential Information. The County shall not knowingly and willfully disclose and shall cause all employees, agents and representatives of the County not to knowingly and willfully disclose the marked and identified Confidential Information to any person or entity other than in accordance with the terms of this Agreement. If a demand is made for the release, under color of law, to a third party of any Confidential Information, the County shall notify the Company and give the Company the opportunity to contest the release.

#### SECTION 8.6 [RESERVED]

SECTION 8.7 Limitation of County's Liability. Anything in this Agreement to the contrary notwithstanding, any obligation the County may incur under this Agreement, including for the payment of money, shall not be deemed to constitute a debt or general obligation of the County but shall be payable solely and exclusively from the revenues and receipts derived by the County from this Agreement.

#### SECTION 8.8 [RESERVED]

#### SECTION 8.9 [RESERVED]

#### SECTION 8.10 Indemnification.

(A) The Company shall and agrees to indemnify and save the County harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Project during the Term of this Agreement, and, Company further shall indemnify and save the County harmless against and from all claims arising during the Term of this Agreement from (i) any condition of the Project; (ii) any breach or default on the part of Company in the performance of any of its obligations under this Agreement; (iii) any act of negligence of Company or any of its agents, contractors, servants, employees or licensees, (iv) any act of negligence of any assignee or sublessee of Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of Company, or (v) any environmental violation, condition, or effect. Company shall indemnify and save the County harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or

proceeding brought thereon, and upon notice from the County, Company shall defend in any such action, prosecution or proceeding it.

(B) Notwithstanding the fact that it is the intention of the parties that the County, its agents, officers, or employees, shall not incur pecuniary liability by reason of the terms of this Agreement, or the undertakings required of the County hereunder, by reason of the performance of any act requested of it by the Company, or the operation of the Project by the Company, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if the County, its agents, officers or employees should incur any such pecuniary liability, then in such event the Company shall indemnify and hold them harmless against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Company shall defend them in any such action or proceeding.

(C) The County shall not be indemnified by Sections 8.10(a) and (b) above as to intentional or wanton acts of the County or its agents.

SECTION 8.11 [RESERVED]

SECTION 8.12 Qualification in State. The Company warrants that it is duly qualified to do business in the State of South Carolina and covenants that it will continue to be so qualified so long as it operates the Project.

SECTION 8.13 No Liability of County's Personnel. All covenants, stipulations, promises, agreements and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the County and not of any member of the County Council or any officer, agent, servant or employee of the County in his individual capacity, and no recourse shall be had for the payment of any moneys hereunder or the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon against any member of the governing body of the County or any officer, agent, servants or employee of the County.

SECTION 8.14 [RESERVED]

SECTION 8.15 Environmental Representations; Environmental Indemnity. The Company warrants and represents to the County, after thorough investigation on or prior to the Effective Date that (a) the Project and the Land as of the Effective Date and at all times thereafter while it was leased by the Company under the Lease Agreement was in reasonable compliance with all federal, state, and local environmental laws and regulations, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Public Law No. 96-510, 94 Stat. 2767, 42 USC 9601 et seq., and the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), Public Law No. 99-499, 100 Stat. 1613, and (b)(i) as of the Effective Date and all times thereafter, to the best of the Company's knowledge, there were no hazardous materials, substances, waste or other environmentally regulated substances (including without limitation, any materials containing asbestos) located on, in or under the Project and the Land or used in connection therewith, which

the Company was not permitted by law, regulation or the conditions of a permit to maintain on, in or under the Project and the Land or use in connection herewith, and the Company has obtained and has maintained all licenses, permits and approvals required with respect thereto, and was in full compliance with all of the terms, conditions and requirements of such licenses, permits and approvals. The Company hereby indemnifies and agrees to hold the County harmless from and against any damages, fines, charges, expenses, fees, attorney fees and costs incurred by the County in the event the County as lessor under the Lease Agreement is hereafter determined to be in violation of any environmental laws, rules or regulations applicable thereto, and this indemnity shall survive any foreclosure, deed in lieu of foreclosure and termination of the Lease Agreement. This indemnity includes, but is not limited to, any damages, claims and fees arising out of any claim for loss or damage to property or persons, contamination of or adverse effect on the environment, or any violation of statutes, ordinances, orders, rules or regulations of any governmental agency or entity, caused by or resulting from any hazardous material, substance or waste previously, now or hereafter on or under the Project.

