
FEE AGREEMENT

by and among

LANCASTER COUNTY, SOUTH CAROLINA,

RISC, LLC

and

COOLEY, INCORPORATED

Dated as of December 14, 2020

FEE AGREEMENT

This FEE AGREEMENT (this "Agreement") is dated as of December 14, 2020, by and among LANCASTER COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the "County"), RISC, LLC ("Sponsor"), a Delaware limited liability company, and COOLEY, INCORPORATED ("Sponsor Affiliate"), a Rhode Island corporation (collectively, Sponsor and Sponsor Affiliate are referred to as the "Companies").

RECITALS

WHEREAS, the County, acting by and through its County Council, is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the "Act") of the Code of Laws of South Carolina 1976, as amended (the "Code") and Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution (the "Multi-County Park Act"): (i) to enter into agreements with certain entities to construct, operate, maintain, and improve industrial and commercial properties through which the economic development of South Carolina will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in South Carolina and thus utilize and employ South Carolina's workforce, agricultural products, and natural resources; (ii) to covenant with such entities to accept certain payments in lieu of *ad valorem* taxes with respect to the project (a "Fee-in-Lieu of Tax" or "FILOT"); and (iii) to maintain, create or expand, in conjunction with one or more other counties, multi-county business or industrial park;

WHEREAS, Sponsor proposes to expand certain of its business operations in the County in a facility constructed by Sponsor Affiliate and leased to Sponsor (the "Project");

WHEREAS, Sponsor anticipates that the Project will result in the creation of at least five (5) new, full-time jobs and an investment of at least \$4,000,000 in the County;

WHEREAS, the County Council approved on November 9, 2020, Resolution No. 1123-R2020 (the "Inducement Resolution") to identify, reflect and induce the Project under the Act and to state the commitment of the County to, among other things, enter into this Agreement;

WHEREAS, as a result of the Companies locating the Project in the County, the Companies requested that the County complete the FILOT arrangement referred to in the Inducement Resolution by entering into this Agreement with the Companies pursuant to the Act, and the Companies elect to enter into the FILOT arrangement with the County in an effort to implement the terms of the Project and allow the Companies to make FILOT payments pursuant to the Act;

WHEREAS, for the Project, the parties have determined, based on information provided by Sponsor, that Sponsor is a "Sponsor," Sponsor Affiliate is a "Sponsor Affiliate," and that some or all of the Project constitutes "Economic Development Property," all within the meaning of the Act; and

WHEREAS, for the purposes set forth above, the County has determined that it is in the best interests of the County to enter into this Agreement with the Companies, subject to the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, and the sum of \$1.00 in hand, duly paid by the Companies to the County, the receipt and sufficiency of which are hereby acknowledged, the County and the Companies agree as follows:

ARTICLE I

DEFINITIONS AND RECAPITULATION

Section 1.01. Statutorily Required Recapitulation.

(a) Pursuant to Section 12-44-55(B) of the Act, the County and the Company agree to waive the recapitulation requirements of Section 12-44-55 of the Act. Subsection (b) of this section is inserted for convenience only and does not constitute a part of this Agreement or a summary compliant with Section 12-44-55 of the Act.

(b) Summary of Agreement.

1. Legal name of each initial party to this Agreement:

LANCASTER COUNTY, SOUTH CAROLINA, a body politic and corporate, and
a political subdivision of the State of South Carolina
RISC, LLC, a Delaware limited liability company
COOLEY, INCORPORATED, a Rhode Island corporation

2. County, street address, parcel number or other location identifier of the Project and property to be subject to this Agreement:

Lancaster County, South Carolina
861 Quality Drive
Parcel Identification No. 0068-00-018.03

3. Minimum investment agreed upon: \$2,500,000.

4. Length and term of this Agreement: Twenty (20) years for each annual increment of investment in the Project during the Investment Period.

5. Assessment ratio applicable for each year of this Agreement: 6%, except as otherwise provided in the Agreement.

6. Millage rate applicable for each year of this Agreement: 338.15 mills, except as otherwise provided in the Agreement.

7. Statements

- (a) The Project is to be located in a multi-county park;
- (b) Disposal of property subject to payments-in-lieu-of-taxes is allowed;

- (c) Special Source Revenue Credits shall be provided for the Economic Development Property in amounts equal to fifty-eight percent (58%) of Negotiated FILOT Payments for seven (7) consecutive years beginning not later than with the Negotiated FILOT Payment due without penalty by January 15, 2022 and ending not later than with the Negotiated FILOT Payment due without penalty by January 15, 2028;
- (d) Payment will not be modified using a net present value calculation; and
- (e) Replacement property provisions will apply.

Section 1.02. Definitions. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the recitals hereto shall have the following meanings, unless the context or use indicates another or different meaning or intent.

“*Act*” or “*Simplified FILOT Act*” shall mean Title 12, Chapter 44 of the Code, as amended through the date hereof.

“*Administration Expense*” shall mean 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 this Agreement and any multi-county park documents; 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.

“*Affiliate*” shall mean any Person directly or indirectly controlling, controlled by, or under common control with such other Person. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Person, whether through the ownership of voting securities, by contract, or otherwise.

“*Agreement*” shall mean this Fee Agreement by and among the County, Sponsor, and Sponsor Affiliate, as originally executed and from time to time supplemented or amended as permitted herein, and dated as of December 14, 2020.

“*Co-Investor*” shall mean the Companies, any other Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Act, any Affiliate of the Sponsor or Sponsor Affiliate or of any other Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement or other leasing arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, and any financing entity or other third party investing in, or providing funds for, the Project. Sponsor, so long as it is a tenant of Sponsor Affiliate, and thereafter, Sponsor Affiliate shall notify the County in writing of the identity of any other Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent Sponsor or Sponsor Affiliate, as applicable, and any such other Sponsor, Sponsor Affiliate, or other Co-Investor intend to extend the benefits of the FILOT to property owned by any such Sponsor, Sponsor Affiliate, or other Co-Investor pursuant to Section 5.01 hereof, comply with any additional notice requirements, or other

applicable provisions, of this Agreement and the Act. As of the original execution and delivery of this Agreement, the Companies are the only Co-Investors.

“*Code*” shall mean the Code of Laws of South Carolina 1976, as amended through the date hereof, unless the context clearly requires otherwise.

“*Companies*” shall mean, collectively, Sponsor and Sponsor Affiliate, and their successors and assigns.

“*Confidential Information*” shall have the meaning set forth in Section 4.02(d) hereof.

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

“*County Council*” shall mean the governing body of the County and its successors.

“*Department of Revenue*” shall mean the South Carolina Department of Revenue.

