

INDUCEMENT AGREEMENT

THIS INDUCEMENT AGREEMENT (this “*Agreement*”) made and entered into as of _____, ____ 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 Project Orange, a _____ (the “*Company*”).

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, by and through its County Council, is authorized and empowered by the provisions of Title 12, Chapter 44 (the “*FILOT Act*”) and Title 4, Chapter 1 (the “*Multi-County Park Act*”), Code of Laws of South Carolina 1976, as amended (the “*Code*”), to allow for the payment of certain fees in lieu of *ad valorem* taxes (“*FILOT Payments*”) with respect to industrial properties; to issue special source revenue bonds, or in the alternative, to provide special source revenue credits (“*Special Source Credits*”) against payment in lieu of taxes for reimbursement in respect of investment in certain qualifying property serving the County or the Project, including improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise (collectively, “*Special Source Property*”) through all such powers, the development of the State will be promoted and trade developed by inducing new industries to locate in the State and by encouraging industries now located in the State to expand their investments and thus utilize and employ manpower and other resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally.

(b) The Company requested that the County assist in the acquisition, construction and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to constitute an expansion to its manufacturing facilities in the County (collectively, the “*Project*”), which will result in an expected investment by the Company in the Project of at least \$11,300,000 (the “*Investment Target*”) and the expected creation by the Company of at least 19 new, full-time, jobs (with benefits) with respect thereto (the “*Jobs Creation Target*”), all by December 31 of the fifth year after the first year in which any portion of the Project is first placed in service (the “*Investment Period*”).

(c) Pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution, the County will use its best efforts to place the site of the Project in a multi-county industrial and business park (the “*Park*”) established by the County pursuant to qualifying agreement with an adjoining county in the State (the “*Park Agreement*”).

(d) 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 applicable provisions of the FILOT Act and the Multi-County Park Act as economic development incentives, and the inducements offered, will, to a great degree, result in the Project locating in the County. Pursuant to this determination, the Company and the County have agreed to negotiate for FILOT Payments as authorized by the FILOT Act, as further described in Section 2.3 hereof, and the Company and the County have agreed, pursuant to

Section 4-1-175 of the Multi-County Park Act, that the Company would be afforded certain Special Source Credits as described herein against its FILOT Payments due with respect to the Project, as reimbursement for the Company's investment in Special Source Property, within the meaning and purposes of Section 4-29-68 of the Code, as further described in Section 2.5 hereof.

(e) The County has given due consideration to the economic development impact of the Project, and as a preliminary matter, based on representations by the Company, hereby finds and determines that (i) the Project is anticipated to benefit the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally, (ii) the Project will give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either, (iii) the purposes to be accomplished by the Project, i.e., economic development, retention of jobs, and addition to the tax base of the County, are proper governmental and public purposes, (iv) the inducement of the location of the Project within the County and State is of paramount importance and (v) the benefits of the Project will be greater than the costs. The County, therefore, has agreed to effect the execution and delivery of this Agreement, pursuant to the FILOT Act, the Multi-County Park Act and a Resolution of the County Council dated _____, 2017, and on the terms and conditions set forth.

ARTICLE II UNDERTAKINGS ON THE PART OF THE COUNTY

The County agrees as follows:

Section 2.1. The County, subject to the limits set forth herein, agrees to enter into a Fee in Lieu of Tax and Special Source Credit Agreement with the Company with respect to the Project (the "**Fee Agreement**").

Section 2.2. The Fee Agreement will be executed at such time and upon such mutually acceptable terms as the Company shall request, subject to the provisions of Sections 2.7 and 4.2 herein.

Section 2.3. The terms and provisions of the Fee Agreement shall be substantially in the form generally utilized in connection with the FILOT Act, as to be agreed upon by the County and the Company. The Fee Agreement shall contain, in substance, the following provisions:

(a) The term of the negotiated FILOT Payments ("**Negotiated FILOT Payments**") arrangement set forth in the Fee Agreement will be for a period of thirty (30) years for each annual increment of capital investment in the Project during the Investment Period, commencing with the first year of the capital investment made under the Fee Agreement.

(b) The Fee Agreement shall provide that, in the performance of the agreements contained therein on the part of the County, such agreement will not give rise to any pecuniary liability of the County and shall not create a charge against the general credit or taxing power of the County, the State or any incorporated municipality.

(c) The Fee Agreement contain a provision requiring the Company to make Negotiated FILOT Payments to the County for a period of thirty (30) years with respect to each year of capital investment made under the Fee Agreement during the Investment Period. The amounts of such payments shall be determined by using: (i) an assessment ratio of 6%, (ii) a fixed millage rate of 337.0 mills (that is the cumulative millage rate in effect at the site of the Project for all taxing entities as of June 30, 2016); (iii) the fair market value of the Project property, as determined by the South Carolina Department of

Revenue in accordance with the FILOT Act; and (iv) and such other terms and conditions as will be specified in the Fee Agreement. For purposes of computing the amount of such fee, in accordance with the terms of Section 12-44-50(2) of the FILOT Act, the property shall be allowed all applicable property tax exemptions except the exemption allowed under Section 3(g) of Article X of the Constitution of the State of South Carolina and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

(d) The Company may dispose of and replace property subject to Negotiated FILOT Payments, as set forth in Section 12-44-60 of the FILOT Act; the Negotiated FILOT Payment due with respect to such replacement property shall be calculated in accordance with the provisions of said Section 12-44-60.