## **ARTICLE 9**

### **ASSIGNMENT OF PROJECT**

#### **SECTION 9.1 Assignment.**

(A) If Section 12-44-120 of the Act or any successor provision requires consent to an assignment, the Company may only assign this Agreement in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which consent or ratification the County will not unreasonably withhold. The Company agrees to notify the County and the Department of the identity of any transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Project for purposes of calculating the FILOT. No approval is required for transfers to sponsor affiliates or other financing related transfers, as defined in the Act.

(B) The County understands that the Company, or its controlling shareholder Procter & Gamble ("P&G"), is a party to a proposed transaction with Berkshire Hathaway, Inc. to divest the Duracell business (the "Proposed Transaction"). The County expressly agrees and provides its consent for P&G to assign this Agreement in full to Duracell Manufacturing, Inc. and/or its subsidiaries upon closing of the Proposed Transaction.

#### **SECTION 9.2 [RESERVED]**

## **ARTICLE 10**

### **PURCHASE AND OPTION TO PURCHASE PROJECT; PURCHASE PRICE**

[RESERVED]

## **ARTICLE 11**

### **EVENTS OF DEFAULT AND REMEDIES**

SECTION 11.1      Events of Default. Any one or more of the following events (herein called "Event of Default", or collectively "Events of Default") shall constitute an Event of Default:

(a) if Default shall be made in the due and punctual payment of any fee in lieu of tax payments due hereunder;

(b) if the Company shall assign this Agreement, otherwise than as expressly permitted pursuant to Section 9.1 hereof;

(c) if Default shall be made by the Company in the due performance of or compliance with any of the terms hereof, including payment, other than those referred to in the foregoing subdivisions (a) or (b) and such default shall (i) continue for 30 days after the Company shall have given the Company written notice of such Default or a responsible officer of the Company shall otherwise have actual notice thereof, or (ii) in the case of any such Default which can be cured but which cannot with due diligence be cured within such 30-day period, if the Company shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such Default with due diligence, it being intended in connection with the Default not susceptible of being cured with due diligence within 30 days that the time of the Company within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with all due diligence;

(d) if the Company shall file a voluntary petition seeking an order for relief in bankruptcy, or shall be adjudicated insolvent, or shall file any petition or answer or commence a case seeking any reorganization, composition, readjustment, liquidation or similar order for relief or relief for itself under any present or future statute, law or regulation, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Company or of the Project, or shall make any general assignment for the benefit of credits, or shall admit in writing its inability to pay its debts generally as they become due;

(e) if a petition shall be filed or a case shall be commenced against Company seeking an order for relief in bankruptcy or any reorganization, composition, readjustment, liquidation or similar relief under any present or future statute, law or regulation, and shall remain undismissed or unstayed for an aggregate of 30 days (whether or not consecutive), or if any trustee, receiver or liquidator of the Company or of all or any substantial part of its properties or of the Project shall be appointed without the consent or acquiescence of the Company and such appointment shall remain unvacated or unstayed for an aggregate of 30 days (whether or not consecutive);

(f) If any material representation or warranty made by the Company herein or any statement, certificate or indemnification furnished or delivered by the Company in connection with the execution and delivery of this Agreement, proves untrue in any material respect as of the date of the issuance or making thereof or is knowingly violated or breached, as the case may be;

(g) If the Company shall abandon the Project; or

(h) If the Company shall dissolve or fail to maintain its separate corporate existence without prior assignment of this Agreement pursuant to Section 9.1 hereof.

SECTION 11.2 Remedies on Event of Default. Upon the occurrence of any Event of Default, the County at its option: (i) may terminate this Agreement as to one or more Completed Segments by 30 days' notice in writing specifying the termination date and the Completed Segments to be terminated; (ii) may have access to and inspect, examine and make copies of, the books, records and accounts of the Company pertaining to the Project; or (iii) may take whatever action at law or in equity as may appear necessary or desirable to collect any amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition or agreement of the Company under this Agreement.

