

**INDUCEMENT AGREEMENT
AND MILLAGE RATE AGREEMENT**

THIS INDUCEMENT AGREEMENT AND MILLAGE RATE AGREEMENT (the “Agreement”) dated as of September 17, 2013, by and between Greenville County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”), and a corporation (the “Corporation”) known to the County and its County Council as “Project Sugar.”

WITNESSETH:

ARTICLE I
RECITATION OF FACTS

Section 1.1. As a means of setting forth the matters of mutual inducement which have resulted in the making and entering into of this Agreement, the following statements of fact are herewith recited:

(a) The County, acting by and through its County Council (the “County Council”) is authorized and empowered under and pursuant to the provisions of the Code of Laws of the State of South Carolina, 1976, as amended (the “Code”), including, without limitation, Chapter 44 of Title 12 of the Code (the “FILOT Act”), and the case law of the Courts of the State of South Carolina (the “State”), to offer and provide certain privileges, benefits, and incentives to commercial enterprises as inducements for economic development within the County; to acquire, or cause to be acquired, properties (which such properties constitute “projects” as defined in the FILOT Act) and to enter into agreements with any business to construct, operate, maintain and improve such projects; to enter into or allow financing agreements with respect to such projects; and, to accept any grants for such projects through which powers the industrial and business development of the State will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ the manpower, agricultural products and natural resources of the State and benefit the general public welfare of the County by providing services, employment, recreation, tourism or other public benefits not otherwise provided locally.

(b) The County is authorized by the FILOT Act to execute one or more fee-in-lieu of tax agreements (each, a “Fee Agreement”), as provided for in the FILOT Act, with respect to such projects.

(c) The County is authorized by Article VIII, Section 13 of the South Carolina Constitution and Sections 4-1-170, 4-1-172 and 4-1-175 of the Code (the “Joint-County Industrial and Business Park Act”), to enter into agreements with one or more contiguous counties for the creation and operation of one or more joint-county industrial and business parks (a “Park”).

(d) The County is authorized and empowered under and pursuant to Section 4-1-175 of the Joint-County Industrial and Business Park Act and Section 12-44-70 of the FILOT Act to provide, for the purposes outlined in Section 4-29-68 of the Code, certain credits (“Infrastructure Credits”) against revenues received and retained under Article VIII, Section 13 of the South Carolina Constitution with respect to properties and projects located within a Park.

(e) The Corporation is considering acquiring by construction and purchase certain land, improvements, furnishings, fixtures, apparatus, and equipment to be located within the County (the “Project”), for the construction of a manufacturing facility (the “Project”), which will result in the investment of an anticipated Forty-Eight Million, Five Hundred Thousand Dollars (\$48,500,000), but not less than Thirty-Eight Million, Five Hundred Thousand Dollars (\$38,500,000) (approximately Three Million, Five Hundred Thousand of the investment being for the acquisition of existing property (“Existing Property”)) in the County within the meaning of the Act and the creation of at least 80 new, full-time equivalent jobs within five (5) years of the end of the first property tax year during which any component of the Project is first placed in service (the “Investment Period”).

(f) The County has determined, after due investigation, that the Project would be aided by the availability of the assistance which the County might render through (1) entering into a Fee Agreement with the Corporation with respect to the Project, under and pursuant to the FILOT Act, at the sole election of the Corporation; and (2) the incentive of a negotiated fee-in-lieu of ad valorem taxes (a “FILOT”) as authorized by the FILOT Act.

(g) The County has further determined, after due investigation, that the Project would be aided by the availability of the assistance which the County might render through (1) the inclusion of the Project and the other real and personal property of the Corporation located on the Project site, in a Park which is either already in existence, or to be created by the County; and (2) the availability of Infrastructure Credits for the Project in the Park; and, that the inducement will, to a great degree of certainty, result in the acquisition and construction of the Project in the County.