“*Economic Development Property*” shall mean each item of real and tangible personal property comprising the Project, except Non-Qualifying Property, within the meaning of that term as defined and used in Sections 12-44-30(6) and 12-44-40(C) of the Code.

“*Equipment*” shall mean all machinery, equipment, furnishings, and other personal property acquired by Sponsor and Sponsor Affiliate and installed as part of the Project during the Investment Period in accordance with this Agreement.

“*Event of Default*” shall mean an Event of Default as defined in Section 11.01 hereof.

“*Existing Property*” shall mean property proscribed from becoming Economic Development Property pursuant to Section 12-44-110 of the Code, including, without limitation, property which has been subject to *ad valorem* taxes in the State prior to the execution and delivery of this Agreement and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; *provided, however*, that Existing Property shall not include: (a) the Land (excluding existing improvements on the Land); (b) property acquired or constructed by Sponsor and Sponsor Affiliate during the Investment Period which has not been placed in service in this State prior to the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property; or (c) modifications which constitute an expansion of Existing Property.

“*FILOT*” shall mean the fee-in-lieu of taxes which the Companies are obligated to pay to the County pursuant to Section 5.01 hereof.

“*FILOT Payments*” shall mean the payments to be made by Sponsor and Sponsor Affiliate or any other Co-Investor with respect to its respective portion of the Project, whether made as Negotiated FILOT Payments pursuant to Section 5.01(b)(ii) hereof or as payments in lieu of *ad valorem* taxes made pursuant to Section 5.01(b)(i) hereof.

“Full-Time Job” means a full-time job (*i.e.*, at least thirty (30) hours per week), with health care benefits. Jobs relocated from other states to the Project shall be counted as Full-Time Jobs if the relocated job meets the Wage Requirement. All persons filling the Full-Time Job positions must be authorized pursuant to state and federal law to be employed in the United States and not less than ninety percent (90%) of the persons filling the Full-Time Job positions must be U.S. citizens.

“Infrastructure Improvements” shall mean, pursuant to Section 4-29-68(A)(2) of the Code, Sponsor’s, Sponsor Affiliate’s or any other Co-Investor’s, costs of designing, acquiring, constructing, improving or expanding (a) the infrastructure serving the Project, or (b) improved or unimproved real estate and personal property including machinery and equipment used in the operation of the Project, or (c) other qualifying investments under Section 12-44-70 of the Code and Section 4-1-175 of the Code serving the Project.

“Investment Period” shall mean the period beginning with the first day that Economic Development Property is purchased or acquired and ending on the date that is five (5) years from the end of the Property Tax Year in which the initial Economic Development Property comprising all or a portion of the Project is placed in service, unless extended by agreement of the Companies and the County pursuant to Section 12-44-30(13) of the Code.

“Jobs Commitment” shall mean the commitment of Sponsor to create jobs with respect to the Project as set forth in Section 4.01(b) of this Agreement.

“Land” shall mean the real estate upon which the Project is to be located. More specifically, the real estate located in the Lancaster Business Park identified with Parcel Identification No. 0068-00-018.03, with a physical address of 861 Quality Drive, and consisting of approximately 25.77 acres. Additional real estate may be included by amendment as provided in the Section 12.12 of this Agreement.

“Multi-County Park” means, initially, with respect to the Land, the multi-county park established pursuant to the Amended and Restated Master Multi-County Park Agreement between Chesterfield County, South Carolina and Lancaster County, South Carolina, Amended and Restated as of November 9, 2015, and thereafter any Park which hereafter includes the Land and which is designated by the County as such pursuant to any Park agreement which replaces or succeeds the Amended and Restated Master Multi-County Park Agreement between Chesterfield County, South Carolina and Lancaster County, South Carolina, Amended and Restated as of November 9, 2015.

“Multi-County Park Act” shall mean Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution, as amended through the date hereof.

“Negotiated FILOT” shall have the meaning set forth in Section 5.01(b)(ii) hereof.

“Negotiated FILOT Payment” shall mean the FILOT due pursuant to Section 5.01(b) hereof with respect to that portion of the Project consisting of Economic Development Property.

“Non-Qualifying Property” shall mean that portion of the Project consisting of: (i) property as to which the Companies incurred expenditures prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) Existing Property; and (iii) any Released Property or other property which fails or ceases to qualify for Negotiated FILOT Payments, including without limitation property as to which the Companies have terminated the Negotiated FILOT pursuant to Section 4.03(iii) hereof.

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

“Project” shall mean the Project, as defined in the recitals above, and shall include the Land, the buildings and other improvements on the Land to the extent placed thereon by or on behalf of the Sponsor, Sponsor Affiliate or any other Co-Investor, including water, sewer treatment and disposal facilities, and other machinery, apparatus, equipment, office facilities, and furnishings which are necessary, suitable, or useful, including Equipment, and any Replacement Property.

“Property Tax Year” shall mean the annual period which is equal to the fiscal year of the Sponsor, Sponsor Affiliate, or any applicable other Co-Investor, as the case may be.

“Released Property” shall mean any portion of the Project removed, scrapped, traded in, sold, or otherwise disposed of pursuant to Section 4.03 hereof, any portion of the Project stolen, damaged, destroyed, or taken by condemnation or eminent domain proceedings as described in Article VII hereof, and any infrastructure which Sponsor, Sponsor Affiliate, or any other Co-Investor dedicates to the public use (within the meaning of that phrase as used in Section 12-6-3420(C) of the Code).

“Replacement Property” shall mean all property installed in or on the Land in substitution of, or as replacement for, any portion of the Project, but only to the extent that such property may be included in the calculation of the Negotiated FILOT pursuant to Section 5.01(g) hereof and Section 12-44-60 of the Code.

“Special Source Revenue Credits” shall mean the Special Source Revenue Credits described in Section 5.01(d) hereof.

“Sponsor Affiliate” shall mean Cooley, Incorporated, a Rhode Island corporation, its successors and assigns, and any other Person who agrees to be bound by the terms and provisions of this Agreement and is approved by the County in writing pursuant to the provisions of Section 8.04 of this Agreement.

“State” shall mean the State of South Carolina.

“Term” shall mean the term of this Agreement, as set forth in Section 10.01 hereof.

“Transfer Provisions” shall mean the provisions of Section 12-44-120 of the Code, as amended through the date hereof.

“*Wage Requirement*” means, for all periods ending on or before December 31, 2023, an hourly wage rate not less than \$14.00, and for all periods ending after December 31, 2023, an hourly wage rate not less than \$14.86.