SECTION 11.3 Company's Obligations to Survive Repossession and Termination. Except as hereinafter provided, no termination of the Term of the Agreement hereof shall relieve the Company of its liability and obligations to make the payments required by Sections 5.2, 8.10 and 8.15 hereof, all of which shall survive any such termination.

## **ARTICLE 12**

### **MISCELLANEOUS**

SECTION 12.1 Rights and Remedies Cumulative. Each right, power and remedy of the County or of the Company provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers and remedies are sought to be enforced, and the exercise by the County or by the Company of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company of any or all such other rights, powers and remedies.

SECTION 12.2 Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 12.3 Notices; Demands; Requests. All notices, demands and requests to be given or made hereunder to or by the County or the Company, shall be in writing, and shall be deemed to be properly given or made if sent by United States first class mail, post prepaid addressed as follows or at such other places as may be designated in writing by such party.

#### **IF TO THE COUNTY:**

Lancaster County, South Carolina  
Attn: County Administrator  
101 N. Main St. (29720)  
P.O. Box 1809 (29721)  
Lancaster, SC



**WITH A COPY TO:**

Lancaster County, South Carolina  
Attn: County Attorney  
101 N. Main St. (29720)  
P.O. Box 1809 (29721)  
Lancaster, SC

**IF TO THE COMPANY:**

Duracell Inc.  
1551 Highway 9, Bypass West  
Lancaster, South Carolina 29620  
Attention: President

SECTION 12.4      Applicable Law; Entire Understanding. This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of South Carolina. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

SECTION 12.5      Severability. In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of each clause or provision shall not affect any of the remaining provisions hereof.

SECTION 12.6      Headings and Table of Contents; References. The headings of the Agreement and any Table of Contents or Index annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular Articles or Sections or subdivisions of this Agreement are references to the designated Articles or Sections or subdivision of this Agreement.

SECTION 12.7      Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

SECTION 12.8      [RESERVED]

SECTION 12.9      Amendments. This Agreement may be amended only by a writing signed by both parties.

SECTION 12.10      Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

SECTION 12.11      Intent of the Parties; Waiver of Recapitulation.

(A) Notwithstanding anything contained herein to the contrary, and in accordance with Section 12-44-170(B) of the Act, (i) the fee payments due hereunder shall in no event be less or more than, or be for a duration shorter or longer than, the fee payments that would be due if the Lease Agreement were continued; and (ii) any minimum investment or employment requirements under the Lease Agreement are hereby carried over to this Agreement. It is the intent of the parties that this Agreement will not affect the economic benefit and rights and obligations intended to be created by the Lease Agreement to the Company and the County, but is merely entered into in order to continue the fee in lieu of taxes arrangement previously entered into through the Lease Agreement but without the County having title to the assets subject to the fee in lieu of taxes, all in accordance with Section 12-44-170 of the Act.

(B) Pursuant to Section 12-44-55(B) of the Act, the County and the Company waive any and all compliance with any and all of the provisions, items, or requirements of Section 12-44-55 of the Act.

SIGNATURES FOLLOW ON NEXT PAGE.

IN WITNESS WHEREOF, the County, acting by and through its Council, has caused this Agreement to be executed in its name and on its behalf by the Council Chair and Council Secretary and to be attested by the Clerk to Council, and The Gillette Company has executed this Agreement by causing its corporate name to be hereunto subscribed by its President or a Vice President and its corporate seal to be impressed hereon and attested to by its Secretary or Assistant Secretary, all being done as of the day and year first above written.

