

FILED  
OFFICE OF CLERK  
OF COURT

2019 SEP 12 AM 10:23

CLERK OF COURT  
LANCASTER, SC

STATE OF SOUTH CAROLINA

)

ORDINANCE NO. 2019-1603

COUNTY OF LANCASTER

)

AN ORDINANCE

TO AUTHORIZE THE EXECUTION AND DELIVERY OF A SPECIAL SOURCE REVENUE CREDIT AGREEMENT BY AND AMONG LANCASTER COUNTY, ADORNUS MANUFACTURING, LLC, AND, AS PROJECT AFFILIATE, ADORNUS HOLDINGS, LLC, PROVIDING FOR, AMONG OTHER THINGS, SPECIAL SOURCE REVENUE CREDITS.

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1.** Findings.

The Council finds that:

(a) Lancaster County, South Carolina (the "County") acting by and through its County Council (the "Council") is authorized by Section 4-1-170 of the Code of Laws of South Carolina 1976, as amended and Article VIII, Section 13(D) of the South Carolina Constitution (the "MCP Laws") and by Sections 4-1-175, 4-29-68 and 12-44-70, Code of Laws of South Carolina 1976, as amended (the "SSRC Law") (collectively, the MCP Laws and SSRC Law are referred to as the "Acts") to (i) create multi-county industrial parks in partnership with contiguous counties; (ii) include the property of eligible companies within such parks as an inducement to locate within the County, which inclusion under the terms of the MCP Laws makes such property exempt from *ad valorem* property taxes, therefore changing the character of the annual receipts from such properties from *ad valorem* property taxes to fees-in-lieu of *ad valorem* property taxes; and (iii) grant an annual credit against such fees-in-lieu of *ad valorem* property taxes receipts in order to assist a company in paying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the property of any company located within such multi-county industrial parks or for improved or unimproved real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise located within such multi-county parks in order to enhance the economic development of the County;

(b) Adornus Manufacturing, LLC, a South Carolina limited liability company, formerly known to the County as Project Grain, on its own or together with one or more of its subsidiaries, affiliates, successors, assigns, sponsors, lessors, and others (collectively, the "Company"), and, as Project Affiliate, Adornus Holdings, LLC, a South Carolina limited liability company, are considering establishing a manufacturing facility in the County and the Company anticipates the establishment of the manufacturing facility will result in an investment of approximately \$9,741,000 in personal and real property and approximately 210 new, full-time employees (the "Project");

(c) as an inducement to the Company to locate the Project in the County and at the request of the Company, the County has agreed to offer the Company special source revenue credits, as authorized by the SSRC Law, for the benefit of the Project and enter into a Special Source Revenue Credit Agreement with the Company (the "Credit Agreement"), which further sets out the details of the special source revenue credits;

(d) the Company has caused to be prepared and presented to the Council the form of the Credit Agreement; and

(e) it appears that the Credit Agreement, which is attached to this ordinance, is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

## **Section 2.      Approval of Credit Agreement.**

Subject to the provisions of Section 4 of this ordinance, and, in order to promote industry, develop trade, and utilize and employ the manpower, products, and natural resources of the State by assisting the Company to locate and maintain an industrial facility in the State, the Credit Agreement is hereby authorized, ratified, and approved.

## **Section 3.      Statutory Findings.**

Council makes the following additional findings:

(a) The County's actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the SSRC Law.

(b) The Project and the payments in lieu of taxes referenced herein are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made.

(c) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.

(d) 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.

(e) The purposes to be accomplished by the Project, *i.e.*, economic development and addition to the tax base of the County, are proper governmental and public purposes.

(f) The inducement of the location or expansion of the Project within the County and State is of paramount importance.

(g) The benefits of the Project to the public will be greater than the costs to the public.

## **Section 4.      Approval and Execution of Credit Agreement.**

A. The form, terms, and provisions of the Credit Agreement, attached hereto as Exhibit A, are approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the Credit Agreement was set out in this ordinance in its entirety. The Council Chair and Council Secretary are authorized, empowered, and directed to execute and acknowledge the Credit Agreement in the name of and on behalf of the County, and thereupon to cause the Credit Agreement to be delivered to

the Company, and, as Project Affiliate, Adornus Holdings, LLC. The Credit Agreement is to be in substantially the form as attached to this ordinance and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of counsel to the County, such officer's execution thereof to constitute conclusive evidence of such officer's approval of any and all changes or revisions therein from the form of the Credit Agreement attached to this ordinance.

B. The authority of the Council Chair and Council Secretary to execute and deliver the Credit Agreement is conditioned upon the Council of the City of Lancaster approving the provision of special source revenue credits to the Company as provided in the Credit Agreement.

**Section 5. Authority to Act.**

The Council Chair, Council Secretary, Clerk to Council, County Administrator, County Attorney and all other appropriate officials of the County are authorized and directed to do any and all things necessary to effect the execution and delivery of the Credit Agreement and the performance of all obligations of the County under and pursuant to the Credit Agreement.

**Section 6. Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 7. Controlling Provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 8. Effective Date.**

This ordinance is effective upon Third Reading.

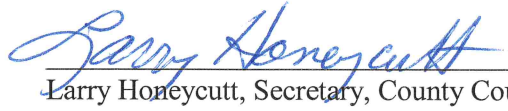
SIGNATURES FOLLOW ON NEXT PAGE.

