

FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT

BETWEEN

PANTEX AMERICAS INC

AND

GREENVILLE COUNTY, SOUTH CAROLINA

June 16, 2015

PREPARED BY:

**PARKER POE ADAMS & BERNSTEIN LLP
1201 MAIN STREET, SUITE 1450
COLUMBIA, SOUTH CAROLINA 29201
(803) 255-8000**

FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT (“Fee Agreement”) is made and entered into as of June 16, 2015, by and between Greenville County, South Carolina (“County”), a body politic and corporate and a political subdivision of the State of South Carolina (“State”), acting by and through the Greenville County Council (“County Council”) as the governing body of the County, and Pantex Americas Inc, a South Carolina corporation, along with affiliated or related entities, and assigns, including one or more Sponsor Affiliates, to the extent allowed by and as defined in Section 12-44-30 of the Code, as amended (collectively, “Company”) (hereinafter, the County and the Company are referred to individually as a “Party” and, collectively, as “Parties”).

WITNESSETH:

(a) The County acting by and through its County Council is authorized and empowered under and pursuant to the provisions of Title 4 and Title 12 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”) (i) to enter into agreements with qualifying companies to encourage investment in projects constituting economic development property through which the economic development of the State will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; (ii) to covenant with such industry to accept certain fee payments in lieu of ad valorem taxes (“FILOT”) with respect to such investment; (iii) under Section 4-1-170 of the Code of Laws of South Carolina 1976, as amended (“MCIP Act”) to create multi-county industrial parks with one or more contiguous counties and include certain properties therein, and, in its discretion, include within the boundaries of these parks the property of qualifying industries, and under the authority provided in the MCIP Act, the County has created previously a multi-county park with Anderson County, South Carolina (“Park”); and (iv) to make and execute contracts pursuant to Section 4-9-30 of the Act; and

(b) Pursuant to the Act, the County affirms that (i) the Project (as defined herein) will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; (ii) 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; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public; and

(c) The Company is planning an investment consisting of the expenditure of approximately \$10,400,000 (“Investment Commitment”) and the creation of approximately 45 jobs (“Jobs Commitment”), which exceeds the requirements for benefits under the Act, and to acquire by construction, lease and purchase certain land, buildings, furnishings, fixtures, apparatus, and equipment, for the purpose of establishing a manufacturing facility to be located in the County (collectively, “Project”);

(d) Pursuant to a Resolution adopted May 19, 2015, the County Council identified the Project, as required under the Act, and pursuant to County Council Ordinance No. [] adopted June 16, 2015 (“Fee Ordinance”), authorized the execution and delivery of this Fee Agreement with the Company; and

(e) Pursuant to County Council Ordinance No. [] adopted June 16, 2015 (“MCIP Ordinance”), the County Council authorized the inclusion of the Project in the Park, as further defined in that “Agreement for the Development of a Joint County Industrial Park” between the County and Anderson County dated December 1, 2010, as amended (“MCIP Agreement”)

NOW, THEREFORE, AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the parties hereto agree as follows, with the understanding that no

obligation of the County described herein shall create a pecuniary liability or charge upon its general credit or taxing powers, but shall be payable solely out of the sources of payment described herein and shall not under any circumstances be deemed to constitute a general obligation to the County:

ARTICLE I DEFINITIONS

Section 1.1 Terms. The terms defined in this Article shall for all purposes of this Fee Agreement have the meaning herein specified, unless the context clearly requires otherwise.

“Chair” means the Chair of the County Council.

“Clerk of County Council” means the Clerk to the County Council.

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

“Commencement Date” means the earlier of: (a) the last day of the first property tax year during which Economic Development Property (defined below) is placed in service or (b) the last day of the property tax year that is three years from the year in which the Parties entered into this Fee Agreement.

“County” means Greenville County, South Carolina, a body politic and corporate and political subdivision of the State of South Carolina, its successors and assigns, acting by and through the Greenville County Council as the governing body of the County.

“County Council” means the Greenville County Council, the governing body of the County.