**LANCASTER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
Bob Bundy, Chair, County Council

\_\_\_\_\_  
Steve Harper, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Debbie C. Hardin, Clerk to Council

**THE GILLETTE COMPANY**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, Assistant Secretary

## EXHIBIT A

All those certain pieces, parcels or tracts of land, lying, being and situate in Can Creek Township, Lancaster County, South Carolina, on the North side of South Carolina Road S-29-518, known as Hawthorne Road, containing a total of four and five tenths (4.5) acres, more or less, and being shown, described and designated as Tracts "A" 4.160 Acres and "B" 0.340 AC. IN R/W" on plat of survey made by Enfinger & Associates, dated June 28, 1995, entitled "PLAT OF BOUNDARY SURVEY FOR DURACELL INTERNATIONAL INC. (DURACELL U.S.A.)" and recorded in the Office of the Clerk of Court for Lancaster County, South Carolina, referenced to said plat is craved for a more minute description.

EXHIBIT B

[RESERVED]

EXHIBIT C

[RESERVED]

## SCHEDULE A

Duracell Inc.

Year of Operation	Standard Tax with Abatement	1st Year Filed	2nd Year Filed	3rd Year Filed	4th Year Filed	5th Year Filed	Total Filed	Net Savings From Ftd	40% Fee for SMB
1999	\$562,496	\$371,104	\$224,377	\$216,809	\$184,562	\$111,807	\$371,104	\$181,392	\$148,442
2000	\$637,844	\$326,387	\$186,845	\$180,012	\$161,724	\$97,988	\$637,844	\$285,080	\$221,106
2001	\$1,059,687	\$286,670	\$168,913	\$163,216	\$136,917	\$77,816	\$1,059,687	\$390,563	\$278,650
2002	\$1,181,990	\$242,853	\$141,181	\$138,419	\$116,110	\$84,169	\$1,181,990	\$401,327	\$314,564
2003	\$1,179,492	\$200,237	\$113,448	\$109,623	\$83,303	\$50,532	\$1,179,492	\$398,186	\$257,717
2004	\$1,013,479	\$157,520	\$85,717	\$82,826	\$70,485	\$42,713	\$1,013,479	\$277,629	\$204,189
2005	\$820,639	\$114,803	\$57,985	\$56,029	\$47,688	\$30,360	\$820,639	\$244,074	\$150,620
2006	\$620,625	\$72,086	\$30,253	\$28,233	\$27,688	\$20,632	\$620,625	\$194,978	\$111,051
2007	\$472,607	\$64,319	\$25,211	\$24,361	\$20,734	\$12,563	\$472,607	\$125,749	\$83,666
2008	\$396,037	\$64,319	\$25,211	\$24,361	\$20,734	\$12,563	\$396,037	\$106,873	\$67,066
2009	\$283,415	\$64,319	\$25,211	\$24,361	\$20,734	\$12,563	\$283,415	\$112,276	
2010	\$261,975	\$64,319	\$25,211	\$24,361	\$20,734	\$12,563	\$261,975	\$110,391	
2011	\$257,578	\$64,319	\$25,211	\$24,361	\$20,734	\$12,563	\$257,578	\$110,391	
2012	\$257,578	\$64,319	\$25,211	\$24,361	\$20,734	\$12,563	\$257,578	\$110,391	
2013	\$257,578	\$64,319	\$25,211	\$24,361	\$20,734	\$12,563	\$257,578	\$110,391	
2014	\$257,578	\$64,319	\$25,211	\$24,361	\$20,734	\$12,563	\$257,578	\$110,391	
2015	\$257,578	\$64,319	\$25,211	\$24,361	\$20,734	\$12,563	\$257,578	\$110,391	
2016	\$257,578	\$64,319	\$25,211	\$24,361	\$20,734	\$12,563	\$257,578	\$110,391	
2017	\$257,578	\$64,319	\$25,211	\$24,361	\$20,734	\$12,563	\$257,578	\$110,391	
2018	\$257,578	\$64,319	\$25,211	\$24,361	\$20,734	\$12,563	\$257,578	\$110,391	
2019	\$145,019		\$25,211	\$24,361	\$20,734	\$12,563	\$145,019	\$82,151	
2020	\$100,900			\$24,361	\$20,734	\$12,563	\$100,900	\$67,657	
2021	\$58,269			\$24,361	\$20,734	\$12,563	\$58,269	\$24,972	
2022	\$21,985				\$20,734	\$12,563	\$21,985	\$9,422	
	\$11,067,080	\$2,544,595	\$1,321,049	\$1,276,494	\$1,086,456	\$668,278	\$11,067,080	\$5,251,318	\$2,149,318
	\$7,278,760						\$7,278,760	\$4,802,909	\$1,610,246
Investment	Land & Bldg	\$1,190,000	\$0	\$0	\$0	\$0			
Equipment		\$17,216,000	\$11,178,000	\$10,801,000	\$9,853,000	\$5,370,000			
Mileage Rate	0.3760								
Abatement	0.05032 NPV		0.0604						