Section 2.4. The County hereby consents to 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 machinery, equipment and personal property that shall be deemed necessary under the Fee Agreement or that are otherwise permitted under the FILOT Act may have been and may be let by the Company, in its sole discretion.

Section 2.5. Pursuant to Section 4-1-175 of the Multi-County Park Act, the County, subject to the limits set forth herein, including Sections 2.7 and 4.2 hereof and pursuant to the Fee Agreement, will provide a special source credit against Negotiated FILOT Payments by the Company, pursuant to the Park Agreement or the Fee Agreement, as the case may be, to reimburse the Company in respect of its investment in Special Source Property pertaining to the Project. In these respects, the Company shall be entitled to receive, and the County shall provide, Special Source Credits against each Negotiated FILOT Payment, including, but not limited to, each Negotiated FILOT Payment, due with respect to the Project for a period of ten (10) consecutive tax years, commencing with the tax year for which the initial Negotiated FILOT payment is due with respect to the Project, in an annual amount equal to twenty percent (20%) of each such FILOT Payment, all as shall be set forth in greater detail in the Fee Agreement.

Notwithstanding anything herein to the contrary, under no circumstances shall the Company be entitled to claim or receive any abatement of *ad valorem* taxes for any portion of investment in the Project for which a Special Source Credit is taken.

In no event shall the aggregate amount of any Special Source Credits received by the Company exceed the amount expended by it with respect to the Special Source Property at any point in time.

Section 2.6. Subject to the matters contained herein, the Fee Agreement will be executed at such time and upon such mutually acceptable terms as the parties shall agree.

Section 2.7. Notwithstanding anything in this Agreement to the contrary, the authorization by the County of the Fee Agreement is subject to compliance by the County with the provisions of the Home Rule Act regarding the enactment of ordinances and shall not constitute a general obligation or indebtedness of the County nor a pledge of the full faith and credit or the taxing power of the County. Further, the County will perform such other acts and adopt such other proceedings, consistent with this Agreement, as may be required to faithfully implement this Agreement and will assist, in good faith and with all reasonable diligence, with such usual and customary governmental functions as will assist the successful completion of the Project by the Company. The County has made no independent legal or factual investigation regarding the particulars of this Agreement or the transaction contemplated hereunder and, further, executes this Agreement in reliance upon the representations by the Company that

the Agreement and related documents comply with all laws and regulations, particularly those pertinent to industrial development projects in the State.

Section 2.8. Should the Company fail to collectively invest at least \$10,200,000 in connection with the Project, by the end of the Investment Period, the Company shall be liable for the difference between the amount of Negotiated FILOT Payments actually paid pursuant to the Fee Agreement (taking into account all Special Source Credits actually received) and the amount of *ad valorem* taxes which would have been due and payable with respect to the Project had the Fee Agreement not been entered into, with interest at the rate payable for late payment of taxes. Any amounts determined to be owing pursuant to the foregoing sentence shall be payable to the County on or before the one hundred twentieth (120th) day following the last day of the Investment Period.

ARTICLE III UNDERTAKINGS ON THE PART OF THE COMPANIES

Section 3.1. Except with respect to the Fee Agreement, the County will have no obligation to assist the Company in finding any source of financing for all or any portion of the property constituting the Project and the Company may endeavor to finance the Project to the extent required to finance the cost of the acquisition and installation of the Project.

Section 3.2. If the Project proceeds as contemplated:

(a) The Company agrees to enter into the Fee Agreement, under the terms of which it will obligate themselves to make the payments required by the FILOT Act including, but not limited to, Negotiated FILOT Payments at the rate calculated in accordance with Section 2.3(c) hereof;

(b) With respect to the Project, the Company agrees to reimburse the County for all out-of-pocket costs, including reasonable attorney's fees of the County actually incurred, and other out of pocket expenditures to third parties to which the County might be reasonably put with regard to executing and entering into this Agreement and the Fee Agreement;

(c) The Company agrees to hold the County harmless from all pecuniary liability including, without limitation, environmental liability, and to reimburse the County for all expenses to which the County might be put in the fulfillment of its obligations under this Agreement and in the negotiation and implementation of its terms and provisions, including reasonable legal expenses and fees;

(d) The Company agrees to apply for, and use commercially reasonable efforts to obtain, all permits, licenses, authorizations and approvals required by all governmental authorities in connection with the construction and implementation of the Project;