“Diminution of Value” in respect of any Phase of the Project means any reduction in the value based on original fair market value as determined in Step 1 of Section 3.1 of this Fee Agreement, of the items which constitute a part of the Phase which may be caused by (i) the Company’s removal of equipment pursuant to Section 3.5 of this Fee Agreement, (ii) a casualty to the Phase of the Project, or any part thereof, described in Section 3.6 of this Fee Agreement, or (iii) a condemnation to the Phase of the Project, or any part thereof, described in Section 3.7 of this Fee Agreement.

“Economic Development Property” means all items of real and tangible personal property comprising the Project which qualify as economic development property under the Act, become subject to the Fee Agreement, and which are identified by the Company in connection with their annual filing of a SCDOR PT-100, PT-300 or comparable forms with the South Carolina Department of Revenue (as such filing may be amended from time to time) for each year within the Investment Period, as that period may be extended by subsequent, formal action of County Council, or automatically as permitted under the Act or under this Fee Agreement. Title to all Economic Development Property shall at all times remain vested in the Company, except as may be necessary to take advantage of the effect of Section 12-44-160 of the Act.

“Equipment” means all of the machinery, equipment, furniture and fixtures, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Company during the Investment Period as a part of the Project.

“Event of Default” means any Event of Default specified in Section 3.12 of this Fee Agreement.

“Fee Term” or “Term” means the period from the date of delivery of this Fee Agreement until the last Phase Termination Date unless sooner terminated or extended pursuant to the terms of this Fee Agreement.

“FILOT” means fee in lieu of *ad valorem* tax(es).

“FILOT Payments” means the payments in lieu of *ad valorem* taxes which the Company is obligated to pay to the County.

“Improvements” mean improvements, together with any and all additions, accessions, replacements and substitutions thereto or therefor acquired by the Company during the Investment Period.

“Investment” shall include but not be limited to (i) taxable and non-taxable capital expenditures, without regard to depreciation, that are made towards or for the benefit of the Project; (ii) capital expenditures, whether considered Economic Development Property or non-Economic Development property, without regard to the depreciation that are made towards or for the benefit of the Project, regardless of the source of payment of such expenditures; (iii) the value of any assets leased by the Company, without regard to the depreciation, regardless of the source of payment of such expenditures; and (iv) any other expenditures made by the Company that the County and the Company may mutually agree upon in a writing that is executed by an authorized representative of the Company and the County Administrator.

“Investment Period” means the period beginning with the first day that economic development property is purchased or acquired and ending five years after the Commencement Date. The minimum investment must be completed within five years of the Commencement Date. The Investment Period is expected to end December 31, 2020. Pursuant to Section 12-44-30(13) of the Act, the County may, at its discretion, extend this period.

“Phase” or “Phases” in respect to the Project means the Equipment, Improvements and Real Property, if any, placed in service during each year of the Investment Period.

“Phase Termination Date” means with respect to each Phase of the Project the day twenty-nine years after each such Phase of the Project becomes subject to the terms of this Fee Agreement. Anything contained herein to the contrary notwithstanding, the last Phase Termination Date shall be no later than December 31 of the year of the expiration of the twenty-ninth full calendar year, after the Commencement Date, provided, however, the County and the Company are entitled to extend the Phase Termination Date up to the maximum period of years that the annual fee payment is available to the Company under Section 12-44-30(21) of the Act, as amended.

“Project” means the Equipment, Improvements, and Real Property, together with the acquisition, construction, installation, design and engineering thereof, in phases. The Project involves an initial investment of sufficient sums to qualify under the Act.

“Real Property” means real property, together with all and singular the rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto acquired or constructed by the Company; all Improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto, but only to the extent such Improvements and fixtures are deemed to become part of the Project under the terms of this Fee Agreement.

“Removed Components” means the following types of components or Phases of the Project or portions thereof, all of which the Company, as the case may be, shall be entitled to remove from the

Project with the result that the same shall no longer be subject to the terms of the Fee Agreement: (a) components or Phases of the Project or portions thereof which the Company in its sole discretion, determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable or unnecessary; or (b) components or Phases of the Project or portions thereof which the Company in its sole discretion, elects to remove pursuant to Section 3.6(c) or Section 3.7(b)(iii) of this Fee Agreement.