**Duracell Inc.**  
Levelized Payment Method

YEAR	Initial Investment	1st Year	2nd Year	3rd Year	4th Year	5th Year	Total	Savings from Fuel	CCF
Standard Tax	Fuel	Fuel	Fuel	Fuel	Fuel	Fuel	Fuel		
1999	\$562,495	\$156,716							
2000	\$837,844	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$156,716	\$405,780	\$62,685
2001	\$1,059,697	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$241,911	\$595,933	\$96,764
2002	\$1,191,990	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$324,232	\$735,455	\$129,893
2003	\$1,179,492	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$394,298	\$797,692	\$157,719
2004	\$1,013,479	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	\$742,741	\$174,700
2005	\$820,639	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	\$576,728	\$174,700
2006	\$820,625	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	\$583,888	\$174,700
2007	\$472,607	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	\$183,674	\$174,700
2008	\$386,037	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	\$35,856	\$174,700
2009	\$293,415	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	(\$70,714)	\$174,700
2010	\$261,975	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	(\$143,336)	
2011	\$257,578	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	(\$174,776)	
2012	\$257,578	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	(\$179,173)	
2013	\$257,578	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	(\$179,173)	
2014	\$257,578	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	(\$179,173)	
2015	\$257,578	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	(\$179,173)	
2016	\$257,578	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	(\$179,173)	
2017	\$257,578	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	(\$179,173)	
2018	\$257,578	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$436,751	(\$179,173)	
2019	\$145,019	\$156,716	\$85,195	\$82,322	\$70,066	\$42,453	\$280,035	(\$135,016)	
2020	\$100,900		\$85,195	\$82,322	\$70,066	\$42,453	\$194,840	(\$93,940)	
2021	\$58,269				\$70,066	\$42,453	\$112,519	(\$54,250)	
2022	\$21,995				\$70,066	\$42,453	\$49,236	(\$27,251)	
	\$11,067,080	\$3,134,316	\$1,703,899	\$1,846,432	\$1,401,319	\$855,836	\$8,741,802	\$2,325,278	\$1,495,065
	\$7,278,760	\$1,791,696	\$818,535	\$837,000	\$871,614	\$385,524	\$4,604,569	\$2,674,191	\$1,057,256

## T

Florida Index	+
Carlini Pay	-
Debarred Int	+
Disfranch	+
Bankrupt	+
Volume Rev. 38	+
The Fish Index	+
July 1, 1990 - 100	
Key Characters	
Yves Lee	
Garwood	W. G. 2.
Key Reports	

# A

*It's just a*



**Exhibit B to Ordinance No. 2015-1377**

STATE OF SOUTH CAROLINA     )  
  )  
COUNTY OF LANCASTER        )

**TITLE TO REAL ESTATE**

KNOW ALL MEN BY THESE PRESENTS, that Lancaster County, South Carolina, a body corporate and politic and a subdivision of the State of South Carolina (the "Grantor") for and in consideration of One Dollar (\$1.00) has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release unto The Gillette Company, a corporation organized and existing under the laws of the State of Delaware (the "Grantee").

(See Exhibit A attached hereto for a legal description)

**Grantee's Address:**

Together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned under the Grantee, and Grantee's successors and assigns, forever. And, the Grantor does hereby bind the Grantor and the Grantee's successors and assigns, to warrant and forever defend all and singular said premises unto the Grantee and the Grantee's successors and/or assigns against the Grantor and the Grantor's successors and assigns (except as to Permitted Encumbrances) but not as to any other person whomsoever may claim.