Section 1.03. Singular and Plural Words; References to Agreement. Except where the context otherwise requires, (i) words importing the singular number shall include the plural number and *vice versa*, and (ii) the words “hereof”, “herein”, “hereunder”, and other words of similar import refer to this Agreement as a whole.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. 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 Agreement; (iii) it has approved this 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 Agreement.

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

(a) Sponsor is a limited liability company, validly existing and in good standing under the laws of Delaware and authorized to do business in the State; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The agreement with the County with respect to the FILOT has been instrumental in inducing Sponsor to locate its portion of the Project within the County and the State.

(c) Except as otherwise disclosed to the County, no actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of Sponsor is pending or threatened against or affecting Sponsor in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

(d) For the Project, Sponsor shall use commercially reasonable efforts to invest, collectively with Sponsor Affiliate and any other Co-Investors, at least two million five hundred thousand dollars (\$2,500,000) in Economic Development Property by the end of the Investment Period. Investments made by Sponsor Affiliate and any other Co-Investors in Economic Development Property shall be included in the determination whether Sponsor has fulfilled its commitment made in this item to invest in the Project.

(e) The income tax year of Sponsor, and accordingly the Property Tax Year with respect to Sponsor, for federal income tax purposes is a 52/53 week fiscal year ending December 31.

(f) Sponsor intends to operate the Project for the purpose of manufacturing. Sponsor had determined that the "Project" is a "project" under the Act and that some or all of the Project constitutes "economic development property" within the meaning of the Act.

Section 2.03. Representations and Warranties by Sponsor Affiliate. Sponsor Affiliate makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Sponsor Affiliate is a corporation, validly existing and in good standing under the laws of Rhode Island and authorized to do business in the State; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The agreement with the County with respect to the FILOT has been instrumental in inducing Sponsor Affiliate to locate its portion of the Project within the County and the State.

(c) Except as otherwise disclosed to the County, no actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of Sponsor Affiliate are pending or threatened against or affecting Sponsor Affiliate in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

(d) For the Project, Sponsor Affiliate shall use commercially reasonable efforts to invest, collectively with any other Co-Investors, such amounts as required under the lease agreement it has entered into with the Sponsor, but in no event less than two million five hundred thousand dollars (\$2,500,000). Investments made by Sponsor and any other Co-Investors in Economic Development Property shall be included in the determination whether Sponsor Affiliate has fulfilled its commitment made in this item to invest in the Project.

(e) The income tax year of Sponsor Affiliate, and accordingly the Property Tax Year with respect to Sponsor Affiliate, for federal income tax purposes is a 52/53 week fiscal year ending September 30.

ARTICLE III

UNDERTAKINGS OF THE COUNTY

Section 3.01. Agreement to Accept FILOT Payments. The County hereby agrees to accept FILOT Payments made by the Companies and any other Co-Investor in accordance with Section 5.01 hereof in lieu of *ad valorem* taxes with respect to the Project until this Agreement expires or is sooner terminated.

Section 3.02. No Warranties by County. The Companies acknowledge that the County has made no warranties or representations, either express or implied, as to the condition or state of the Project or as to the design or capabilities of the Project or that it will be suitable for the Companies' purposes or needs. No representation of the County is hereby made with regard to

compliance by the Project or any Person with laws regulating: (i) the construction or acquisition of the Project; (ii) environmental matters pertaining to the Project; (iii) the offer or sale of any securities; or (iv) the marketability of title to any property.

Section 3.03. Invalidity. The parties acknowledge that the intent of this Agreement is to afford the Companies and any other Co-Investors the benefits of the Negotiated FILOT Payments in consideration of the Companies' decision to locate the Project within the County and that this Agreement has been entered into in reliance upon the enactment of the Simplified FILOT Act. In the event that, for any reason, the Act and/or the Negotiated FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Project consisting of Economic Development Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Companies and the County express their intentions that such payments be reformed so as to afford the Companies and any other Co-Investors benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under the Code, to the extent allowed by law. Absent the legal authorization to effect such reformation, the Companies and the County agree that there shall be due hereunder, with respect to the portion of the Economic Development Property affected by such circumstances, *ad valorem* taxes and that, to the extent permitted by law, the Companies and any other Co-Investors shall be entitled: (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Article X, Section 3 of the Constitution of the State, and any other exemption allowed by law; (2) to enjoy all allowable depreciation; and (3) to receive other tax credits which would be due if the Companies and any other Co-Investors were obligated to pay *ad valorem* taxes hereunder. To the extent that under such circumstances the Negotiated FILOT Payments hereunder are required by law to be subject to retroactive adjustment, then there shall be due and payable by each of the Companies or any other Co-Investor to the County with respect to the portion of the Economic Development Property in question an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which the Company would have paid as *ad valorem* taxes, including all exemptions, credits, and depreciation for which the Company would have otherwise been eligible if it were obligated to pay *ad valorem* taxes, together with, but only if required by law, interest on such deficiency as provided in Section 12-54-25(D) of the Code. The Companies agree that if this Agreement is reformed as provided in this Section or if retroactive adjustments are made, then under no circumstances shall the County be required to refund or pay any monies to the Companies or any other Co-Investor.

In addition to and notwithstanding the foregoing paragraph, the County shall not be obligated to perform any of its obligations or promises under this Section 3.03 unless the Sponsor, Sponsor Affiliate, or any other Co-Investor, as applicable, has otherwise complied with or provided satisfactory evidence to the County that it intends to comply with its obligations and responsibilities under this Agreement.

Section 3.04. Multi-County Park Status. The County agrees to use its best efforts to maintain the Land in the Multi-County Park until the date this Agreement is terminated. If it becomes necessary to remove the Land from the Multi-County Park prior to the termination of this Agreement, the County agrees to use its best efforts to place the Land in another multi-county park established pursuant to the Multi-County Park Act and to maintain the multi-county park

designation until the date this Agreement is terminated. The parties acknowledge and agree that the County's agreement to place and maintain the Land in a multi-county park may be subject to the exercise of discretion by a governmental entity other than the County and the exercise of that discretion is not controlled by the County.

ARTICLE IV

INVESTMENT BY COMPANY IN PROJECT; MAINTENANCE AND MODIFICATION OF PROJECT

Section 4.01. Investment by Company in Project.

(a) For the Project, Sponsor agrees and commits to invest at least two million five hundred thousand dollars (\$2,500,000) in Economic Development Property by the end of the Investment Period. The investment amount shall not include any amount paid by Sponsor, Sponsor Affiliate or any other Co-Investor for real estate improvements on the Land existing as of the date of this Agreement. Investments made by Sponsor, Sponsor Affiliate, and any other Co-Investor in Economic Development Property shall be included in any determination of whether Sponsor has fulfilled its commitment made in this Section 4.01(a) to invest in the Project.