“Replacement Property” means any property which is placed in service as a replacement for any item of Equipment or any Improvement which is scrapped or sold by the Company and treated as a Removed Component under Section 3.5 hereof regardless of whether such property serves the same function as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment or any Improvement.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement is deemed to include any and all amendments, supplements, addenda, and modifications to such agreement or document.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1 *Representations of the County.* The County hereby represents and warrants to the Company as follows:

(a) The County is a body politic and corporate and a political subdivision of the State which acts through the County Council as its governing body and by the provisions of the Act is authorized and empowered to enter into the transactions contemplated by this Fee Agreement and to carry out its obligations hereunder. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein.

(b) The Project constitutes a “project” within the meaning of the Act.

(c) By due corporate action, the County has agreed that, subject to compliance with applicable laws, each item of real and tangible personal property comprising the Project shall be considered Economic Development Property under the Act.

Section 2.2 *Representations of the Company.* The Company hereby represents and warrants to the County as follows:

(a) The Company is a corporate entity, duly organized and in existence under the laws of the State of South Carolina and has power to enter into this Fee Agreement.

(b) The Company’s execution and delivery of this Fee Agreement and its compliance with the provisions hereof do not result in a default, not waived or cured, under any Company restriction or any agreement or instrument to which the Company is now a party or by which it is bound.

(c) 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 such purposes as permitted under the Act, as the Company may deem appropriate.

(d) The availability of the FILOT with regard to the Economic Development Property authorized by the Act, along with other incentives provided by the County, has induced the Company to undertake the Project in the County.

**ARTICLE III
FILOT PAYMENTS**

Section 3.1 Negotiated Payments.

(a) Pursuant to Section 12-44-50 of the Act, the Company is required to make FILOT Payments on all Economic Development Property comprising the Project and placed in service, as follows: (i) the Company shall make FILOT Payments in lieu of *ad valorem* taxes with respect to each Phase of the Project placed in service on or before each December 31 within the Investment Period.

(b) The amount of such annual FILOT Payments shall be determined by the following procedure:

- Step 1: Determine the fair market value of the Phase of the Project placed in service in any given year for such year and for the following twenty-nine years, unless extended by the Parties in accordance with the Act, using original income tax basis for State income tax purposes for any real property (provided, if real property is constructed for the fee or is purchased in an arms length transaction, fair market value is deemed to equal the original income tax basis, otherwise, the Department of Revenue will determine fair market value by appraisal) and original income tax basis for State income tax purposes less depreciation for each year allowable to the Company for any personal property as determined in accordance with Title 12 of the Code, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Fee Agreement, except that no extraordinary obsolescence shall be allowable but taking into account all applicable property tax exemptions which would be allowed to Company under State law, if the property were taxable, except those exemptions specifically disallowed under Section 12-44-50(A)(2) of the Act, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Fee Agreement.
- Step 2: Apply an assessment ratio of 6.0% to the fair market value as determined for each year in Step 1 to establish the taxable value of each Phase of the Project in the year it is placed in service and in each of the twenty-nine years, thereafter or such longer period of years that the annual fee payment is permitted to be made by the Company under the Act, as amended.
- Step 3: Multiply the taxable value determined in the preceding step by a millage rate equal to 280.4 mills, which is believed to be that rate in effect as of June 30, 2015, for all taxing entities for the Project site (which millage rate shall be a fixed rate for the term of this Fee Agreement), to determine the amount of the FILOT Payments which would be due in each year of the Fee Term on the payment dates prescribed by the County for such payments for a total of thirty (30) years for each item of eligible Project property, or such longer period of years that the annual fee payment is permitted to be made by the Company under the Act, as amended, if so approved by the County.

(c) The County agrees to use its best efforts to provide that the Project is incorporated and remains in the Park during the Fee Term. If, for any reason, the Park Agreement is modified, or otherwise terminated, then the County shall ensure that the Project shall be immediately placed into another multi-county park arrangement established pursuant to the MCIP Act, to which the County is party and that would enable the Company to receive the benefits afforded by having the Project incorporated into a Park.