AND IT IS SO ORDAINED

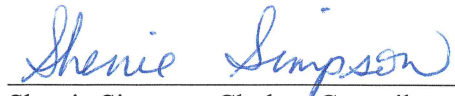
Dated this 9<sup>th</sup> day of September, 2019.

LANCASTER COUNTY, SOUTH CAROLINA

  
\_\_\_\_\_  
Steve Harper, Chair, County Council

  
\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

  
\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

First Reading:	August 12, 2019
Second Reading:	August 26, 2019
Public Hearing:	September 9, 2019
Third Reading:	September 9, 2019



**Exhibit A to Ordinance No. 2019-1603**

**Special Source Revenue Credit Agreement  
Lancaster County, South Carolina, Adornus Manufacturing, LLC,  
and  
As Project Affiliate, Adornus Holdings, LLC**

See attached.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

**SPECIAL SOURCE REVENUE CREDIT AGREEMENT**

AMONG

**LANCASTER COUNTY, SOUTH CAROLINA**

AND

**ADORNUS MANUFACTURING, LLC**

AND

**ADORNUS HOLDINGS, LLC**  
(as Project Affiliate)

DATED  
AS OF

SEPTEMBER 9, 2019

## TABLE OF CONTENTS

	PAGE
<b>ARTICLE I RULES OF CONSTRUCTION; DEFINITIONS .....</b>	<b>2</b>
SECTION 1.1 <i>Rules of Construction; Use of Defined Terms</i> .....	2
SECTION 1.2 <i>Definitions</i> .....	2
SECTION 1.3 <i>Amended Agreements and Documents</i> .....	4
<b>ARTICLE II LIMITATION OF LIABILITY .....</b>	<b>4</b>
SECTION 2.1 <i>Limitation of Liability</i> .....	4
<b>ARTICLE III REPRESENTATIONS AND COVENANTS .....</b>	<b>4</b>
SECTION 3.1 <i>Representations of the County</i> .....	4
SECTION 3.2 <i>Covenants by the County</i> .....	4
SECTION 3.3 <i>Representations of the Company</i> .....	5
SECTION 3.4 <i>Covenants by the Company</i> .....	5
<b>ARTICLE IV PAYMENTS-IN-LIEU-OF-TAXES; SPECIAL SOURCE REVENUE</b>	
<b>CREDIT; TERM</b> .....	<b>5</b>
SECTION 4.1 <i>Payments-in-Lieu-of-Taxes</i> .....	5
SECTION 4.2 <i>Special Source Revenue Credit</i> .....	6
SECTION 4.3 <i>Performance Requirements</i> .....	7
SECTION 4.4 <i>Term</i> .....	9
<b>ARTICLE V EFFECTIVE DATE .....</b>	<b>9</b>
SECTION 5.1 <i>Effective Date</i> .....	9
<b>ARTICLE VI SPECIAL COVENANTS .....</b>	<b>9</b>
SECTION 6.1 <i>Confidential Information</i> .....	9
SECTION 6.2 <i>Indemnification Covenants</i> .....	10
SECTION 6.3 <i>Assignment</i> .....	11
<b>ARTICLE VII EVENTS OF DEFAULT AND REMEDIES.....</b>	<b>11</b>
SECTION 7.1 <i>Events of Default Defined</i> .....	11
SECTION 7.2 <i>Default by the Company</i> .....	11
SECTION 7.3 <i>Default by County</i> .....	12
SECTION 7.4 <i>No Remedy Exclusive</i> .....	12
SECTION 7.5 <i>No Additional Waiver Implied by One Waiver</i> .....	12
<b>ARTICLE VIII COMPANY OPTION TO TERMINATE.....</b>	<b>12</b>
SECTION 8.1 <i>Company Option to Terminate</i> .....	12
<b>ARTICLE IX MISCELLANEOUS.....</b>	<b>12</b>
SECTION 9.1 <i>Notices</i> .....	13
SECTION 9.2 <i>Binding Effect</i> .....	14
SECTION 9.3 <i>Rescission and Severability</i> .....	14
SECTION 9.4 <i>Fiscal Year</i> .....	14
SECTION 9.5 <i>Amendments, Changes and Modifications</i> .....	14
SECTION 9.6 <i>Execution of Counterparts</i> .....	14
SECTION 9.7 <i>Law Governing Construction of Agreement</i> .....	14
SECTION 9.8 <i>Filings</i> .....	14
SECTION 9.9 <i>Filing of Reports and Certifications</i> .....	14

SECTION 9.10 *Headings* ..... 15

SECTION 9.11 *Further Assurance* ..... 15

SECTION 9.12 *Administrative Expenses* ..... 15

SIGNATURES FOLLOW ON NEXT PAGE..... 15

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.



## SPECIAL SOURCE REVENUE CREDIT AGREEMENT

This SPECIAL SOURCE REVENUE CREDIT AGREEMENT (this “**Agreement**”) is made and entered into as of September 9, 2019 (“**Effective Date**”), by and among LANCASTER COUNTY, SOUTH CAROLINA (the “**County**”), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the “**County Council**”) as governing body of the County and ADORNUS MANUFACTURING, LLC, a South Carolina limited liability company, formerly known to the County as Project Grain (the “**Company**”) (and as Project Affiliate, ADORNUS HOLDINGS, LLC, a South Carolina limited liability company).