(b) For the Project, together with any Sponsor Affiliates, Sponsor agrees and commits to the following aggregate Jobs Commitment: the creation and maintenance of the number of Full-Time Jobs, paying an hourly wage rate not less than the Wage Requirement, at the following employment levels and in the designated timeframes:

(1) to have employed in Full-Time Jobs, paying an hourly wage rate not less than the Wage Requirement, an average of not less than sixty-three (63) in calendar year 2020 through calendar year 2022, and

(2) to have employed in Full-Time Jobs, paying an hourly wage rate not less than the Wage Requirement, an average of not less than sixty-eight (68) in calendar year 2023 through calendar year 2026.

The number of Full-Time Jobs shall be based on the average number of Full-Time Jobs, paying an hourly wage rate not less than the Wage Requirement, for each month during the year.

Section 4.02. Reporting and Filing.

(a) The Companies agree to provide a copy of Form PT-443 filed with the Department of Revenue no later than thirty (30) days after execution and delivery of this Agreement to the Auditor, Treasurer and Assessor of the County and any multi-county park partner county and the Economic Development Director of the County. Each year during the term of this Agreement, the Company shall deliver to the Auditor, Treasurer and Assessor of the County and any multi-county park partner county and the Economic Development Director of the County a copy of its most recent annual filings made with the Department of Revenue with respect to the Project, no later than thirty (30) days following delivery thereof to the Department of Revenue.

(b) (1) Sponsor agrees, as soon as reasonably practicable following the end of each tax year of the Sponsor, to submit to the County Economic Development Director a certification on Sponsor letterhead listing the amount of capital investment and aggregate Full-Time Jobs maintained by the Company at the end of such tax year.

(2) For purposes of determining compliance with the Jobs Commitment, Sponsor agrees to provide to the County Economic Development Director, by January 30 of each year, a copy of all of Sponsors' filings with the State (if required to file by the State) for the preceding calendar year including: (i) reports submitted to the South Carolina Coordinating Council for Economic Development with respect to any Job Development Credits awarded in connection with the Project; (ii) Department of Revenue Form SC SCH. TC 4 (New Jobs Credit); and (iii) South Carolina Department of Employment and Workforce quarterly contribution and wage reports (such as Form UCE 120). Sponsor agrees to redact any personally identifying information and proprietary and confidential information prior to submitting any form to the County Economic Development Director. In lieu of providing any of the forms specifically identified in this subsection, Sponsor and the County Economic Development Director may agree on an alternative method for Sponsor to demonstrate compliance with the Jobs Commitment.

(c) (1) Sponsor and Sponsor Affiliate agree to maintain such books and records with respect to the Project as will permit the identification of those portions of the Project placed in service in each Property Tax Year during the Investment Period, the amount of investment with respect thereto and its computations of all FILOT Payments made hereunder and will comply with all reporting requirements of the State and the County applicable to property subject to FILOT Payments under the Act and this Agreement, including the reports described in subsection (a) and (b) of this section.

(2) Sponsor and Sponsor Affiliate agree 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 of the Sponsor's and Sponsor Affiliate'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 Sponsor or Sponsor Affiliate, as applicable, to protect such company's confidentiality and proprietary rights. Any such entrance upon and examination and inspection of the Project shall be at the County's expense.

(d) The County acknowledges and understands that Sponsor and Sponsor Affiliate 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 either Sponsor's or Sponsor Affiliate's operations and processes ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to Sponsor or Sponsor Affiliate and could have a significant detrimental impact on either 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 Sponsor and Sponsor Affiliate, 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 Sponsor and Sponsor Affiliate and give the Companies the opportunity to contest the release.

Section 4.03 Modification of Project.

As long as no Event of Default exists hereunder, Sponsor, Sponsor Affiliate, and any other Co-Investor shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) Sponsor, Sponsor Affiliate, and any other Co-Investor may, at its own expense, add to the Project any real and personal property as such Person in its discretion deems useful or desirable.

(ii) In any instance where Sponsor, Sponsor Affiliate, or any other Co-Investor, in its discretion, determines that any items included in the Project have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, then such company or such other Co-Investor may remove such items or portions from the Project and sell, trade in, exchange, or otherwise dispose of them (as a whole or in part) without the consent of the County, as such may be permitted under the Simplified FILOT Act.

(iii) Sponsor, Sponsor Affiliate and any other Co-Investor may, at any time in its discretion by written notice to the County, remove any real or personal property from the Negotiated FILOT set forth in this Agreement, and thereafter such property will be considered Non-Qualifying Property and will be subject to FILOT Payments as set forth in Section 5.01(b)(i) hereof.

ARTICLE V

PAYMENTS IN LIEU OF TAXES

Section 5.01. Payments in Lieu of *Ad Valorem* Taxes.

(a) In accordance with the Act, the parties hereby agree that, during the Term of the Agreement, the Sponsor, Sponsor Affiliate, and any other Co-investor shall pay annually, with respect to its portion of the Project, a FILOT in the amount calculated as set forth in this Section, to be collected and enforced in accordance with Section 12-44-90 of the Act.

(b) The FILOT Payment due with respect to each Property Tax Year shall equal:

(i) With respect to any portion of the Project consisting of undeveloped land, land under development, other property not yet placed in service or Non-Qualifying Property, if any, as long as such property is located in the Multi-County Park, a payment equal to the *ad valorem* taxes that would otherwise be due on such Non-Qualifying Property if it were taxable

giving effect to all credits, exemptions, depreciation, rebates and abatement that would be available if such Non-Qualifying Property were taxable; and

(ii) With respect to those portions of the Project consisting of Economic Development Property, for each of the twenty (20) consecutive years following the year in which such portion of the Project is placed in service, a payment calculated each year as set forth in paragraphs (c) and (d) of this Section 5.01 (a "Negotiated FILOT").

(c) The Negotiated FILOT Payments shall be calculated with respect to each Property Tax Year based on: (1) the fair market value (determined in accordance with Section 12-44-50(A)(1)(c) of the Code) of the improvements to real property and Equipment included within the Project theretofore placed in service (less, for Equipment, depreciation allowable for property tax purposes as provided in Section 12-44-50(A)(1)(c) of the Code), (2) a fixed millage rate equal to 338.15 mills, for the Term, and (3) an assessment ratio of six percent (6%). All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the exemption allowed pursuant to Section 3(g) of Article X of the South Carolina Constitution and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

(d) Special Source Revenue Credits shall be provided for the Economic Development Property in amounts equal to fifty-eight percent (58%) of Negotiated FILOT Payments for seven (7) consecutive years beginning not later than with the Negotiated FILOT Payment due without penalty by January 15, 2022 and ending not later than with the Negotiated FILOT Payment due without penalty by January 15, 2028. Company agrees to maintain a membership in the Lancaster County Chamber of Commerce in any year in which it receives a Special Source Revenue Credit pursuant to this Section 5.01(d). At no time shall the aggregate Special Source Revenue Credits provided pursuant to this Section 5.01(d) exceed the aggregate cost of Infrastructure Improvements incurred by Sponsor, Sponsor Affiliate and any other Co-Investors. The Special Source Revenue Credit provided in this Section 5.01(d) applies only to the Economic Development Property and does not apply to the Non-Qualifying Property or to any other property.