WITNESS the Grantor's hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

SIGNED, sealed and delivered in the presence of:

WITNESSES: LANCASTER COUNTY, SOUTH CAROLINA

**Bob Bundy, Chair, County Council**

**Steve Harper, Secretary, County Council**

ATTEST:

### Debbie C. Hardin, Clerk to Council

STATE OF SOUTH CAROLINA                    )  
  )  
COUNTY OF LANCASTER                    )       PROBATE

PERSONALLY appeared before me \_\_\_\_\_, who being duly sworn says that (s)he saw the corporate seal of Lancaster County, South Carolina, affixed to the foregoing Deed and that (s)he also saw Bob Bundy, as Council Chair, Steve Harper, as Council Secretary, and Debbie C. Hardin, as Clerk to Council, sign and attest the same and that (s)he with \_\_\_\_\_ witnessed the execution and deliver thereof as the act and deed of Lancaster County, South Carolina

\_\_\_\_\_  
Witness

SWORN to before me this  
\_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
(L.S.)  
Notary Public for South Carolina  
My Commission expires: \_\_\_\_\_

## EXHIBIT A

### Exhibit A

All those certain pieces, parcels or tracts of land, lying, being and situate in Can Creek Township, Lancaster County, South Carolina, on the North side of South Carolina Road S-29-518, known as Hawthorne Road, containing a total of four and five tenths (4.5) acres, more or less, and being shown, described and designated as Tracts "A" 4.160 Acres and "B" 0.340 AC. IN R/W" on plat of survey made by Enfinger & Associates, dated June 28, 1995, entitled "PLAT OF BOUNDARY SURVEY FOR DURACELL INTERNATIONAL INC. (DURACELL U.S.A.)" and recorded in the Office of the Clerk of Court for Lancaster County, South Carolina, referenced to said plat is craved for a more minute description.

Being a portion of the property conveyed to Duracell, Inc. by deed of Pat O. Love, dated November 9, 1995 and recorded on November 9, 1995, in the Office of the Clerk of Court for Lancaster County, South Carolina in Deed Book M-13 at page 338.

**Exhibit C to Ordinance No. 2015-1377**

STATE OF SOUTH CAROLINA     )  
   )  
COUNTY OF LANCASTER         )                     **BILL OF SALE**

This BILL OF SALE (the "Bill of Sale") is given this \_\_\_\_ day of \_\_\_\_\_, 2015, by LANCASTER COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the "County") to THE GILLETTE COMPANY, a Delaware corporation, or any successor thereof pursuant to the Lease (as defined below) (the "Company").

**RECITALS:**

Pursuant to an ordinance dated March 30, 1998 (the "Ordinance"), the County Council of Lancaster County, South Carolina (the "County Council"), authorized the issuance by the County of Lancaster County, South Carolina, Industrial Revenue Bond in an aggregate amount not exceeding \$80,000,000 (the "Bond") for the purpose of financing the cost of the acquisition, by construction and purchase, of land, buildings, improvements, machinery, equipment and fixtures which shall constitute a manufacturing facility for the manufacturing of batteries and components in the County (the "Project").

As contemplated by the Ordinance, the Tenant conveyed title to the Project to the County, including the Completed Segments, on or before each advance under the Bond by bills of sale and by a title to real estate. Pursuant to a Lease Agreement dated as of June 1, 1998 (the "Lease"), between the County and the Tenant, the County leased the Project (including each Completed Segment thereof) back to the Tenant in return for rental payments that are exactly equal and fully sufficient to make the payments due under the Bond by the County. Pursuant to Article 10 of the Lease, the Tenant may, at its option, reacquire the title to the Project or any portion thereof by bill of sale or title to real estate from the County. Pursuant to an Escrow Agreement dated as of June 1, 1998 (the "Escrow Agreement"), among the County, the Company, and Haynsworth, Marion, McKay & Guerard, L.L.P. as Escrow Agent (the "Escrow Agent"), the Escrow Agent, among other duties, is to hold the specific description of all machinery and equipment which is a part of the Project.