(h) The County has given due consideration to the economic development impact of the Project, and based on information supplied by the Corporation, has found that the Project and the payments-in-lieu of taxes would be directly and substantially beneficial to the County, the taxing entities of the County, and the citizens and residents of the County, and that the Project would directly and indirectly benefit the general public welfare and serve a public purpose of the County by providing services, employment, recreation, promotion of tourism, or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or any incorporated municipality, or a charge against the general credit or taxing power of either; and, that the purposes to be accomplished by the Project, i.e., economic development and welfare, and addition to the tax base of the County, are proper governmental and public purposes and that the inducement of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the cost; and, has

agreed to effect the issuance and delivery of this Agreement, pursuant to the Act and a Resolution of the County Council adopted September 3, 2013 (the “Resolution”), and on the terms and conditions hereafter set forth.

ARTICLE II.
UNDERTAKINGS ON THE PART OF THE COUNTY.

The County agrees as follows:

Section 2.1. The County agrees to enter into and execute a Fee Agreement and other necessary documents and actions incidental thereto, for the Project under and pursuant to the Act, with the Corporation investing an anticipated Forty-Eight Million, Five Hundred Thousand Dollars (\$48,500,000), but not less than Thirty-Eight Million, Five Hundred Thousand Dollars (\$38,500,000) (approximately Three Million, Five Hundred Thousand of the investment being for the acquisition of the Existing Property), and the creation of at least 80 new, full-time equivalent jobs at the Project site before the end of the Investment Period.

The County, subject to the limits set forth herein, will enter into a Fee Agreement which shall apply to each annual capital investment (“Phase”) of the Project as it is placed in service. The new improvements, furnishings, fixtures, apparatus, and equipment for the Project will be purchased and installed by the Corporation on the site hereafter acquired by the Corporation in the County. The Fee Agreement will contain suitable provisions for the Corporation to terminate the Fee Agreement if all terms and provisions of the Fee Agreement have been met.

The Fee Agreement will be delivered at such times and upon such mutually acceptable terms as the County and the Corporation shall agree. The terms and provisions of the Fee Agreement shall be substantially in the form generally utilized in connection with the Act, as agreed upon by the County and the Corporation. Such Fee Agreement shall contain, in substance, the following provisions:

(a) The Corporation will maintain the Project and will (i) keep the Project insured against loss or damage or perils generally insured against by industries or businesses similar to the Corporation, and will carry public liability insurance covering personal injury, death or property damage with respect to the Project; or (ii) self-insure with respect to such risks in the same manner as it does with respect to similar property owned by the Corporation; or (iii) maintain a combination of insurance coverage and self-insurance as to such risks.

(b) In the performance of the Fee Agreement, any obligations the County may incur for the payment of money shall not create a pecuniary liability of the County nor create a general obligation on its part or by the State of South Carolina or any incorporated municipality, but shall be payable solely from the payments received under the Fee Agreement.

(c) The Fee Agreement shall contain a provision requiring the Corporation to make FILOT payments. Pursuant to the Act, for each Phase of the Project, such payments shall continue for a period of up to twenty (20) years from the date each such Phase of the

Project is placed in service. To the extent the Corporation invests at least Thirty-Eight Million, Five Hundred Thousand Dollars (\$38,500,000) (approximately Three Million, Five Hundred Thousand of the investment being for the acquisition of the Existing Property), and creates at least 80 new, full-time equivalent jobs at the Project site before the end of the Investment Period, the amounts of such FILOT payments shall be determined by using an assessment ratio of 6.0%, a millage rate, for all taxing entities within whose taxing jurisdiction the Project falls, of 315.8 mils, and the fair market value (which value is not subject to reassessment as provided in the Act) as determined by using original cost for any real property and original cost less allowable depreciation for any personal property in accordance with Title 12, Chapter 37, Code of Laws of South Carolina 1976, as amended. The Fee Agreement shall also provide an annual Infrastructure Credit equal to thirty-five percent (35%) of the FILOT payments for the Project for the seven (7) years beginning in the first year of such FILOT payments on behalf of the Project in the Park; provided, however, that the Corporation shall not claim any abatement of *ad valorem* property taxes to which it might otherwise be entitled with respect to any property for which an Infrastructure Credit is provided by the County. So long as the Corporation invests at least Forty-Five Million Dollars (\$45,000,000) in the Project in excess of the cost of the acquisition of the Existing Property before the end of the Investment Period, the Existing Property shall be included in the Project and subject to the FILOT. In the event that the Corporation fails to invest at least Forty-Five Million Dollars (\$45,000,000) in the Project in excess of the cost of the acquisition of the Existing Property before the end of the Investment Period, the Existing Property shall thereafter be excluded from the Project and subject to *ad valorem* taxes and the Corporation shall pay to the County the difference between the amount of *ad valorem* taxes that would have been paid on the Existing Property if such property had not been subject to the Fee Agreement and the amount paid with respect to the Existing Property pursuant to the Fee Agreement, with interest thereon at the rate provided by law for late payment of taxes, but without penalty for late payment of taxes and such payment shall be due within 180 days after the end of the Investment Period.

