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**AMENDED & RESTATED
INFRASTRUCTURE CREDIT AGREEMENT**

BETWEEN

GREENVILLE COUNTY, SOUTH CAROLINA

AND

PROJECT DESPERADO

DATED AS OF [DATE], 2017

**PREPARED BY:
PARKER POE ADAMS & BERNSTEIN LLP
1221 MAIN STREET, SUITE 1100 (29201)
POST OFFICE BOX 1509
COLUMBIA, SOUTH CAROLINA 29201
(803) 255-8000**

**AMENDED & RESTATED
INFRASTRUCTURE CREDIT AGREEMENT**

THIS AMENDED AND RESTATED INFRASTRUCTURE CREDIT AGREEMENT (“*Amended Agreement*”) is made and entered into as of _____, 2017, by and among 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 Project Desperado, a Delaware corporation, authorized to transact business in South Carolina, its affiliated and related entities and assigns, (“*Company*”), with respect to the Project (defined below).

WITNESSETH:

(a) The County, acting by and through its County Council is authorized by Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended, including Sections 4-1-170 and 4-1-175 thereof, Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (collectively, the “Infrastructure Credit Act”), and Article VIII, Section 13 of the South Carolina Constitution (i) to provide special source revenue credits for the purpose of defraying certain costs, including, without limitation, the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County or the project and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise, all to enhance the economic development of the County; and (ii) to create, in conjunction with one or more other counties, a joint county industrial or business park (“Park”) in order to facilitate the grant of such special source revenue credits; and

(b) The Company previously entered into an Infrastructure Credit Agreement dated as of July 17, 2012 with the County (the “*Original Agreement*”). Pursuant to the terms of the Original Agreement, the Company committed to invest \$14,000,000 (the “*Original Investment Commitment*”) and create approximately 279 new, full-time jobs (the “*Original Jobs Commitment*”), and to acquire by construction, lease and purchase certain land, buildings, furnishings, fixtures, apparatus, and equipment, for the purpose of expanding a manufacturing facility to be located in the County (collectively, the “*Original Project*”); and

(c) The Company is now planning an expansion consisting of the expenditure of approximately \$24,000,000 (the “*Expansion Investment Commitment*”) and the creation of approximately 102 new, full-time jobs (the “*Expansion Jobs Commitment*”) and to acquire by construction, lease and purchase certain land, buildings, furnishings, fixtures, apparatus, and equipment, for the purpose of expanding an existing manufacturing facility located in the County (collectively, the “*Expansion*”); and

(d) Combining the Original Project and the Expansion, the Company is committed to investing approximately \$38,000,000 by December 31, 2020 (“*Amended Investment Commitment*”), creating approximately 381 new, full-time jobs by December 31, 2020 (“*Amended Jobs Commitment*”), and acquiring by construction, lease and purchase certain land, buildings, furnishings, fixtures, apparatus, and equipment, for the purpose of expanding a manufacturing facility located in the County (collectively, the “*Project*”); and

(d) In order to reimburse the Company for certain eligible infrastructure expenses incurred with respect to the Project and to revise the terms of the Original Agreement, the County and the Company desire to amend the Original Agreement to reflect the Amended Investment Commitment, the Amended Jobs Commitment, a supplemental Special Source Revenue Credit (defined below) to the Company in an amount equal to five percent (5%) of each Fee Payment (defined below) due, an extension of the credit

period from ten (10) years to fifteen (15) years; and the elimination of clawback provisions in the Original Agreement; and

(e) The Project is located in the Park established by that “Agreement for Development of Joint County Industrial and Business Park” between the County and Pickens County dated January 4, 1996, as amended; and

(f) In accordance with Article VIII, Section 13 of the South Carolina Constitution, real and personal property having a *situs* in a Park, are exempt from all *ad valorem* taxation, however, the owners or lessees of such real and personal property are obligated to make, or cause to be made, payments in lieu of taxes to the County in the total amount equivalent to the *ad valorem* property taxes or other fee-in-lieu-of-taxes that would have been due and payable with respect to such real and personal property but for the location of such real and personal property within such Park (each, a “**Fee Payment**”); and

(g) In connection with the Project and pursuant to County Ordinance No. _____ dated _____, 2017, County Council authorized certain incentives, including but not limited to, special source revenue credits, and the execution and delivery of this Amended Agreement.

NOW, THEREFORE, IN CONSIDERATION of the respective representations and agreements contained in this Amended Agreement, the Parties agree to the following.

Section 1. Infrastructure Credits. Subject to the provisions herein, the County grants a special source revenue credit (“**Special Source Revenue Credit**” or “**SSRC**”) to the Company in an amount equal to thirty percent (30%) of each Fee Payment due for the Project for a period of ten (10) years (“**Credit Period**”). Any SSRC set forth in this Amended Agreement shall only apply to the Fee Payments due with respect to the Project. For purposes of this Amended Agreement, the Project commences as of January 1, 2012.

The Credit Period shall commence in the first year for which the Company elects to claim the SSRC in accordance with Section 3 of this Agreement. The Company and the County agree that the first year of the Credit Period was project tax year 2013 (*i.e.*, the Fee Payment due on or before January 15, 2014).