### RECITALS

**WHEREAS**, the County is authorized by Section 4-1-170 of the Code of Laws of South Carolina 1976, as amended and Article VIII, Section 13(D) of the South Carolina Constitution (the “**MCP Laws**”) and by Sections 4-1-175, 4-29-68 and 12-44-70, Code of Laws of South Carolina 1976, as amended (the “**SSRC Law**”) (collectively, the MCP Laws and SSRC Law are referred to as the “**Acts**”) to (i) create multi-county industrial parks in partnership with contiguous counties; (ii) include the property of eligible companies within such parks as an inducement to locate within the County, which inclusion under the terms of the MCP Laws makes such property exempt from *ad valorem* property taxes, therefore changing the character of the annual receipts from such properties from *ad valorem* property taxes to fees-in-lieu of *ad valorem* property taxes; and (iii) grant an annual credit against such fees-in-lieu of *ad valorem* property taxes receipts in order to assist a company in paying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the property of any company located within such multi-county industrial parks or for improved or unimproved real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise located within such multi-county parks in order to enhance the economic development of the County;

**WHEREAS**, Company, on its own or together with one or more of its subsidiaries, affiliates, successors, assigns, sponsors, lessors, and others, is considering establishing a manufacturing facility in the County and the Company anticipates the establishment of the manufacturing facility will result in an investment of approximately \$9,741,000 in personal and real property and approximately 210 new, full-time employees (the “**Project**”);

**WHEREAS**, as authorized by the MCP Laws, the County and Chester County entered into an Agreement for the Development of a Joint Industrial and Business Park, dated as of December 1, 2008 (the “**Park Agreement**”);

**WHEREAS**, the County and Chester County previously acted to include in the Park Agreement the parcel of land on which the Project will be located (Tax Map No. 0067-00-008.01; 1551 Highway 9 Bypass) (the “**Land**”);

**WHEREAS**, as an inducement to the Company to locate the Project in the County and at the request of the Company, the County has agreed to offer the Company special source revenue credits, as authorized by the SSRC Law, for the benefit of the Project and enter into this

Agreement with the Company which further sets out the details of the special source revenue credits;

**WHEREAS**, upon achievement thereof but no later than December 31, 2023, the Company has committed to thereafter maintain during the term of this Agreement taxable investment at the Project of not less than \$2,500,000 (“**Minimum Investment Commitment**”) and maintain at the Project no less than 10 Full-Time Jobs (as defined below) in connection with the Project.

**NOW, THEREFORE, FOR AND IN CONSIDERATION** of the respective representations and agreements hereinafter contained and other value, the parties hereto agree as follows:

## **ARTICLE I RULES OF CONSTRUCTION; DEFINITIONS**

**SECTION 1.1 *Rules of Construction; Use of Defined Terms.*** Unless the context clearly indicates otherwise, in this Agreement words and terms defined in Section 1.2 hereof are used with the meanings ascribed thereto.

### **SECTION 1.2 *Definitions.***

“**Acts**” has the meaning set forth in the Recitals.

“**Administrative Expenses**” has the meaning set forth in Section 9.12 of this Agreement.

“**Agreement**” means this Special Source Revenue Credit Agreement dated as of September 9, 2019, among the County and the Company.

“**Company**” means Adornus Manufacturing, LLC, a South Carolina limited liability company, and its successors and assigns.

“**County Council**” means the governing body of the County.

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

“**Documents**” means the Ordinance and this Agreement.

“**Equipment**” means all machinery, apparatus, equipment, fixtures, office facilities, furnishings and other tangible personal property located on or at the Real Property to the extent such is used in the operation of the Project.

“**Event of Default**” means any Event of Default specified in Section 7.1 of this Agreement.

**“Full-Time Job”** means a full-time job (*i.e.*, at least thirty (30) hours per week) at the Project.

**“Improvements”** means improvements to the Real Property together with any and all additions, accessions, replacements and substitutions thereto or therefor, and all fixtures now or hereafter attached thereto.

**“Infrastructure Improvements”** means, in accordance with the Acts, the designing, acquiring, constructing, improving or expanding the infrastructure serving the County and for improved or unimproved real estate, buildings and structural components of buildings, including upfits. Upon the written election by the Company and written notice to the County, personal property, including the Equipment, and such other items as may be described in or permitted under Section 4-29-68 of the Acts, shall also be included.

**“Investment Period”** means the period beginning when the Company first acquires property for the Project and ending on December 31, 2023.

**“Land”** has the meaning set forth in the Recitals.

**“Minimum Investment Commitment”** has the meaning set forth in the Recitals.

**“MCP Laws”** has the meaning set forth in the Recitals.

**“Ordinance”** means Ordinance No. 2019-1603, enacted by the County Council on September 9, 2019, authorizing and approving this Agreement.

**“Park”** means the multi-county park jointly developed by the County and Chester County pursuant to the Park Agreement, or a successor multi-county park established pursuant to the MCP Laws.

**“Park Agreement”** has the meaning set forth in the Recitals.

**“Payments-in-Lieu-of-Taxes”** means the payments to be made by the Company pursuant to Section 4.1 of this Agreement.

**“Project”** has the meaning set forth in the Recitals.

**“Project Affiliate”** is any individual or entity that participates in the Project, including that affiliate of the Company, Adornus Holdings, LLC.