(d) The County and the Corporation agree, in accordance with the Act, that the Corporation may dispose of property subject to FILOT payments, as set forth in this Section.

(1) When the Corporation disposes of property subject to the fee, the fee payment must be reduced by the amount of the fee payment applicable to that property, subject to an absolute requirement to maintain not less than Thirty-Eight Million Five Hundred Thousand Dollars (\$38,500,000), in undepreciated investment value, in non-exempt (i.e., subject to the FILOT) investment in the Project.

(2) Property shall be considered disposed of for purposes of this Section only when it is scrapped or sold or it is removed from the Project. If the property is removed from the Project it becomes subject to *ad valorem* property taxes to the extent the property remains in the State.

(3) To the extent that Infrastructure Credits are used as payment for personal property, including machinery and equipment, and the personal property is removed from the Project at any time during the term of the FILOT, the amount of the FILOT due on the personal property for the year in which the personal property was removed from the Project shall be due for the two years immediately following the removal.

(i) To the extent that any Infrastructure Credit payment amounts were used for both real property and personal property or infrastructure and personal property, all amounts will be presumed to have been first used for personal property.

(ii) If personal property is removed from the Project but is replaced with qualifying replacement property as provided below, then the personal property will not be considered to have been removed from the Project.

(e) The Fee Agreement shall provide that any property which is placed in service as a replacement for property which is subject to the FILOT may become part of the fee payment as provided in this item, subject in all events to the related provisions of the Act:

(1) Replacement property does not have to serve the same function as the 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 fee treatment only up to the original income tax basis of fee property 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 property which it is replacing, the excess amount will be subject to payments at the level of normal *ad valorem* taxes. Replacement property will be entitled to the fee payment for the period of time remaining on the fee period for the property which it is replacing; provided, however, that where a single piece of property replaces two or more pieces of property, the fee period must be measured from the earliest of the dates on which the replaced pieces of property were placed in service.

(2) The new replacement property which qualifies for the fee will be recorded using its income tax basis and the fee calculated using the millage rate and assessment ratio provided for the original fee property.

Section 2.2. The County hereby permits the planning, design, acquisition, construction and carrying out of the Project to commence prior to the execution and delivery of the Fee Agreement. Contracts for construction and for purchase of leasehold improvements, machinery, equipment and related real and personal property deemed necessary under the Fee Agreement may be let by the Corporation.

Section 2.3. The County Council agrees that this is a Millage Rate Agreement providing the Corporation with an initial millage rate for all taxing entities within whose taxing jurisdiction the Project site falls of 315.8 mils for all Project property, and which Millage Rate Agreement shall be

carried over to and become a part of the separate Ordinance authorizing the Fee Agreement to be executed and delivered by and between the County and the Corporation pursuant to the Act.

Section 2.4. As a result of the execution of a Fee Agreement, the Corporation will pay a FILOT equal to the amount of property taxes otherwise due at any given point in time, based on the computation and terms contained in Section 2.1(c), hereof, and the County and the Corporation will enter into a Fee Agreement consistent with the terms and provisions of the Act, as amended, and this Agreement. The County and the Corporation will enter into such further agreements as may be reasonably necessary to enter into the Fee Agreement required as a part of this Agreement.

Section 2.5. Subject to the requirements of the Home Rule Act and the provisions of Section 4.1 hereof, the County will perform such other acts and will in good faith commence necessary ordinance proceedings, as may be required to faithfully implement this Agreement and to authorize the Fee Agreement, and to assist, in good faith and with all reasonable diligence, with the successful completion of the Project by the Corporation.