(d) In the event that the Company does not achieve a minimum investment of \$8,000,000 in the Project by the end of the Investment Period, then the fee in lieu of *ad valorem* taxes to be paid to the County by the Company shall become equal to the amount which would result from *ad valorem* taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the Project was and had not been subject to the Act. Any amount determined to be due and owing to the County from the Company with respect to a year or years, during the Investment Period, for which fee in lieu of *ad valorem* taxes have been previously remitted by the Company to the County hereunder, shall be reduced by the total amount of fee in lieu of *ad valorem* taxes made by the Company with respect to the Project pursuant to the terms hereof, and further reduced by any abatements provided by law. The Company shall make payment to the County, within ninety (90) days after the end of the Investment Period, of any such amount due and owing under this Section 3.1(d).

(e) If, after the expiration of the Investment Period, at any time during the remaining Term of this Agreement the Company no longer maintains an aggregate of at least \$8,000,000 (without regard to depreciation) in the Project, the Project shall, beginning with the tax year in which such deficiency first occurs, no longer qualify for the payments in lieu of taxes referred to in paragraph (b) of this **Section 3.1**, and shall thereafter be subject to *ad valorem* tax treatment.

(f) In the event that the Act and/or the above-described FILOT Payments are declared invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions that such payments and this Fee Agreement be reformed so as to most closely effectuate the legal, valid, and enforceable intent thereof and so as to afford the Company, with the benefits to be derived hereunder. If the Project is deemed to be subject to *ad valorem* taxation, the payment in lieu of *ad valorem* taxes to be paid to the County by the Company shall become equal to the amount which would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the Project was and had not been Economic Development Property under the Act. In such event, any amount determined to be due and owing to the County from the Company, as the case may be, with respect to a year or years for which payments in lieu of *ad valorem* taxes have been previously remitted by the Company to the County hereunder, shall be reduced by the total amount of payments in lieu of *ad valorem* taxes made by the Company with respect to the Project pursuant to the terms hereof, and further reduced by any abatements provided by law.

Section 3.2 FILOT Payments on Replacement Property. If the Company elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Project, then, pursuant and subject to Section 12-44-60 of the Act, the Company shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property as follows:

(a) to the extent that the income tax basis of the Replacement Property (“Replacement Value”) is less than or equal to the original income tax basis of the Removed Components (“Original Value”) the amount of the FILOT Payments to be made by the Company with respect to such Replacement Property shall be calculated in accordance with Section 3.1 hereof; provided, however, in making such calculations, the original cost to be used in Step 1 of Section 3.1 shall be equal to the lesser of (x) the Replacement Value or (y) the Original Value, and the number of annual payments to be made with respect to the Replacement Property shall be equal to thirty (30) (or, if greater, the maximum number of years for which the annual fee payments are available to the Company for each portion of the Project under the Act, as amended) minus the number of annual payments which have been made with respect to the oldest Removed Components disposed of in the same property tax year as the Replacement Property is placed in service; and

(b) to the extent that the Replacement Value exceeds the Original Value of the Removed Components (“Excess Value”), the FILOT Payments to be made by the Company with respect to the

Excess Value shall be equal to the payment that would be due if the property were not Economic Development Property.

Section 3.3 Reductions in Payments of Taxes Upon Removal, Condemnation or Casualty. In the event of a Diminution in Value of any Phase of the Project after the Investment Period and during the remainder of the FILOT Term, the payment in lieu of taxes with regard to that Phase of the Project shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of that Phase of the Project as determined pursuant to Step 1 of Section 3.1 hereof.

Section 3.4 Place and Allocation of FILOT Payments. The Company shall make the above-described FILOT Payments directly to the County in accordance with applicable law as to payment, collection and enforcement of FILOT Payments. FILOT Payments are to be allocated in accordance with the Act.

Section 3.5 Removal of Equipment. Subject always to Section 3.3., the Company shall be entitled to remove the following types of components or Phases of the Project from the Project with the result that said components or Phases (“Removed Components”) shall no longer be considered a part of the Project and shall no longer be subject to the terms of this Fee Agreement: (a) components or Phases which become subject to statutory payments in lieu of *ad valorem* taxes; (b) components or Phases of the Project or portions thereof which the Company, in its sole discretion, determines to be inadequate, obsolete, uneconomic, worn-out, damaged, unsuitable, undesirable or unnecessary; or (c) components or Phases of the Project or portions thereof which the Company, in its sole discretion, elects to remove pursuant to Section 3.6(c) or Section 3.7(b)(iii) hereof.