**“Qualified Full-Time Job”** means a full-time job (*i.e.*, at least thirty (30) hours per week) at the Project, with health care benefits, paying an hourly wage not less than the Wage Requirement. As used in this definition and as applicable to the Project, “Qualified Full-Time Job” includes only those jobs employed by the Company for the Project. “Qualified Full-Time Jobs” does not include those jobs staffed using a temporary employment agency or staffing agency.

**“Real Property”** means the Land together with all and singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto; all Improvements now or hereafter situated thereon; and all fixtures now or hereafter attached thereto.

**“SCDOR”** means the South Carolina Department of Revenue and any successor thereto.

**“Special Source Revenue Credit”** or **“SSRC”** has the meaning set forth in Section 4.2 of this Agreement.

**“State”** means the State of South Carolina.

**“Wage Requirement”** means Fifteen Dollars (\$15.00) per hour. The hourly wage rate of fifteen dollars (\$15.00) shall be adjusted on December 31, 2024, to the lower of either sixteen dollars and eighty-eight cents (\$16.88) or the then current per capita hourly wage rate for the County as published by the SCDOR.

**SECTION 1.3 *Amended Agreements and Documents.*** Unless the context clearly indicates otherwise, any reference to any agreement or document in this Article or otherwise in this Agreement shall be deemed to include any and all amendments, supplements, addenda and modifications to such agreement or document.

## **ARTICLE II LIMITATION OF LIABILITY**

**SECTION 2.1 *Limitation of Liability.*** This Agreement imposes no obligation on the County for the payment of money. Any obligation which may be imposed on the County by this Agreement does not and shall never constitute an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation and shall never create a pecuniary liability of the County or a charge upon its general credit or against its taxing powers.

## **ARTICLE III REPRESENTATIONS AND COVENANTS**

**SECTION 3.1 *Representations of the County.*** The County represents that (i) it is a body politic and corporate and a political subdivision of the State, (ii) it is authorized by the Acts to enter into this Agreement, (iii) it has approved this Agreement in accordance with the procedural requirements of the Acts and any other applicable state law and the applicable County Council rules, and (iv) it has authorized its officials to execute and deliver this Agreement.

### **SECTION 3.2 *Covenants by the County.***

(a) The County covenants with the Company to maintain the Land in the Park for so long as the Company receives Special Source Revenue Credits pursuant to this Agreement.



(b) The County covenants with the Company to receive and administer, as grantee and in accordance with applicable law, for the benefit of the Project any monetary grant for the Project received from the State Coordinating Council on Economic Development.

**SECTION 3.3 *Representations of the Company.*** The Company represents that (i) it is a limited liability company organized, validly existing, and in good standing under the laws of the State, (ii) it has the power to enter into this Agreement, (iii) it has by proper action approved this Agreement, and (iv) it has authorized its officials to execute and deliver this Agreement.

**SECTION 3.4 *Covenants by the Company.*** The Company covenants with the County to maintain a membership in the Lancaster County Chamber of Commerce for so long as it exists for the term of this Agreement.

## **ARTICLE IV PAYMENTS-IN-LIEU-OF-TAXES; SPECIAL SOURCE REVENUE CREDIT; TERM**

### **SECTION 4.1 *Payments-in-Lieu-of-Taxes.***

(a) The parties acknowledge that under the MCP Laws, the Project is exempt from *ad valorem* property taxes. However, the Company shall be required to make annual Payments-in-Lieu-of-Taxes with respect to the Project in an amount equal to what such *ad valorem* property taxes would be if the Project were not located in the Park, less the Special Source Revenue Credits that are provided in Section 4.2. The Payments-in-Lieu-of-Taxes to be made by the Company under this Agreement shall be calculated in the same manner as *ad valorem* taxes. The collection and enforcement of the Payments-in-Lieu of Taxes shall be as provided in Section 12-2-90, Code of Laws of South Carolina 1976, as amended.

(b) Further, pursuant to the Acts as existing on the date of this Agreement, if the Company has made a written election to include, as part of the Infrastructure Improvements, the Equipment, and has provided notice to the County of such election, and the Company subsequently removes or disposes of Equipment from the Project during the term of this Agreement and has claimed a Special Source Revenue Credit against its Payments-in-Lieu-of-Taxes based upon such Equipment, then the Company is required to continue to make Payments-in-Lieu-of-Taxes on the removed Equipment for the two years immediately following the year in which the Company removes the Equipment from the Project. The amount of the Payments-in-Lieu-of-Taxes due on the removed Equipment under the Acts is equal to the Payment-in-Lieu-of-Taxes due on the Equipment for the year in which the Company removes or disposes of the Equipment. If the Company replaces the Equipment with qualifying replacement property, as defined in the Acts, then the removed Equipment is deemed not to have been removed from the Project. Notwithstanding anything in this subsection to the contrary, the Company shall be required to make the Payments-in-Lieu-of-Taxes required in this subsection only if and to the extent that the Acts so require at the time that the Equipment in question is removed or disposed of.