The Company has requested the County's consent and the County has agreed to consent to the Company's election to transfer the Project back to the Company pursuant to Section 12-44-170(B) of the Code of Laws of South Carolina 1976, as amended.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the County does hereby grant, bargain, sell, transfer, and convey to the Company all the capital assets, including but not limited to, all real estate improvements (if any), machinery, equipment, and fixtures acquired in whole or in part from the

proceeds of the Bond together with any and all additions, accessions, replacements and substitutions thereto or therefore that were transferred to the County directly or were reported for fee in lieu of tax purposes as subject to the Lease Agreement, including but not limited to the property being more particularly described on Exhibit A attached hereto.

The County represents and warrants that it is the true and lawful owner of all of the property described herein; and that it has full power, right and lawful authority to sell the said property. The County further agrees that it will forever warrant and defend the title to said property.

LANCASTER COUNTY, SOUTH CAROLINA

\_\_\_\_\_  
Bob Bundy, Chair, County Council

\_\_\_\_\_  
Steve Harper, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Debbie C. Hardin, Clerk to Council

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Exhibit A

All property and assets owned by the County and leased to the Company under the Lease.

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**Exhibit D to Ordinance No. 2015-1377**

**AGREEMENT TO TERMINATE LEASE AGREEMENT,  
INDENTURE, INDUSTRIAL REVENUE BONDS, AND ESCROW AGREEMENT**

This AGREEMENT TO TERMINATE LEASE AGREEMENT, INDENTURE, INDUSTRIAL REVENUE BONDS, AND ESCROW AGREEMENT (the "Agreement") is entered into to be effective as of this \_\_\_\_ day of \_\_\_\_\_, 2015 ("Termination Date") by and between LANCASTER COUNTY, SOUTH CAROLINA (the "County") and THE GILLETTE COMPANY, as successor to Duracell Inc. (the "Company").

**WITNESSETH**

WHEREAS, the County has entered into a fee in lieu of taxes arrangement (the "FILOT Transaction") under Title 4, Chapter 29, Code of Laws of South Carolina 1976, as amended (the "Title Act") with the Company, in connection with which the Company transferred title to certain property (collectively, the "Project") to the County, and the County and the Company entered into a Lease Agreement dated as of June 1, 1998 ("Lease Agreement"), and an Indenture dated as of June 1, 1998 ("Indenture"), as well as an Escrow Agreement among the Company, the County, and Haynsworth, Marion, McKay & Guerard, L.L.P. ("Escrow Agreement"), as escrow agent (the "Escrow Agent"), pursuant to which the County leased the Project back to the Company; and

WHEREAS, in connection with the FILOT Transaction, the County issued not exceeding \$80,000,000 Lancaster County, South Carolina Industrial Revenue Bonds, Series 1998 (Duracell Inc. Project) (the "Bonds"), which Bonds were purchased by the Company; and

WHEREAS, the Company desires to transfer (the "Transfer") the Project from the arrangement under the Title Act to an arrangement under Title 12, Chapter 44, Code of Laws of South Carolina 1976, as amended (the "Non-Title Act") in accordance with Section 12-44-170(B) of the Non-Title Act; and

WHEREAS, the County and Company, in furtherance of the desire to transfer property from an arrangement under the Title Act to one under the Non-Title Act and pursuant to and in consideration of the terms and conditions contained herein, desire to terminate the Lease Agreement, the Indenture, the Bonds, and the Escrow Agreement, prior to the scheduled expiration of the terms thereof and enter into a fee in lieu of tax agreement pursuant to the Non-Title Act.

NOW THEREFORE, based on the foregoing and for the sum of ten dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. The Lease Agreement, the Indenture, the Bonds, and the Escrow Agreement shall terminate on the Termination Date, without liability or penalty. The Inducement Agreement and

Millage Rate Agreement between the Company and the County dated January 26, 1998 shall remain in effect but only to the extent required in order to continue the benefits of the FILOT under the Non-Title Act.

2. Effective as of the Termination Date, the Company does hereby waive, release, relieve, and forever discharge the Escrow Agent from any and all causes of action, liabilities, claims, or other demands of any kind or character which it may have against the Escrow Agent with respect to, or in connection with, the Escrow Agreement, or arising therefrom on and after the Termination Date.