(e) The FILOT Payments are to be recalculated:

(i) to reduce such payments in the event Sponsor, Sponsor Affiliate, or any other Co-Investor disposes of any part of the Project within the meaning of Section 12-44-50(B) of the Code and as provided in Section 4.03 hereof, by the amount applicable to the Released Property;

(ii) to increase such payments, based on the methodology set forth in Section 5.01(c) hereof, in the event Sponsor, Sponsor Affiliate, or any other Co-Investor adds property (other than Replacement Property) to the Project; or

(iii) to adjust such payments if Sponsor, Sponsor Affiliate, or any other Co-Investor elects to convert any portion of the Project from the Negotiated FILOT to the FILOT required by Section 5.01(b)(i) above, as permitted by Section 4.03(iii).

(f) To the extent permitted by law, because the FILOT Payments agreed to herein are intended to be paid by the Sponsor, Sponsor Affiliate, and any other Co-Investor to the County in lieu of taxes, it is agreed that said FILOT Payments shall not, as to any year, be in any amount greater than what would otherwise be payable by the Sponsor, Sponsor Affiliate, and any other Co-Investor to the County in property taxes if the Sponsor, Sponsor Affiliate, and any other Co-Investor had not entered into a fee-in-lieu of taxes arrangement with the County (except it is not intended that said FILOT Payments would necessarily be less than such property taxes to the extent that the exceptions allowed pursuant to Section 3(g) of Article X of the South Carolina Constitution and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code would otherwise apply).

(g) Upon the installation of any Replacement Property by Sponsor, Sponsor Affiliate or any other Co-Investors for any portion of the Project removed under Section 4.03 hereof and sold, scrapped, or disposed of by the respective company, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by law, subject to the following rules:

(i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the FILOT, whether real or personal, which is disposed of in the same Property Tax Year as the Replacement Property is placed in service. Replacement Property qualifies for Negotiated FILOT Payments up to the original income tax basis of the Economic Development Property which it is replacing. More than one piece of property can replace a single piece of property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes which would have been paid on such property but for this Agreement. Replacement property is entitled to the FILOT Payment for the period of time remaining on the FILOT period for the property which it is replacing.

(ii) The new Replacement Property which qualifies for the Negotiated FILOT Payment shall be recorded using its income tax basis, and the Negotiated FILOT Payment shall be calculated using the millage rate and assessment ratio provided on the original property subject to the FILOT Payment.

(h) In the event that the Act or the FILOT or any portion thereof, are declared, by a court of competent jurisdiction following allowable appeals, invalid or unenforceable, in whole or in part, for any reason, the Companies and the County express their intentions that such payments be reformed so as to afford the Companies the maximum benefit then permitted by law, including, without limitation, the benefits afforded under Section 12-44-50 of the Code and, specifically, that the Companies may, at the Companies' expense, exercise the rights granted by Section 12-44-160 of the Code. If the Project is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Companies and the County agree that the Companies shall pay an alternate fee-in-lieu of tax calculated in the manner set forth in Section 5.01(b)(i) hereof. In such event, the Companies shall be entitled, to the extent permitted by law: (1) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Section 3(g) of Article X of the South Carolina Constitution, and any other exemptions or credits allowed by law; and (2) to

enjoy all allowable depreciation. The Companies agree that if the FILOT Payments or this Agreement are reformed pursuant to this subsection (h), that under no circumstance shall the County be required to refund or pay any monies to the Companies.

(i) For the Project, this Agreement is automatically terminated in the event that the investment in the Project in land, buildings, and personal property, including machinery and equipment, does not meet or exceed the level set in Section 2.02(d) above by the end of the Investment Period. If terminated pursuant to this subsection (i), the Negotiated FILOT Payments shall revert retroactively to payments equivalent to what the *ad valorem* taxes would have been with respect to the Economic Development Property absent this Agreement. At the time of termination, the Companies and any other Co-Investors shall pay to the County an additional fee equal to the difference between the total amount of property taxes that would have been paid by the Companies and any other Co-Investors had the Economic Development Property been taxable, taking into account exemptions from property taxes and depreciation that would have been available to the Companies and any other Co-Investors, and the total amount of Negotiated Fee Payments actually made by the Companies and any other Co-Investors. This additional amount is subject to interest as provided in Section 12-54-25. The Companies agree if the Negotiated FILOT Payments revert to payments equivalent to what the *ad valorem* taxes would be pursuant to this subsection (i), that under no circumstance shall the County be required to refund or pay any monies to the Companies and any other Co-Investors.

(j) Notwithstanding any other provision of this Agreement, (i) with respect to calendar year 2020 through calendar year 2022, the Special Source Revenue Credits provided in Section 5.01(d) above are not applicable in any year immediately following a year in which the Company has failed to maintain an average of at least sixty-three (63) Full-Time Jobs, and (ii) with respect to calendar year 2023 through calendar year 2026, the Special Source Revenue Credits provided in Section 5.01(d) above are not applicable in any year immediately following a year in which the Company has failed to maintain an average of at least sixty-four (64) Full-Time Jobs. The Companies agree that the Special Source Revenue Credits for a year that is calendar year 2023 or later shall be reduced to the extent that Sponsor fails to meet the Jobs Commitment but has maintained an average of not less than sixty-four (64) Full-Time Jobs. Specifically, in any year that is calendar year 2023 or later in which Sponsor fails to meet the Jobs Commitment, the Special Source Revenue Credits shall be reduced in the same proportion as the ratio of (i) the number of Full-Time Jobs maintained above sixty-three (63) to (ii) five (5). For example, if for the calendar year 2024, the Jobs Commitment is to have not less than an average of sixty-eight (68), but the Company employed an average of sixty-six (66), which is only three (3) more than sixty-three (63), then the Special Source Revenue Credits would be set at 60% (3 divided by 5 equals 60%) of 58% which results in Special Source Revenue Credits of 34.8% (60% times 58% equals 34.8%). In any year in which the Companies must pay an additional fee as required in Section 5.01(k) below, the Companies and any other Co-Investor are ineligible for the Special Source Revenue Credits provided for in Section 5.01(d).