Section 3.6 Damage or Destruction of Project.

(a) *Election to Terminate.* In the event the Project is damaged by fire, explosion, or any other casualty, the Company shall be entitled to terminate this Fee Agreement.

(b) *Election to Rebuild.* In the event the Project is damaged by fire, explosion, or any other casualty, and if the Company does not elect to terminate this Fee Agreement, the Company may, in its sole discretion, commence to restore the Project with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company. All such restorations and replacements shall be considered substitutions of the destroyed portions of the Project and shall be considered part of the Project for all purposes hereof, including, but not limited to, any amounts due by the Company to the County under Section 3.1 hereof, to the extent allowed by the Act.

(c) *Election to Remove.* In the event the Company elects not to terminate this Fee Agreement pursuant to subsection (a) and elects not to rebuild pursuant to subsection (b), the damaged portions of the Project shall be treated as Removed Components.

Section 3.7 Condemnation.

(a) *Complete Taking.* If, at any time during the Fee Term, title to or temporary use of the entire Project should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation or the right of eminent domain, or by voluntary transfer under threat of such taking, or in the event that title to a portion of the Project shall be taken rendering continued occupancy of the Project commercially infeasible in the judgment of the Company, the Company shall have the option to terminate this Fee Agreement as of the time of vesting of title by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking*. In the event of a partial taking of the Project or transfer in lieu thereof, the Company may elect: (i) to terminate this Fee Agreement; (ii) to repair and restore the Project, with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Company; or (iii) to treat the portions of the Project so taken as Removed Components.

Section 3.8 Maintenance of Existence. The Company agrees (i) that it shall not take any action which will materially impair the maintenance of its corporate existence during the Fee Term; and (ii) that it will maintain its good standing under all applicable provisions of State law. Notwithstanding the foregoing, any changes in the Company's corporate existence that result from internal restructuring or reorganization of the Company or its parent are specifically authorized hereunder; and further, the Company is entitled to cease operations of the Project at any time without that cessation constituting an Event of Default under this Fee Agreement. Likewise, benefits granted to the Company under this Fee Agreement shall, in the event of any such restructuring or reorganization, be transferred to the successor entity under the provisions of Section 3.10 hereof. Such transfers to a successor entity substantially similar to the Company in nature and function are specifically approved and authorized by the County without any further action by the County Council.

Section 3.9 Confidentiality/Right to Inspect the Project.

(a) The County acknowledges and understands that the Company utilizes confidential and proprietary "state-of-the-art" information and data in its operations, and that a disclosure of any information, including, but not limited to, disclosures of financial or other information concerning the Company's operations could result in substantial harm to the Company and could thereby have a significant detrimental impact on the Company's employees and also upon the County. That being said, The Company agrees to maintain complete books and records accounting for the acquisition, financing, construction and operation of the Project. Such books and records shall:

- (i) permit ready identification of the various Phases and components thereof;
- (ii) confirm the dates on which each Phases was placed in service; and
- (iii) include copies of all filings made by the Company with the County Auditor or the Department with respect to property placed in service as part of the Project.

Notwithstanding any other provision of this Agreement, the Company may designate, in writing, with respect to any filings or reports delivered to the County pursuant to the provisions of this Agreement, or segments thereof, that such filing or report contains proprietary, confidential or trade secret matters. Except as required by the South Carolina Freedom of Information Act or otherwise by law, the County Council, the County, its officers, elected officials and employees shall not knowingly disclose any such identified confidential information regarding the Project, the Company, the Company's operations and any other competitively sensitive information which is not generally and independently known by the public, without the prior written authorization of the Company. The County shall notify the Company in the event of the County's receipt of any South Carolina Freedom of Information Act request concerning the aforesaid identified, confidential information and, to the extent permitted by law, will not respond to such request until such time as the Company has reviewed the request and taken any action authorized by law to prevent its disclosure. If the Company fails to act to prevent any disclosure of such information under the South Carolina Freedom of Information Act within ten (10) days after the Company's receipt of notice of such request, or otherwise by the time which the County has identified by which it is required by law to provide such information, the County may provide such information as in its judgment is required to comply with such law and the County will have no liability to the Company in connection therewith.