Upon the Company’s achievement of \$30,000,000 of investment, without regard to depreciation (“**SSRC Threshold**”), the County grants (a) an extension of the Credit Period to fifteen (15) years and (b) a supplemental SSRC to the Company in an amount equal to five percent (5%) of each Fee Payment due for the Project for the period beginning with the Fee Payment due for the tax year in which the SSRC Threshold is first achieved and ending with the final Fee Payment due for the Credit Period (“**Supplemental Credit Period**”).

Any SSRC provided under this Amended Agreement shall be used to reimburse the Company for eligible expenditures, as permitted by the Infrastructure Credit Act, which includes the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the Company’s property, for improved or unimproved real estate or for machinery and equipment provided that any SSRC benefits shall be first deemed to be applied to the eligible expenditures other than the machinery and equipment. In no event shall the aggregate amount of SSRCs received as of any point in time exceed the amount of the Company’s aggregate investment in such eligible expenditures as of such time.

Section 2. County to Ensure Project remains in the Park during the Credit Period. The County agrees to use its best efforts to ensure that the Project will remain in the Park during the Credit Period. If, for any reason, the Park Agreement is modified, or otherwise terminated, then the County shall use its best efforts to ensure that the Project shall be immediately placed into another multi-county park

arrangement to which the County is party and that would enable the Company to receive the SSRC benefits set forth in this Amended Agreement. To the extent that no multi-county park arrangement exists to which the County is a party, then the County agrees to use its best efforts to make arrangements with the Company to offer a legally available alternative arrangement that would deliver the same value of the benefits as the SSRC benefits set forth in this Amended Agreement during the remainder of the Credit Period.

Section 3. *Delivery of the Infrastructure Credit.* The County shall calculate any and all SSRCs and reflect the Fee Payment(s) net of any and all SSRCs on the Company's annual Fee invoice(s) for the Project.

Section 4. *Notices.* Any notice, election, demand, request or other communication to be provided under this Amended 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
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: Project Desperado
ATTN:

WITH A COPY TO: Parker Poe Adams & Bernstein LLP
(shall not constitute notice) ATTN: Sam C. Moses, Esquire
1221 Main Street, Suite 1100
Columbia, South Carolina 29201
Telephone: (803) 255-8000
Facsimile: (803) 255-8017
Email: sammoses@parkerpoe.com

Section 5. *Binding Effect.* This Amended Agreement is binding, in accordance with its terms, upon and inures to the benefit of the Company, and its respective successors and assigns. 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 Amended 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 6. *Counterparts.* The Parties may execute this Amended Agreement in any number of counterparts, in original or by facsimile or electronic means, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 7. *Governing Law.* This Amended Agreement and all documents executed in connection with this Amended Agreement are construed in accordance with and governed by the laws of the State of South Carolina. To the extent of any conflict between the provisions of this Amended Agreement and the Infrastructure Credit Act, the Infrastructure Credit Act controls.

Section 8. *Amendments.* The Parties may modify or amend this Amended Agreement only in a writing signed by the Parties.

Section 9. *Further Assurance.* From time to time the County shall execute and deliver to the Company any additional instruments as the Company reasonably requests to evidence or effectuate the purposes of this Amended Agreement.

Section 10. *Severability.* If any provision of this Amended Agreement is illegal, invalid or unenforceable for any reason, the remaining provisions remain unimpaired and any illegal, invalid or unenforceable provision are reformed to effectuate most closely the legal, valid and enforceable intent and to afford the Company, with the maximum benefits to be derived under this Amended Agreement and the Infrastructure Credit Act, it being the intention of the County to offer the Company the strongest inducement possible to encourage investment in the Project.

Section 11. *Assignment.* This Amended Agreement may be assigned in whole or in part by the Company with the prior written consent of the County. The County may grant such consent by adoption of a Resolution.

Section 12. *Limited Obligation.* THE PROJECT GIVES RISE TO NO PECUNIARY LIABILITY OF THE COUNTY OR THE CITY OR ANY OTHER INCORPORATED MUNICIPALITY NOR TO ANY CHARGE AGAINST THEIR GENERAL CREDIT OR TAXING POWER.

Section 13. *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 this Amended Agreement 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 this Amended Agreement, 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 Amended Agreement, the County anticipates (but cannot guarantee) that no out of pocket expenses

in connection with this Amended Agreement 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 this Amended Agreement and all resolutions, ordinances and other documentation related thereto, including but not limited to that certain fee in lieu of tax agreement between the County and Project Desperado dated _____, 2017, in an amount not to exceed \$5,000.

[Signatures appear on the following pages]

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

GREENVILLE COUNTY, SOUTH CAROLINA

Herman G. Kirven, Jr., Chairman
Greenville County Council

(SEAL)

ATTEST:

Joseph Kernell
County Administrator

Teresa B. Kizer, Clerk to Council
Greenville County Council

IN WITNESS WHEREOF, the Company has caused this Amended Agreement to be executed in its name and on its behalf by its authorized officer as of the day and year first above written.

PROJECT DESPERADO

By: _____

Its: _____