(e) The Company agrees to indemnify, defend and hold the County and the individual members, officers, agents and employees thereof harmless against any claim or loss or damage to property or any injury or death of any person or persons occurring in connection with the planning, design, acquisition, construction, leasing, carrying out or operation of the Project, including without limitation any environmental liability. The defense obligation shall be supplied with legal counsel reasonably acceptable to the County. The Company also agrees to reimburse or otherwise pay, on behalf of the County, any and all expenses, including reasonable attorneys' fees not hereinbefore mentioned incurred by the County in connection with the Project, including the review and execution of the Resolution and this Agreement; and

(f) The Company agrees to use commercially reasonable efforts to meet, or cause to be met, the Investment Target and the Jobs Creation Target during the Investment Period.

ARTICLE IV GENERAL PROVISIONS

Section 4.1. All commitments of the County under Article II hereof are subject to all of the provisions of the FILOT Act and the Multi-County Park Act, including, without limitation, the condition that nothing contained in this Agreement shall constitute or give rise to a pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing powers of either.

THIS AGREEMENT AND THE SPECIAL SOURCE CREDITS PROVIDED FOR HEREUNDER ARE LIMITED OBLIGATIONS OF THE COUNTY PROVIDED BY THE COUNTY SOLELY FROM THE FILOT PAYMENTS DUE WITH RESPECT TO THE PROJECT AND DOES NOT AND SHALL NEVER CONSTITUTE AN INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION (OTHER THAN THE PROVISIONS OF ARTICLE X, SECTION 14(10) OF THE SOUTH CAROLINA CONSTITUTION) OR STATUTORY LIMITATION, AND DOES NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY ARE NOT PLEDGED FOR THE SPECIAL SOURCE CREDITS.

Section 4.2. All commitments of the County and the Company hereunder are subject to the condition that the County and the Company agree on mutually acceptable terms and conditions of all documents, the execution and delivery of which are contemplated by the provisions hereof, and the adoption by the County Council of an ordinance authorizing the execution and delivery of such documents and approving the terms thereof. If the parties enter into the Fee Agreement, each party shall perform such further acts and adopt such further proceedings as may be required to faithfully implement its undertakings pursuant to such agreements.

Section 4.3. If for any reason this Agreement (as opposed to the Fee Agreement, which are contemplated to be negotiated, signed and delivered subsequent to the execution and delivery of this Agreement) is not executed and delivered by the Companies on or before December 31, 2018, the provisions of this Agreement may be cancelled by the County by delivery of written notice of cancellation signed by the County Administrator and delivered to the Company; thereafter neither party shall have any further rights against the other and no third parties shall have any rights against either party except that the Company shall pay the out-of-pocket expenses to third parties of officers, agents and employees of the County and counsel for the County incurred in connection with the authorization and approval of the Fee Agreement.

Section 4.4. The parties understand that the Company may choose not to proceed with the Project, in which event this Agreement shall be cancelled and, subject to parties' obligations described in Section 4.3 hereof, neither party shall have any further rights against the other, and no third party shall have any rights against either party.

Section 4.5. To the maximum extent allowable under the FILOT Act and the Multi-County Park Act, the Company may, with the prior consent of the County (which shall not be unreasonably withheld), assign (including, without limitation, absolute, collateral, and other assignments) all or part of their rights and/or obligations under this Agreement to one or more other entities, in connection with the Fee Agreement, without adversely affecting the benefits to the Company or its assignees pursuant hereto

or pursuant to the FILOT Act or the Multi-County Park Act; provided, however, that the Company may make any such assignment to an affiliate of the Company without obtaining the consent of the County, to the extent permitted by law.

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 and approved by appropriate legal process. No amendment, modification, or termination of this Agreement, and no waiver of any provisions 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 should be so construed or interpreted as to create any third party beneficiary rights in any form whatsoever nor any form of partnership or other legal entity relationship between the County and the Companies.

Section 4.8. This Agreement constitutes the entire agreement between the parties regarding the matters set forth herein. This Agreement shall be interpreted by the laws of the State.

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Inducement Agreement on the respective dates indicated below, as of the date first above written.

GREENVILLE COUNTY, SOUTH CAROLINA

Chairman of County Council

County Administrator

Attest:

By: _____
Clerk to County Council of Greenville County

[SIGNATURE PAGE 1 OF INDUCEMENT AGREEMENT]

PROJECT ORANGE

By: _____
Name: _____
Title: _____

[SIGNATURE PAGE 2 OF INDUCEMENT AGREEMENT]

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

I, the undersigned Clerk to County Council of Greenville County, South Carolina, do hereby certify that attached hereto is a true, accurate and complete copy of a resolution which was adopted by the County Council at its meeting of _____, 20__, at which meeting a quorum of members of the County Council were present and voted, and an original of which resolution is filed in the permanent records of the County Council.

Clerk to Greenville County Council

Dated: _____, 20__