(b) The Company agrees that the County and its authorized agents shall have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project. The County and its authorized agents shall also be permitted, at all reasonable times and upon prior reasonable notice to have access to examine and inspect the Company's South Carolina property tax returns, as filed. The aforesaid rights of examination and inspection shall be exercised only upon such reasonable and necessary terms and conditions as the Company shall prescribe, which conditions shall be deemed to include, but not be limited to, those necessary to protect the Company's trade secrets and proprietary rights. Prior to the exercise of any right to inspect the Project, the County, at the request of the Company, shall cause its agents to sign a nondisclosure statement substantially in the form shown on Exhibit A attached hereto. In no way shall this requirement of a nondisclosure statement be deemed to apply to or restrict the rights of the United States Government and the State or its political subdivisions in the legitimate exercise of their respective sovereign duties and powers.

Section 3.10 *Assignment and Subletting.* This Fee Agreement may be assigned in whole or in part and the Project may be subleased as a whole or in part by the Company so long as such assignment or sublease is made in compliance with Section 12-44-120 of the Act. To the extent any further consent is required by the Act and requested, the County may grant such consent by adoption of a Resolution, not to be unreasonably withheld.

Section 3.11 *Addition of Sponsor Affiliates.* Subject to any applicable state law, the County agrees to approve any future sponsor affiliate that would qualify for the benefits offered under this Fee Agreement. Pursuant to Section 12-44-130 of the Act, the Company may request the addition of a sponsor affiliate and, upon approval by resolution of the County Council shall become eligible for the benefits under this Fee Agreement.

Section 3.12 *Events of Default.* The following are "Events of Default" under this Fee Agreement, and the term "Events of Default" means, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Company to make, upon levy, the FILOT Payments described in Section 3.1 hereof; provided, however, that the Company shall be entitled to all redemption rights for non-payment of taxes granted by applicable statutes; or

(b) Failure by the Company to perform any of the other material terms, conditions, obligations or covenants of the Company hereunder, which failure shall continue for a period of ninety (90) days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the County shall agree in writing to an extension of such time prior to its expiration.

The FILOT benefits of the Company shall continue hereunder, as provided for under Section 12-24-100 of the Act, so long as the Company has achieved the minimum investment pursuant of \$8,000,000 by the end of the Investment Period.

Section 3.13 *Remedies on Default.* Whenever any Event of Default shall have occurred and shall be continuing, the County, after having given written notice to the Company of such default and after the expiration of a ninety (90) day cure period, except as provided for in Section 3.12(b), shall have the option to take any one or more of the following remedial actions:

(a) Terminate the Fee Agreement; or

(b) Take whatever action at law or in equity that may appear necessary or desirable to collect the other amounts due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Company under this Fee Agreement.

Section 3.14 Remedies Not Exclusive. No remedy conferred upon or reserved to the County under this Fee Agreement is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other lawful remedy now or hereafter existing. No delay or omission to exercise any right or power accruing upon any continuing default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the County to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be herein expressly required and such notice required at law or equity which the Company is not competent to waive.

Section 3.15 Leased Equipment. To the extent that applicable law allows or is revised or construed to allow the benefits of the Act, in the form of FILOT Payments as described in Section 3.1 hereof, to be applicable to personal property to be installed in the buildings and leased to but not purchased by the Company from at least one third party, under any form of lease, then that personal property, at the Company's sole election, will become subject to FILOT Payments to the same extent as the Equipment under this Fee Agreement, upon proper application of the law and applicable procedures by the Company.

Section 3.16 Waiver of Recapitulation Requirements. As permitted under Section 12-44-55 of the Act, the Company and County hereby waive application of any of the recapitulation requirements as set forth in Section 12-44-55, to the extent that, and so long as, the Company provides the County with copies of all filings which the Company is required to make pursuant to the Act.