## **SECTION 4.2 *Special Source Revenue Credit.***

(a) *Special Source Revenue Credit #1.* Subject to the provisions of this subsection (a), the County grants to the Company a Special Source Revenue Credit ("Special Source Revenue Credit #1") for a period of eighteen (18) years against each annual Payment-in-Lieu-of-Taxes due from the Company in the following amounts: (i) for each of the initial fifteen (15) years of the eighteen (18) year period, the Special Source Revenue Credit #1 shall equal an amount that would allow the Company's remaining Payment-in-Lieu-of-Taxes, after deduction of Special Source Revenue Credit #1 but before deduction of Special Source Revenue Credit #2, to be equivalent to an amount calculated using a 6% assessment ratio and a millage rate of 498.3; and (ii) for years sixteen (16), seventeen (17) and eighteen (18), the Special Source Revenue Credit #1 shall equal 10.75%, 8.6% and 3%, respectively, of the Payment-in-Lieu-of-Taxes liability calculated pursuant to Section 4.1(a) of this Agreement. Credit Period #1 shall commence with the Payment-in-Lieu-of-Taxes bill sent to the Company in the fall of 2025 with payment due on or before January 15, 2026 and the last year of Credit Period #1 shall be with the Payment-in-Lieu-of-Taxes bill sent to the Company in the fall of 2042 with payment due on or before January 15, 2043 ("Credit Period #1"). Special Source Revenue Credit #1 does not apply in any year in which the Company is using the exemption provided by Section 3(g) of Article X of the State Constitution (the five-year abatement).

(b) *Special Source Revenue Credit #2.* Subject to the provisions of this subsection (b), the County grants to the Company an additional Special Source Revenue Credit ("Special Source Revenue Credit #2") against each annual Payment-in-Lieu-of-Taxes, for a period of fourteen (14) years, due from the Company as follows: (i) for each of the initial ten (10) years of the fourteen (14) year period, an amount equal to 50% of the annual Payment-in-Lieu-of-Taxes liability (the amount remaining after Special Source Revenue Credit #1 is applied, if applicable); and (ii) for years eleven (11), twelve (12), thirteen (13), and fourteen (14) of the fourteen (14) year period, the Special Source Revenue Credit #2 will only equal 12.5%, 10%, 3.5% and 3.5%, respectively, of the remaining Payment-in-Lieu-of-Taxes liability. The period during which the County grants Special Source Revenue Credit #2 shall commence with the Payment-in-Lieu-of-Taxes bill sent to the Company in the fall of 2020 with payment due on or before January 15, 2021 and ends with the Payment-in-Lieu-of-Taxes bill sent to the Company in the fall of 2033 with payment due on or before January 15, 2034 ("Credit Period #2"). For years in which Special Source Revenue Credit #1 is applied, Special Source Revenue Credit #2 is applied after deduction of Special Source Revenue Credit #1. Special Source Revenue Credit #2 is applied only if the Company has met the Special Source Revenue Credit #2 Performance Requirement (as defined below).

(c) Notwithstanding anything in this Agreement to the contrary, the Company is entitled to an SSRC only to the extent that, as of the date that an SSRC is to be applied, the total cost of the Infrastructure Improvements is at least equal to the aggregate amount of any SSRC previously provided and the amount of the SSRC to be provided for the year in question. Upon request of the County, the Company shall provide documentation to the County reflecting the cost of the Infrastructure Improvements.



(d) For purposes of this Section 4.2 and Section 4.3, “year” means the twelve-month period January 1 through December 31.

(e) Special Source Revenue Credit #1 and Special Source Revenue Credit #2 shall collectively be referred to herein as Special Source Revenue Credits.

(f) To the extent a Project Affiliate invests in the Project, the Project Affiliate shall receive the same benefits against its Payment-in-Lieu-of-Taxes as the Company receives and subject to the same conditions and requirements.

#### **SECTION 4.3 *Performance Requirements.***

(a) The Company shall receive the Special Source Revenue Credit #1 so long as the Company meets the Minimum Investment Commitment by the end of the Investment Period (and maintains it each year thereafter) and the average number of Full-Time Jobs is not less than 10 for the preceding year, to be tested for each year of Credit Period #1 by the County Economic Development Director (the “Special Source Revenue Credit #1 Performance Requirement”). For Special Source Revenue Credit #1, the test for compliance shall be based on the average number of Full-Time Jobs for the preceding year.

(b) If the Company meets the Special Source Revenue Credit #1 Performance Requirement (except in those years prior to the qualification for Special Source Revenue Credit #1, in which years the Special Source Revenue Credit #1 Performance Requirement shall not be applicable), then the Company shall receive Special Source Revenue Credit #2 so long as the Company satisfies the Special Source Revenue Credit #2 Performance Requirement. “Special Source Revenue Credit #2 Performance Requirement” means the creation and maintenance of the number of Qualified Full-Time Jobs at the following levels and in the designated timeframes:

(i) to have employed in Qualified Full-Time Jobs an average of not less than 0 during the year ending December 31, 2019,

(ii) to have employed in Qualified Full-Time Jobs an average of not less than 20 during the year ending December 31, 2020,

(iii) to have employed in Qualified Full-Time Jobs an average of not less than 30 during the year ending December 31, 2021,

(iv) to have employed in Qualified Full-Time Jobs an average of not less than 40 during the year ending December 31, 2022 through 2032.

(c) The Company agrees to submit to the County Economic Development Director, not later than June 30 of each year, a certification on Company letterhead certifying the number of Qualified Full-Time Jobs created and maintained by the Company for each month of the preceding year.