3. The County and the Company agree that the sole intent of the Transfer is to convert the FILOT arrangement from the Title Act to the Non-Title Act and not to terminate, alter or modify the incentives provided to the Company under the FILOT.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement or have caused their duly authorized representatives to execute the same, to be effective as of the day and year first above written.

WITNESSES:

LANCASTER COUNTY, SOUTH CAROLINA

\_\_\_\_\_

\_\_\_\_\_  
Bob Bundy, Chair, County Council

\_\_\_\_\_

\_\_\_\_\_  
Steve Harper, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Debbie C. Hardin, Clerk to Council

WITNESSES:

THE GILLETTE COMPANY

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

\_\_\_\_\_

Its: \_\_\_\_\_

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**Exhibit E to Ordinance No. 2015-1377**

**STATE OF SOUTH CAROLINA )**  
**)**  
**COUNTY OF LANCASTER )**

**AGREEMENT FOR THE TERMINATION OF  
MEMORANDUM OF LEASE AND OPTION TO  
PURCHASE AND INDENTURE**

This AGREEMENT FOR THE TERMINATION OF MEMORANDUM OF LEASE AND OPTION TO PURCHASE AND INDENTURE (the "Agreement") effective as of the \_\_\_\_ day of \_\_\_\_\_, 2015, and is by and between LANCASTER COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the "County") and THE GILLETTE COMPANY, as successor to Duracell Inc., a corporation duly organized and existing under the laws of the State of Delaware and authorized to do business in the State of South Carolina (the "Company").

RECITALS:

WHEREAS, the County and the Company entered into (i) a Memorandum of Lease and Option to Purchase dated as of June 1, 1998 (the “MOL”), and (ii) an Indenture dated as of June 1, 1998 (the “Indenture”) in connection with a fee in lieu of taxes (“FILOT”) transaction between the Company and the County pursuant to Title 4, Chapter 29, Code of Laws of South Carolina 1976, as amended (the “Title Act”); and

WHEREAS, the MOL was recorded in the Office of the Clerk of Court for Lancaster County (“Clerk’s Office”) in Book 0015 at Page 0086 in order to record the terms of a Lease Agreement between the County and the Company and the Indenture was recorded in Book 0601 at Page 0071 of the Clerk’s Office; and

WHEREAS, pursuant to Ordinance No. 2015-\_\_\_\_, enacted by the County on \_\_\_\_\_, 2015, the County consented to the transfer of the FILOT under the Title Act to a FILOT transaction under Title 12, Chapter 44 of the Code (the "Non-Title Act") and to the execution of a Fee Agreement and all other documents necessary to evidence such transfer; and

WHEREAS, the parties now desire to terminate the MOL and the Indenture.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and Company agree the MOL and the Indenture are hereby terminated. The Company shall record this Agreement in the office of the Lancaster County Register of Deeds.

[Signature Page Follows.]

IN WITNESS WHEREOF, the undersigned have executed this Agreement under seal as of the date first written above.

WITNESSES:

LANCASTER COUNTY, SOUTH CAROLINA

\_\_\_\_\_

\_\_\_\_\_  
Bob Bundy, Chair, County Council

\_\_\_\_\_

\_\_\_\_\_  
Steve Harper, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Debbie C. Hardin, Clerk to Council

WITNESSES:

THE GILLETTE COMPANY

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, Notary Public for the State of South Carolina, do hereby certify that THE GILLETTE COMPANY, by \_\_\_\_\_, its \_\_\_\_\_, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Subscribed to and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_(L.S.)  
Notary Public, State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_  
NOTARIAL SEAL

[illegible]

I, \_\_\_\_\_, Notary Public for the State of South Carolina, do hereby certify that LANCASTER COUNTY, SOUTH CAROLINA, by Bob Bundy, Council Chair, Steve Harper, Council Secretary, as attested by Debbie C. Hardin, Clerk to Council, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Subscribed to and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_(L.S.)  
Notary Public, State of South Carolina

My Commission Expires: \_\_\_\_\_  
NOTARIAL SEAL