Section 3.17 Fiscal Year; Property Tax Year. If the Company's fiscal year changes so as to cause a change in the Company's property tax year, then the timing of the requirements of this Fee Agreement are automatically revised accordingly.

Section 3.18 Reports; Filings.

(a) Each year during the term of this Fee Agreement, the Company shall deliver to the Greenville County Auditor a copy of their most recent annual property tax returns filed with the Department with respect to the applicable portions of the Project.

(b) The Company shall cause a copy of this Agreement, as well as a copy of the completed forms PT-443 of the Department, to be filed with the Greenville County Auditor, the Anderson County Assessor and the Department within thirty (30) days after the date of execution and delivery hereof.

Section 3.19 Payment of Administrative Expenses. The Company will reimburse, or cause reimbursement to, the County from time to time for reasonable and necessary amounts that are customary and standard, including reasonable attorney's fees and costs, actually incurred, or that will be actually incurred, by the County with respect to the County's fulfillment of its obligations under the Fee Agreement and other related documents ("Transaction Documents") in the implementation of its terms and provisions ("Administrative Expenses"). The Company will make such reimbursement of Administrative Expenses upon written request therefor, but in no event later than sixty (60) days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same. The County acknowledges that it imposes no charges in the nature of impact fees or recurring fees in connection with the incentives authorized by the Transaction Documents, and, aside from reasonable attorneys' fees set forth below, or as may be necessitated in the future by request of the

Company pertaining to matters outside of the immediate scope of this Agreement, the County anticipates (but cannot guarantee) that no out of pocket expenses in connection with the Transaction Documents and the transactions authorized hereby should arise in the future. The parties understand that counsel to the County may invoice the Company for those expenses related to the review of the Transaction Documents and all resolutions, ordinances and other documentation related thereto in an amount not to exceed \$[5,000].

ARTICLE IV MISCELLANEOUS

Section 4.1 Notices. Any notice, election, demand, request or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or three business days after deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

AS TO THE COUNTY: Greenville County, South Carolina
 ATTN: Joseph Kernell
 County Administrator
 Greenville County
 301 University Ridge, Suite 2400
 Greenville County Square
 Greenville, South Carolina 29601
 Telephone: (864) 467-7105
 Facsimile: (864) 467-7358
 Email: jKernell@greenvillecounty.org

WITH A COPY TO: Greenville County, South Carolina
(shall not constitute notice) ATTN: Mark W. Tollison
 County Attorney
 301 University Ridge, Suite 2400
 Greenville County Square
 Greenville, South Carolina 29601
 Telephone: (864) 467-7110
 Facsimile: (864) 467-7358
 Email: MTollison@greenvillecounty.org

AS TO THE COMPANY: Pantex Americas Inc
 ATTN: Alberto Gaudiano
 844 S.E. Main Street
 Simpsonville, South Carolina
 Telephone: + 39-0864-250-221
 Facsimile: +39-0864-250-222
 Email: gaudiano@pantexglobal.com

WITH A COPY TO: Parker Poe Adams & Bernstein LLP
(shall not constitute notice) ATTN: Sam C. Moses, Esquire
 Parker Poe Adams & Bernstein LLP

1201 Main Street, Suite 1450
Columbia, South Carolina 29202
Telephone: (803) 255-8000
Facsimile: (803) 255-8017
Email: sammoses@parkerpoe.com

Section 4.2 Binding Effect. This Fee Agreement is binding, in accordance with its terms, upon and inure to the benefit of the Company and the County, and their respective successors and assigns, to the extent allowed by law. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 4.3 Counterparts. This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 4.4 Governing Law. This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State.

Section 4.5 Headings. The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 4.6 Amendments. The provisions of this Fee Agreement may only be modified or amended in writing by an agreement or agreements lawfully entered into between the parties.

Section 4.7 Further Assurance. From time to time, and at the Company's expense, the County agrees to execute and deliver to the Company such additional instruments as either may reasonably request to effectuate the purposes of this Fee Agreement.