(d) For purposes of determining compliance with the Special Source Revenue Credit #1 Performance Requirement and the Special Source Revenue Credit #2 Performance Requirement, Company agrees to provide to the County Economic Development Director, not later than June 30 of each year, a copy of all of the following Company's filings with the State (if required to be filed with the State) for the preceding calendar year: (i) reports submitted to the South Carolina Coordinating Council for Economic Development with respect to any Job Development Credits awarded in connection with the Project, (ii) Department of Revenue Form SC SCH. TC 4 (New Jobs Credit), and (iii) South Carolina Department of Employment and Workforce quarterly contribution and wage reports (such as Form UCE 120). The Company agrees to redact any personally identifying information and proprietary and confidential information prior to submitting any form to the County Economic Development Director. In lieu of providing any of the forms specifically identified in this subsection, Company and the County Economic Development Director may agree on an alternative method for the Company to demonstrate compliance with the Special Source Revenue Credit #1 Performance Requirement and the Special Source Revenue Credit #2 Performance Requirement.

(e) *Special Source Revenue Credit #1 Penalty.* Both the Special Source Revenue Credit #1 Performance Requirement and the Special Source Revenue Credit #2 Performance Requirement shall be tested as set forth herein by the County Economic Development Director. If the Special Source Revenue Credit #1 Performance Requirement is not satisfied during any applicable property tax year, the Company shall not be entitled to any Special Source Revenue Credit #1 and any Special Source Revenue Credit #2 (except during the term of the Investment Period) otherwise due and shall be required to pay a Payment-in-Lieu-of-Taxes computed in accordance with Section 4.1(a) of this Agreement but without any Special Source Revenue Credit, *provided, however*, the Payment-in-Lieu-of-Taxes shall be computed with regard to any applicable property tax exemptions.

(f) *Special Source Revenue Credit #2 Penalty.* The Special Source Revenue Credit #2 Performance Requirement shall be tested annually as set forth herein by the County Economic Development Director. If the Special Source Revenue Credit #2 Performance Requirement is not satisfied during any applicable year, the amount of Special Source Revenue Credit #2 to which the Company is entitled shall be subject to a pro-rata reduction, to be calculated in accordance with the following:

**Special Source Revenue Credit #2 Amount = 50% x Special Source Revenue Credit #2 Achievement Percentage**

**Special Source Revenue Credit #2 Achievement Percentage = Actual Qualified Full-Time Jobs Created (per Section 4.3(b)) / Special Source Revenue Credit #2 Performance Requirement**

*For example, and by way of example only, if 20 Qualified Full-Time Jobs had been achieved during a certain year, and the requirement was 30, the reduction in Special Source Revenue Credits would be calculated as follows:*



*Special Source Revenue Credit #2 Achievement Percentage = 20/30 = 66.67%*

*Special Source Revenue Credit #2 Amount = 50% x 66.67% = 33.33%*

Unless otherwise provided in this Agreement, the Company's failure to satisfy the Minimum Investment Commitment, the Special Source Revenue Credit #1 Performance Requirement, or the Special Source Revenue Credit #2 Performance Requirement in any applicable year shall not affect the Company's right to receive the Special Source Revenue Credit #1 or Special Source Revenue Credit #2 for any subsequent tax year.

(g) Notwithstanding any other provision of this Agreement, Company acknowledges and agrees that County's obligation to provide the Special Source Revenue Credits set forth herein shall end, and this Agreement shall be terminated, if the Company ceases operations. For purposes of this Section 4.3(g), "cease operations" means permanent closure of the facility. Company agrees that if this Agreement is terminated pursuant to this Section 4.3(g), that under no circumstance shall the County be required to refund or pay any monies to Company.

(h) In the determination of the Company's compliance with any investment and job creation requirements set forth in this Agreement, the County shall take into account the investments made and the jobs created by any Project Affiliate and consider same as if such investment made and jobs created were that of the Company.

**SECTION 4.4 Term.** Except for those provisions which are intended to survive termination of this Agreement, the term of this Agreement shall be from the Effective Date until the last day of the year in which the Company is eligible for the Special Source Revenue Credits provided in Section 4.2 of this Agreement unless earlier terminated pursuant to Section 4.3(g) hereof or pursuant to the exercise by the Company of its option to terminate pursuant to Section 8.1 hereof.

## **ARTICLE V EFFECTIVE DATE**

**SECTION 5.1 Effective Date.** This Agreement is effective as of the Effective Date.

## **ARTICLE VI SPECIAL COVENANTS**

**SECTION 6.1 Confidential Information.**

(a) The Company agrees that the County and its authorized agents have the right at all reasonable times and upon prior reasonable notice to enter upon and examine and inspect the Project and to have access to and examine and inspect all the Company's books and records pertaining to the Project for the purpose of determining the Company's compliance with this Agreement. The right of examination and inspection shall be exercised only upon reasonable and necessary terms and conditions prescribed by the Company to protect the Company's

confidentiality and proprietary rights, including but not limited to, requiring the County to enter into certain non-disclosure agreements, mutually satisfactory to the parties to this Agreement.