ARTICLE III. **UNDERTAKINGS ON THE PART OF THE CORPORATION**

Section 3.1. The Corporation may advance any acquisition or construction funds required in connection with the planning, design, acquisition, construction, and carrying out of the Project and be entitled to subject the constructed or acquired property to the Fee Agreement, to the extent permitted by law.

Section 3.2. The County will have no obligation to assist in finding a funding source for the Project and the Corporation may endeavor to finance the Project to the extent required to finance the cost of the acquisition and installation of the Project and the costs of the FILOT transaction.

Section 3.3. If the plan proceeds as contemplated, the Corporation further agrees as follows:

- (a) To develop, construct, and operate, or cause to be developed, constructed, and operated, the Project and to enter into a Fee Agreement pursuant to the Act and this Agreement;
- (b) To obligate itself to make the FILOT payments required by the Act at rates calculated in accordance with Section 2.1 hereof;
- (c) To hold the County, its elected officials, officers, employees and agents, and members of County Council, harmless from all pecuniary liability, in form acceptable to the County, and to reimburse the County for all expenses to which it might be put in the fulfillment of its obligations under this Agreement and in the implementation of its terms and provisions, including reasonable legal expenses and fees; notwithstanding the foregoing, such reimbursable legal expenses and fees with respect to the negotiation, authorization and execution of the matters referred to herein shall not exceed \$10,000 and shall be payable regardless of whether the Corporation proceeds with the Project;

(d) To perform such further acts and adopt such further proceedings as may be required to faithfully implement its undertakings and consummate the proposed financing;

(e) To apply for, and use its best efforts to obtain, all permits, licenses, authorizations and approvals required by all governmental entities in connection with the acquisition, construction, operation and use of the equipment for the Project;

(f) To invest at least Thirty-Eight Million, Five Hundred Thousand Dollars (\$38,500,000) (approximately Three Million, Five Hundred Thousand of the investment being for the acquisition of the Existing Property), and create at least 80 new, full-time equivalent jobs at the Project site before the end of the Investment Period. In the event that the investment does not exceed Thirty-Eight Million Five Hundred Thousand Dollars (\$38,500,000) or such new jobs requirements is not met in the timeframe provided, the Project property will revert retroactively to normal tax treatment, with the Corporation being liable to the County for an amount equal to the difference between the fee actually paid (net of Infrastructure Credits received) and the total amount of the property taxes that would have been paid by the Corporation had the Project been subject to *ad valorem* taxation, taking into account exemptions from property taxes that would have been available to the Corporation, plus interest at the statutory rate for late payment of taxes, but without penalty for late payment of taxes and such payment shall be due within 180 days after the end of the Investment Period.

ARTICLE IV **GENERAL PROVISIONS**

Section 4.1. Notwithstanding anything in this Agreement to the contrary, all commitments of the County under Article II hereof are subject to (1) all of the provisions of the Code, the South Carolina Home Rule Act and the FILOT Act, including, without limitation, the understanding that the Corporation must qualify for the fee-in-lieu of tax treatment, in accordance with and as required by the terms of South Carolina law, (2) the condition that nothing contained in this Agreement shall constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers, and (3) compliance for enactment by the County of all further acts, legislation, and ordinances required or envisioned by this Agreement.

Section 4.2. The Corporation and the County agree to execute such other documents containing commercially reasonable terms as are required to effectuate and carry out the terms, provisions, and requirements of this Agreement, the Resolution to which it is attached, and the documents referred to in this Agreement and the Resolution. Pursuant to Section 12-44-55(B) of the Code, the Corporation and the County agree that no recapitulation information (as set forth in Section 12-44-55(A) of the Code) is required to be provided by either the Corporation or the County in connection with the Fee Agreement, provided that the Corporation shall comply with the provisions of Section 12-44-90(G) of the FILOT Act. Further, the Corporation shall file a copy of the South Carolina Department of Revenue form PT-443 with the County and all other parties

referred to in said Section 12-44-90(G) after the execution of the Fee Agreement by the County and the Corporation.