Section 4.8 Severability. If any provision of this Fee Agreement is declared illegal, invalid or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid or unenforceable provision shall be reformed so as to most closely effectuate the legal, valid and enforceable intent thereof and so as to afford the Company with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Company the strong inducement to locate the Project in the County.

Section 4.9 Limited Obligation. NEITHER THE PROJECT NOR THE NEGOTIATION, EXECUTION, DELIVERY OR IMPLEMENTATION OF THIS FEE AGREEMENT SHALL GIVE RISE TO ANY PECUNIARY LIABILITY OF THE COUNTY OR ANY INCORPORATED MUNICIPALITY NOR TO ANY CHARGE AGAINST THEIR GENERAL CREDIT OR TAXING POWER.

Section 4.10 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 shall be binding upon any member of the County Council or any officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder against any member of the governing body of the County or any officer, agent, servants or employee of the County and no recourse shall be had against any member of the County Council or any officer, agent, servant or

employee of the County for the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon except solely in their official capacity.

Section 4.11 *Indemnification Covenants.*

(a) Notwithstanding any other provisions in this Agreement or in any other agreements with the County, the Company agrees to indemnify and save the County, its County Council members, elected officials, employees, servants and agents (collectively, the “Indemnified Parties”) 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 by the Company, its members, officers, employees, servants, contractors, and agents during the Term, and, the Company further, shall indemnify and save the Indemnified Parties harmless against and from all claims arising during the Term from (i) any condition of the Project, (ii) any breach or default on the part of the Company in the performance of any of its obligations under this Agreement, (iii) any act of negligence of the Company or any of its agents, contractors, servants, employees or licensees pertaining to the Project or this Agreement, (iv) except in such cases where the County has released the Company pursuant to an approved assignment of this Agreement, any act of negligence of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company pertaining to the Project or this Agreement, or (v) any environmental violation, condition, or effect with respect to the Project. The 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, the Company shall defend it in any such action, prosecution or proceeding with counsel reasonably acceptable to the County.

(b) Notwithstanding the fact that it is the intention of the parties that the Indemnified Parties 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 granting of the fee in lieu of tax, by reason of the execution of this Agreement, by reason of the performance of any act requested of it by the Company, or by reason of the County’s relationship to the Project or by 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 or any other Indemnified Party 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 with counsel reasonably acceptable to the County; provided, however, that such indemnity shall not apply to the extent that any such claim is attributable to (i) the grossly negligent acts or omissions or willful misconduct of the County, its agents, officers or employees, or (ii) any material breach of this Agreement by the County.

(c) Notwithstanding anything in this Agreement to the contrary, the above-referenced covenants insofar as they pertain to costs, damages, liabilities or claims by any Indemnified Party resulting from any of the above-described acts of or failure to act by the Company, shall survive any termination of this Agreement with respect to the Company.

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chair of County Council and the County Administrator and to be attested by the Clerk to County Council; and the Company has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

GREENVILLE COUNTY, SOUTH CAROLINA

Bob Taylor, Chairman
Greenville County Council

Joseph Kernell
County Administrator

(SEAL)

ATTEST:

Theresa B. Kizer
Greenville County, South Carolina

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chair of County Council and the County Administrator and to be attested by the Clerk to County Council; and the Company has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

PANTEX AMERICAS INC

BY _____

ITS _____

EXHIBIT A

FORM OF NON-DISCLOSURE STATEMENT

I, _____, _____ of Greenville County, South Carolina, acknowledge and understand that _____ (collectively, the “Company”) utilize confidential and proprietary “state-of-the-art” processes and techniques and that any disclosure of any information relating to such processes and techniques could result in substantial harm to Company and could thereby have a significant detrimental impact on Company and its employees. Consequently, to the extent permitted by law, I agree to keep confidential the nature, description and type of the machinery, equipment, processes and techniques, as well as financial statements of the Company, which I observe. I agree that I shall not disclose the nature, description or type of such machinery, equipment, processes or techniques, or the information contained in such financial statements of the Company, to any person or entity other than in accordance with the terms of the Fee in Lieu of Tax Agreement dated as _____ by and between the Company and Greenville County, South Carolina, or as may be required by the laws of the State of South Carolina.