(b) The County acknowledges and understands that the Company may have and maintain at the Project certain confidential and proprietary information, including, but not limited to, trade secrets, financial, sales or other information concerning the Company's operations and processes ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to the Company and could have a significant detrimental impact on the Company's employees and also upon the County. Except as required by law, including, without limitation, court orders, the County agrees to use its best reasonable efforts to keep confidential, and to cause employees, agents and representatives of the County to keep confidential, the Confidential Information which may be obtained from the Company, its agents or representatives, when the Confidential Information is clearly marked and identified as Confidential Information and known to the County to be Confidential Information. The County shall not knowingly and willfully disclose and shall cause all employees, agents and representatives of the County not to knowingly and willfully disclose the marked and identified Confidential Information to any person or entity other than in accordance with the terms of this Agreement. If a demand is made for the release, under color of law, to a third party of any Confidential Information, the County shall notify the Company and give the Company the opportunity to contest the release.

#### **SECTION 6.2 *Indemnification Covenants.***

(a) The Company shall and agrees to hold the County and its County Council members, officers, agents and employees harmless from all pecuniary liability based upon those reasons set forth in subsection (b) below. Such indemnification obligation shall survive any termination of this Agreement.

(b) Notwithstanding the fact that it is the intention of the parties that neither the County nor any of its County Council members, officers, agents and employees shall incur any pecuniary liability to any third party (i) by reason of the terms of this Agreement or the undertakings of the County required hereunder, (ii) by reason of the performance of any act in connection with the entering into and performance of the transactions described in the Documents, or (iii) by reason of the condition or operation of the Project, including claims, liabilities or losses arising in connection with the violation of any statutes or regulations, if the County or any of its County Council members, officers, agents or employees should incur any such pecuniary liability, then, in that event the Company shall indemnify and hold harmless the County and its County Council members, officers, agents and employees against all pecuniary 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. The provisions of this Section 6.2 shall survive any termination of this Agreement.

(c) Notwithstanding the foregoing, the Company shall not be obligated to indemnify the County or any of its individual members, officers, agents and employees for expenses, claims,



losses or damages arising from the intentional or willful misconduct or negligence of the County or any of its individual officers, agents or employees.

**SECTION 6.3 *Assignment.*** With the County's consent, which shall not be unreasonably withheld, any or all of the Company's interest in the Project and/or this Agreement may be transferred or assigned by the Company or any assignee to any other entity, without the termination of the benefits provided in this Agreement. The County hereby expressly consents to any such transfer or assignment by the Company to any Company affiliate. The County agrees that the County Council can provide any required consent by a resolution of County Council.

## **ARTICLE VII EVENTS OF DEFAULT AND REMEDIES**

**SECTION 7.1 *Events of Default Defined.*** The occurrence of any one or more of the following events shall be an "Event of Default" under this Agreement:

(a) If the Company shall fail to make any Payment-in-Lieu-of-Taxes or payment of any other amount required under this Agreement and such failure shall continue for 30 days after receiving written notice of default from the County; or

(b) If the Company shall fail to observe or perform any covenant, condition, or agreement required herein to be observed or performed by the Company (other than as referred to in subsection (a) above), and such failure shall continue for a period of 30 days after written notice of default has been given to the Company by the County; *provided, that*, if, by reason of "*force majeure*", as hereinafter defined, the Company is unable in whole or in part to carry out any such covenant, condition, or agreement or if it takes longer than 30 days to cure such default and the Company is diligently attempting to cure such default during such period, there shall be no Event of Default during such inability. The term "*force majeure*" as used herein shall mean circumstances not reasonably within the control of the parties, such as, without limitation, acts of God, strikes, lockouts or other industrial disturbances; war; acts of public enemies; mobilization or military conscription on a large scale; order of any kind of the government of the United States or any State, or any civil or military authority other than the County Council; insurrections; riots; landslides; earthquakes; fires; lightning; storms; droughts; floods; requisitions, confiscation, or commandeering of property; fuel restrictions; general shortages of transport, goods, or energy; or

(c) If any material representation or warranty on the part of the Company made in the Documents, or in any report, certificate, financial or other statement furnished in connection with the Documents or the transactions described in the Documents shall have been false or misleading in any material respect.

**SECTION 7.2 *Default by the Company.*** Whenever any Event of Default by the Company shall have happened and be subsisting, the County may terminate this Agreement and/or take whatever action at law or in equity may appear legally required or necessary or desirable to collect any payments then due. As set forth in Section 8.1 hereof, the Company may terminate this Agreement at any time upon providing 30 days' notice to the County, without

regard to any Event of Default. Although the parties acknowledge that the Project is exempt from *ad valorem* taxes, the County and any other taxing entity affected thereby may, without limiting the generality of the foregoing, enforce the collection of the Payments-in-Lieu of Taxes as provided in Section 12-2-90, Code of Laws of South Carolina 1976, as amended, and exercise the remedies provided by general law (Title 12, Chapter 49) and the laws relating to the enforced collection of taxes, and shall have a first priority lien status as provided in the Acts and Chapters 4 and 54 of Title 12, Code of Laws of South Carolina 1976, as amended.

**SECTION 7.3 *Default by County.*** Upon the default of the County in the performance of any of its obligations hereunder, the Company may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation a suit for mandamus or specific performance.

**SECTION 7.4 *No Remedy Exclusive.*** No remedy herein conferred upon or reserved to the County or Company is intended to be exclusive of any other available remedy or remedies, but in each and every instance such remedy shall be cumulative and shall be in addition to every other remedy given under the Documents or now or hereafter existing at law or in equity or by statute. Unless otherwise provided herein or in the other Documents, no delay or omission to exercise any right or power 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.