(k) In any year after December 31, 2020 in which the Company fails to have employed an average of at least ten (10) individuals in full-time jobs (*i.e.*, each at least thirty (30) hours per week and all with health care benefits), the Companies and any other Co-Investor shall pay to the County an additional fee equal to the difference between the Negotiated FILOT Payments made

by the Companies and any other Co-Investor and the FILOT Payment that would be due for the Economic Development Property if calculated, notwithstanding the provisions of Section 5.01(c) above, using the then current millage rate and the assessment ratios that would be applicable to the Economic Development Property if it were subject to *ad valorem* taxes (the "Hypothetical FILOT Payment").

As an example of the calculation set forth in this subsection (k), and by way of example only, assume Economic Development Property is first placed in service with respect to the Project in 2021, and that in the tax year ending December 31, 2024, that the maintained number of Full-Time Jobs was 8, that the millage rate applicable for tax bills to be sent in the following year is 375, and all of the Economic Development Property would have a 10.5% assessment ratio applied if such property were subject to *ad valorem* taxation, then, the Hypothetical FILOT Payment would be computed using the millage rate of 375 (instead of 338.15) and the 10.5% assessment ratio for the Economic Development Property instead of 6%.

(l) Unless otherwise provided by the Act, any amounts due to the County under this Section 5.01 by virtue of the application of subsections (h) through (k) above shall be paid within one hundred twenty (120) days, following written notice thereof from the County to the applicable company or any other Co-Investor.

(m) Notwithstanding any other provision of this Agreement, the Companies acknowledge and agree that County's obligation to provide the FILOT incentive and the Special Source Revenue Credits ends, and this Agreement is terminated, if the Sponsor ceases operations. For purposes of this Section 5.01(m), "cease operations" means permanent closure of the facility. The Companies agree that if this Agreement is terminated pursuant to this Section 5.01(m), that under no circumstance shall the County be required to refund or pay any monies to the Companies and any other Co-Investor.

ARTICLE VI

PAYMENTS BY COMPANIES

Section 6.01. Defaulted Payments. In the event Sponsor or Sponsor Affiliate should fail to make any of the payments required under this Agreement, the item or installment so in default shall continue as an obligation of Sponsor or Sponsor Affiliate, as applicable, until the amount in default shall have been fully paid. The Companies agree that the collection and enforcement of the defaulted payment shall be as provided in Section 12-44-90 of the Code.

ARTICLE VII

CASUALTY AND CONDEMNATION

Section 7.01. Adjustments in the Event of Damage and Destruction or Condemnation. In the event that the Project or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings, Sponsor and Sponsor Affiliate, as applicable and in its sole discretion, may determine whether or not to repair or replace the same. The parties hereto agree that if Sponsor or Sponsor Affiliate decides not to repair or replace all or any portion

of the Project pursuant to this Section 7.01, the FILOT required pursuant to Section 5.01 hereof shall be abated in the same manner and in the same proportion as if *ad valorem* taxes were payable with respect to the Project.

ARTICLE VIII

PARTICULAR COVENANTS AND AGREEMENTS

Section 8.01. Use of Project for Lawful Activities. During the Term of this Agreement, the Companies shall use the Project for the purposes identified in Section 2.02(f) of this Agreement and for any lawful purpose that is authorized pursuant to the Act.

Section 8.02. Assignment. The County agrees that, to the maximum extent allowable under the Act, Sponsor, Sponsor Affiliate and any other Co-Investor may assign (including, without limitation, absolute, collateral, and other assignments) all or a part of its rights or obligations under this Agreement, and any lease agreement, lease purchase agreement, or fee agreement, as the case may be, or any other agreement related hereto or thereto, or transfer any and all assets of the respective company, to one or more Related Entities (as defined in Section 9.01 below) without adversely affecting the benefits of the respective company or its assignees pursuant to any such agreement or the Act. Each company shall provide the County and the Department of Revenue with notice of any such assignment, transfer, or investment in accordance with the Act and this Agreement, and the County agrees, upon the request of the respective company, to take all further action necessary to implement such assignment, transfer, or investment in accordance with the provisions of the Act and this Agreement. To the extent that the Act may require the consent, approval or ratification of or by the County for the assignment of this Agreement, in whole or in part, the County agrees to provide its consent, approval or ratification by passage of a resolution of County Council and its consent, approval or ratification shall not be unreasonably withheld.

Section 8.03. Indemnification. Sponsor and Sponsor Affiliate each release the County, including the members of the governing body of the County, and the employees, officers, attorneys and agents of the County (herein collectively referred to as the "Indemnified Parties") from, agree that the Indemnified Parties shall not be liable for, and agree to hold the Indemnified Parties harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to this Agreement, the Project or the use thereof, except for that occasioned by grossly negligent or intentional acts of an Indemnified Party. Sponsor and Sponsor each further agree to indemnify and save harmless Indemnified Parties against and from any and all costs, liabilities, expenses, and claims arising from any breach or default on the part of the Sponsor or Sponsor Affiliate in the performance of any covenant or agreement on the part of the Sponsor or Sponsor Affiliate to be performed pursuant to the terms of this Agreement or arising from any act or negligence of, or negligent failure to act where there is a duty to do so by the Sponsor or Sponsor Affiliate, or any of its agents, attorneys, contractors, servants, employees, or licensees, and from and against all cost, liability, and expenses incurred in or in connection with any such claim or action or proceeding brought thereon.

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, attorney, servant, or employee of the County in his or her 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, attorney, agent, servant, or employee of the County.

Notwithstanding the fact that it is the intention of the Indemnified Parties hereto that none of them shall incur any pecuniary liability by reason of the terms of this Agreement, any related agreements or the undertakings required of the County hereunder by reason of the performance of any act requested of the County by Sponsor or Sponsor Affiliate, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if any Indemnified Party shall incur any such pecuniary liability, then in such event Sponsor and Sponsor Affiliate shall indemnify and hold them harmless against all claims by or on behalf of any Person, firm, or corporation or other legal entity 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, *provided, however*, that nothing herein shall absolve the Indemnified Parties from, or entitle the Indemnified Parties to indemnification from, any obligation such Indemnified Party has specifically agreed to undertake (including, without limitation, the obligation to place and maintain the Land within a multi-county park). If any action, suit, or proceeding is brought against any Indemnified Party to which such Indemnified Party is entitled to indemnification, such Indemnified Party shall promptly notify the Companies, and Sponsor and Sponsor Affiliate shall have the right and duty to assume, and shall assume, the defense thereof, at its expense, with full power to litigate, compromise, or settle the same in its sole discretion; *provided*, that the Companies shall obtain the prior written consent of the County to settle any such claim unless such claim is for monetary damages for which the Companies have the ability to, and does, pay. Notwithstanding the foregoing, if the Indemnified Party is the County, in the event the County reasonably believes there are defenses available to it that are not being pursued or that the counsel engaged by the Companies reasonably determines that a conflict of interest exists between the County and the Companies, the County may, in its sole discretion, hire independent counsel to pursue its own defense, and the Companies shall be liable for the reasonable cost of such counsel.