Section 4.3. If for any reason this Agreement is not executed and delivered by the Corporation within one (1) year after execution and delivery by the County, or if any phase of the Project, once this Agreement is executed by all parties, is abandoned permanently (work has not meaningfully progressed for twelve (12) months or longer) by the Corporation for any reason other than fault or negligence of the County, the provisions of this Agreement shall be cancelled as to any incomplete or unfinished phase(s), only, and no party shall have any rights against any other under this Agreement and no third parties shall have any rights against any party under this Agreement as to such incomplete phase(s) except:

- (a) The Corporation will pay the County for all expenses which have been authorized by the Corporation in writing and incurred by the County in connection with the planning, design, acquisition, construction and carrying out of the Project;
- (b) The Corporation will assume and be responsible for all contracts for construction or purchase of the incomplete phase(s) of the Project entered into by the County at the written request or direction of the Corporation in connection with the Project, if any; and
- (c) The Corporation will pay the reasonable out-of-pocket expenses of officers, agents and employees of the County and counsel for the County incurred in connection with the Project and the execution of this Agreement or the Fee Agreement, and will pay fees for legal services related to the Project and the negotiation, authorization, and execution of the Fee Agreement and this Agreement.

Section 4.4. The parties understand that the Corporation may choose not to proceed with the Project or with any given phase of the Project, in which event this Agreement shall be cancelled as to any and all incomplete or unfinished phase(s), only, and, subject to parties' obligations described in Section 4.3, no party shall have any further rights under this Agreement against any other, and no third party shall have any rights against any party under this Agreement as to such incomplete phase(s).

Section 4.5. To the maximum extent allowable under the Code, the Corporation may assign (including, without limitation, absolute, collateral, and other legal and equitable assignments of whatever form, type, or name) all or a part of its rights and/or obligations under this Agreement or the Fee Agreement, or any other agreement related hereto or thereto, to one or more other entities, at the Corporation's sole discretion, so long as such assignee is qualified under the Code to assume such rights and/or obligations and so long as such assignee assumes all responsibilities and obligations of the Corporation and upon the consent of the County, which consent will not unreasonably be withheld and may be provided by resolution, without adversely affecting the benefits to the Corporation or assignees pursuant to any such agreement or the Act. This Agreement shall inure to the benefit of and bind the successors and permitted assigns hereunder. Further, the Corporation may add one or more Sponsors or Sponsor Affiliates (as defined in the Act) to this Agreement or the Fee Agreement, pursuant to and in accordance with the Act, at any time. Such addition of one or more Sponsors or Sponsor Affiliates will be authorized in the Fee

Agreement and the respective enabling ordinance of the County, which will authorize such addition, after the initial approval of the Fee Agreement, by subsequent resolution of the County and amendment of the Fee Agreement.

Section 4.6. This Agreement may not be modified or amended except by a writing signed by or on behalf of all parties by their duly authorized officers. No amendment, modification, or termination of this Agreement, and no waiver of any provision or consent required hereunder shall be valid unless consented to in writing by all parties.

Section 4.7. Nothing in this Agreement or any attachments hereto is intended to create, and no provision hereof or thereof should be so construed or interpreted as to create any third party beneficiary rights in any form whatsoever nor any form of partnership or any other legal entity relationship between the Corporation and the County.

Section 4.8. This Agreement constitutes the entire Agreement between the parties as of this time regarding the matters set forth herein. No amendment to this Agreement shall be effective unless reduced to writing, executed by both parties, and approved by appropriate legal process. This Agreement shall be interpreted pursuant to the laws of the State of South Carolina.

Section 4.9 This Agreement may be executed in counterparts, and such counterparts taken together shall be deemed to be one and the same agreement.

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

GREENVILLE COUNTY, SOUTH CAROLINA

By _____
Chairman, Greenville County Council
Greenville County, South Carolina

By _____
Administrator
Greenville County, South Carolina

(SEAL)

ATTEST:

Clerk to County Council
Greenville County, South Carolina

IN WITNESS THEREOF, the undersigned has executed this Agreement as of the date first above written.

CORPORATION:

By: _____
Its: _____