The indemnity specified in this Section 8.03 shall be in addition to any heretofore extended by the Companies to any Indemnified Party and shall survive the termination of this Agreement with respect to liability arising out of any event or act occurring prior to such termination.

Section 8.04. Sponsor and Sponsor Affiliates. Sponsor may designate from time to time other Sponsors or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Simplified FILOT Act, which Sponsors or Sponsor Affiliates shall be Persons who join with the Companies and any other Co-Investor and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this Agreement and who shall be Affiliates of Sponsor, Sponsor Affiliate or other Sponsors or Sponsor Affiliates, or other Persons described in Section 8.02 hereof. All other Sponsors or Sponsor Affiliates who otherwise

meet the requirements of Section 12-44-30(19) or (20) and Section 12-44-130 of the Simplified FILOT Act must be approved by passage of a resolution of County Council. To the extent that the aggregate investment in the Project by the end of the Investment Period by all Sponsors, Sponsor Affiliates and any other Co-Investors exceeds \$5,000,000, to the extent permitted by Section 12-44-30(19) of the Simplified FILOT Act, all investment by such Sponsors, Sponsor Affiliates, and any other Co-Investors during the Investment Period shall qualify for the FILOT pursuant to Section 5.01 of this Agreement (subject to the other conditions set forth therein) regardless of whether each such entity invested amounts equal to the minimum investment requirement set forth in the Simplified FILOT Act. Sponsors shall provide the County and the Department of Revenue with written notice of any other Sponsor or Sponsor Affiliate designated pursuant to this Section 8.04 within ninety (90) days after the end of the calendar year during which any such Sponsor or Sponsor Affiliate has placed in service property to be used in connection with the Project and subject to the Negotiated FILOT Payment, all in accordance with Section 12-44-130(B) of the Simplified FILOT Act. The parties agree that, if any Sponsor or Sponsor Affiliate does not become or ceases to remain party to this Agreement, the Agreement shall continue to remain in effect with respect to any remaining Sponsors or Sponsor Affiliates.

ARTICLE IX

FINANCING ARRANGEMENTS; CONVEYANCES; ASSIGNMENTS

Section 9.01. Conveyance of Liens and Interests; Assignment. Sponsor, Sponsor Affiliate and any other Co-Investor may at any time: (a) transfer all or any of its rights and interests hereunder or with respect to the Project to any Person; or (b) enter into any lending, financing, security, or similar arrangement or succession of such arrangements with any financing entity with respect to the Agreement or the Project, including without limitation any sale, leaseback, or other financing lease arrangement; *provided*, that, in connection with any of the foregoing transfers: (i) except in connection with any transfer to an Affiliate of Sponsor, Sponsor Affiliate, or any other Co-Investor (collectively, the “Related Entities”), or transfers pursuant to clause (b) above (as to which such transfers the County hereby consents), Sponsor, Sponsor Affiliate, or any other Co-Investor shall first obtain the prior written consent or subsequent ratification of the County, as evidenced by passage of a resolution by County Council which shall not be unreasonably withheld, conditioned or delayed; (ii) except where a financing entity, which is the income tax owner of all or part of the Project, is the transferee pursuant to clause (b) above and such transferee or financing entity assumes in writing the obligations of the respective company hereunder, or where the County consents in writing, no such transfer shall affect or reduce any of the obligations of the respective company hereunder, but all obligations of the company hereunder shall continue in full force and effect as the obligations of a principal and not of a guarantor or surety; (iii) Sponsor, Sponsor Affiliate, and any other Co-Investor, transferee, or financing entity shall, within 60 days thereof, furnish or cause to be furnished to the County and the Department of Revenue a true and complete copy of any such transfer agreement; and (iv) the Sponsor, Sponsor Affiliate, or any other Co-Investor and the transferee shall comply with all other requirements of the Transfer Provisions.

Sponsor and Sponsor Affiliate acknowledge that a transfer of an interest under this Agreement or in the Project may cause the Project to become ineligible for a Negotiated FILOT

Payment or result in penalties under the Act absent compliance by the applicable company with the Transfer Provisions.

Section 9.02. Relative Rights of County and Financing Entities as Secured Parties.

The parties acknowledge the application of the provisions of Section 12-44-90 of the Act, and that the County's right to receive FILOT Payments hereunder shall be the same as its rights conferred under Title 12, Chapter 49 and 54, among others, of the Code relating to the collection and enforcement of *ad valorem* property taxes. The County's rights under this Agreement, except for its rights to receive FILOT Payments, shall be subordinate to the rights of any secured party or parties under any financing arrangements undertaken by the Company with respect to the Project pursuant to Section 9.01 hereof, such subordination to be effective without any additional action on the part of the County; *provided, however*, that the County hereby agrees, at the Company's expense, to execute such agreements, documents, and instruments as may be reasonably required by such secured party or parties to effectuate or document such subordination.

ARTICLE X

TERM; TERMINATION

Section 10.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date set forth above, and ending at midnight on the last day of the Property Tax Year in which the last Negotiated FILOT Payment is due hereunder. This Agreement has a term of twenty (20) years, as calculated pursuant to the respective dates when the relevant portions of the Project are placed in service. The County's rights to receive indemnification and payment of Administration Expenses pursuant hereto shall survive the expiration or termination of this Agreement.

Section 10.02. Termination. The parties may agree to terminate this Agreement at any time, or the Sponsor may, at its option, terminate this Agreement at any time upon providing the County thirty (30) days' notice of such termination, in which event the Project shall be subject to *ad valorem* taxes from the date of termination. The County's rights to receive indemnification and payment of Administration Expenses pursuant hereto shall survive the expiration or termination of this Agreement pursuant to this Section 10.02.

ARTICLE XI

EVENTS OF DEFAULT AND REMEDIES

Section 11.01. Events of Default by Companies.

(a) Any one or more of the following events (herein called an "Event of Default", or collectively "Events of Default") shall constitute an Event of Default, but solely with respect to the defaulting company (the "Defaulting Company");

(1) if default shall be made by the Defaulting Company in the due and punctual payment of any FILOT Payments, indemnification payments, or Administration Expenses, which

default shall not have been cured within (thirty) 30 days following receipt of written notice thereof from the County; or

(2) if default shall be made by the Defaulting Company in the due performance of or compliance with any of the terms hereof, including payment, other than those referred to in the foregoing paragraph (1), and such default shall continue for ninety (90) days after the County shall have given the Defaulting Company written notice of such default, *provided*, the Defaulting Company shall have such longer period of time as necessary to cure such default if the Defaulting Company proceeds promptly to cure such default and thereafter to prosecute the curing of such default with due diligence; and *provided, further*, that no Event of Default shall exist under this paragraph (2) during any period when there is pending, before any judicial or administrative tribunal having jurisdiction, any proceeding in which the Defaulting Company has contested the occurrence of such default.

(b) The failure of the Companies to meet the Jobs Commitment set forth herein shall not be deemed to be an Event of Default under this Agreement.

Section 11.02. Remedies on Event of Default by a Company. Upon the occurrence of any Event of Default, the County may exercise any of the following remedies, any of which may be exercised at any time during the periods permitted under the following clauses:

(a) terminate this Agreement with respect to the Defaulting Company by delivery of written notice to the Defaulting Company not less than thirty (30) days prior to the termination date specified therein;

(b) have access to and inspect, examine, and make copies of the books, records, and accounts of the Company pursuant to Section 4.02(c); or

(c) take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition, or agreement of the Defaulting Company under this Agreement.

Section 11.03. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, each company may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation, a suit for mandamus or specific performance.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Rights and Remedies Cumulative. Each right, power, and remedy of the County or of Sponsor, Sponsor Affiliate, or any other Co-Investor 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 Sponsor, Sponsor Affiliate, or any other Co-Investor 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 Sponsor, Sponsor Affiliate, or any other Co-Investor of any or all such other rights, powers or remedies.

Section 12.02. 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 as permitted hereunder.

Section 12.03. Intentionally Omitted.

Section 12.04. Administration Expenses.

(a) Sponsor, for so long as it is a tenant of Sponsor Affiliate, and thereafter, Sponsor Affiliate, agrees to reimburse the County from time to time for its Administration 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 Administration Expenses. The Administration Expenses reimbursable to the County pursuant to this Section 12.04(a) for the initial drafting and negotiation of this Agreement and any related documents shall not exceed seven thousand five hundred dollars (\$7500.00), which shall be paid by Sponsor.

(b) Sponsor, for so long as it is a tenant of Sponsor Affiliate, and thereafter, Sponsor Affiliate, 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 FILOT Payments and any special source revenue credits, *provided, however*, the maximum annual reimbursement pursuant to this subsection is capped at five hundred and no/100 dollars (\$500.00), which shall be paid by Sponsor for so long as it is a tenant of the Sponsor Affiliate, and thereafter, by Sponsor Affiliate.

Section 12.05. Rules of Construction. The County and the Companies acknowledge and agree that each has been represented by legal counsel of its choice throughout the negotiation and drafting of this Agreement, that each has participated in the drafting hereof and that this Agreement will not be construed in favor of or against either party solely on the basis of such party's drafting or participation in the drafting of any portion of this Agreement.

Section 12.06. Notices; Demands; Requests. All notices, demands and requests to be given or made hereunder to or by the County or the Companies shall be in writing and shall be deemed to be properly given or made if sent by United States first class mail, postage prepaid or via facsimile or other commonly-used electronic transmission or reputable courier service, addressed as follows or to such other persons and places as may be designated in writing by such party.

(a) As to the County:

County of Lancaster, South Carolina
ATTN: Steve Willis, County Administrator

101 N. Main St. (29720)
P.O. Box 1809 (29721-1809)
Lancaster, South Carolina
Phone: (803) 416-9300
Email: swillis@lancastercountysc.net

With a copy to (which shall not constitute notice):

Mr. Jamie Gilbert
Economic Development Director, Lancaster County
P.O. Box 1809
Lancaster, South Carolina 29721
Phone: (803) 286-3633
Fax: (803) 416-9497
Email: jgilbert@lancastercountysc.net

(b) As to the Sponsors / Sponsor Affiliates:

RISC, LLC
350 Esten Avenue
Pawtucket, RI 02860
Attn: Ron Markovsky
Email: markovsky@cooleygroup.com

Cooley, Incorporated
350 Esten Avenue
Pawtucket, RI 02860
Attn: Ron Markovsky
Email: markovsky@cooleygroup.com

With a copy, in each case, to (which shall not constitute notice):

Womble Bond Dickinson (US) LLP
Attention: Stephanie Few
5 Exchange Street
Charleston, SC 29401
Phone: 843-720-4621
Email: stephanie.few@wbd-us.com

Section 12.07. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

Section 12.08. Entire Understanding. 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 12.09. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 12.10. Headings; References. The headings of the Agreement 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 paragraphs of this Agreement are references to the designated articles or sections or paragraphs of this Agreement.

Section 12.11. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

Section 12.12. Amendments. Subject to the limitations set forth in the Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by all parties.


Section 12.13. 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 12.14. Force Majeure. The Companies and any other Co-Investor shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, labor shortages, fire, floods, inability to obtain materials, conditions arising from government orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the company's reasonable control.

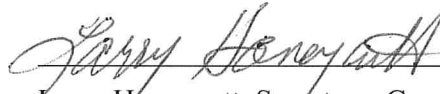
SIGNATURE PAGES FOLLOWS.

IN WITNESS THEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and behalf by the Council Chair and Council Secretary and to be attested by the Clerk to Council; and the Companies have caused this Fee Agreement to be executed by its duly authorized officers, all as of the day and year first above written.

LANCASTER COUNTY, SOUTH CAROLINA



Steve Harper, Chair, County Council



Larry Honeycutt, Secretary, County Council

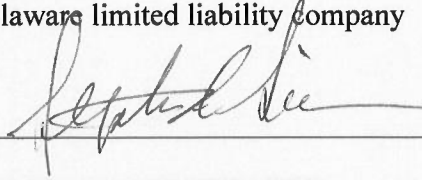
ATTEST:



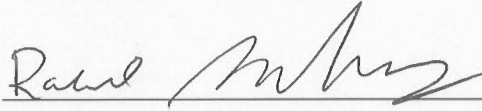
Sherrie Simpson, Clerk to Council

COMPANIES SIGNATURES FOLLOW ON NEXT PAGE.

RISC, LLC,
a Delaware limited liability company



COOLEY, INCORPORATED,
a Rhode Island corporation



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