**SECTION 7.5 *No Additional Waiver Implied by One Waiver.*** In the event any warranty, covenant or agreement contained in this Agreement should be breached by the Company or the County and thereafter waived by the other party to this Agreement, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach.

## **ARTICLE VIII COMPANY OPTION TO TERMINATE**

**SECTION 8.1 *Company Option to Terminate.*** From time to time (including without limitation any time during which there may be subsisting an Event of Default) and at any time upon at least 30 days' notice, the Company may terminate this Agreement with respect to the entire Project or any portion thereof. Upon termination of all or part of this Agreement, the Company will become liable, prospectively but not retroactively, for Payments-in-Lieu-of-Taxes computed in accordance with Section 4.1(a) of this Agreement but without any Special Source Revenue Credits, *provided, however*, the Payments-in-Lieu-of-Taxes shall be computed with regard to any applicable property tax exemptions on the Project or such portion thereof as is so terminated from inclusion in the Project, as well as for any amounts already due and owing under this Agreement, which latter amounts, if any, shall be paid to the County with the next installment of Payments-in-Lieu-of-Taxes pursuant to Section 4.1. The Company agrees that if this Agreement is terminated pursuant to this Section 8.1, that under no circumstance shall the County be required to refund or pay any monies to the Company.

## **ARTICLE IX MISCELLANEOUS**



**SECTION 9.1 Notices.** All notices, approvals, consents, requests and other communications hereunder shall be in writing and may be delivered personally, or may be sent by certified mail, return receipt requested, to the following addresses, unless the parties are subsequently notified of any change of address in accordance with this Section 9.1:

If to the Company:

Adornus Manufacturing, LLC  
Attn: Tax Manager  
1551 Highway 9 Bypass  
Lancaster, South Carolina 29720  
Telephone: (201) 577-5421  
Facsimile: (732) 453-1628  
Email: BLi@adornus.com

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

Parker Poe Adams & Bernstein LLP  
Attn: Sam Moses  
1221 Main Street, Suite 1100  
Columbia, South Carolina 29201  
Telephone: (803) 255-8000  
Email: sammoses@parkerpoe.com

To the County:

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

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

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

Any notice shall be deemed to have been received as follows: (1) by personal delivery, upon receipt; or (2) by certified mail, three (3) business days after delivery to the U.S. Postal authorities by the party serving notice.

**SECTION 9.2 *Binding Effect.*** This Agreement shall inure to the benefit of and shall be binding upon the County and the Company and their respective successors and assigns.

**SECTION 9.3 *Rescission and Severability.*** In the event that the Acts or the Special Source Revenue Credit arrangement described in Article IV hereof is determined to be invalid in its entirety, the parties hereby agree that except as the final judicial decision may otherwise require, the Company shall be entitled to retain any benefits received under or pursuant to this Agreement; otherwise, in the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, that decision shall not invalidate or render unenforceable any other provision of this Agreement, unless that decision destroys the basis for the transaction, in which event, at the expense and sole discretion of the Company, the parties shall in good faith attempt to preserve, to the maximum extent possible, the benefits provided and to be provided to the Company hereunder by either restructuring or reconstituting this Agreement under any then applicable law.

**SECTION 9.4 *Fiscal Year.*** If the Company's fiscal year changes in the future, the timing of the requirements set forth in this Agreement shall, as appropriate and as needed, be automatically revised accordingly, to the extent allowed by law.

**SECTION 9.5 *Amendments, Changes and Modifications.*** Except as otherwise provided in this Agreement, this Agreement may not be amended, changed, modified, altered or terminated without the written consent of the County and the Company. To the maximum extent allowed by law, any County consent, including specifically and without limitation any County consent referred to in this Agreement, may be provided by a resolution of County Council.

**SECTION 9.6 *Execution of Counterparts.*** This Agreement may be executed in several counterparts, each of which shall constitute an original instrument.

**SECTION 9.7 *Law Governing Construction of Agreement.*** The laws of South Carolina shall govern the construction of this Agreement.

**SECTION 9.8 *Filings.*** The Company shall cause a copy of this Agreement to be filed with the County Auditor and the County Assessor within thirty (30) days after the date of execution and delivery hereof.

**SECTION 9.9 *Filing of Reports and Certifications.*** Each year during the term of this Agreement, the Company shall deliver to the County Auditor, the County Assessor, the County Treasurer, and the County Economic Development Director a copy of its most recent annual filings with the SCDOR with respect to the Project, not later than the later of June 30 or 30 days following delivery thereof to the SCDOR.

**SECTION 9.10 *Headings*.** The headings of the articles and sections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Agreement.

**SECTION 9.11 *Further Assurance*.** From time to time the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request to effectuate the purposes of this Agreement.

**SECTION 9.12 *Administrative Expenses*** (a) Company agrees to reimburse the County from time to time for its Administrative Expenses actually incurred in connection with the Project promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County. The written request shall include a description of the nature of the Administrative Expenses. The Company and the County agree that the Administrative Expenses shall not exceed \$8,000 in the aggregate. As used in this section, "Administrative Expenses" means the reasonable and necessary out-of-pocket expenses, including attorneys' fees, incurred by the County with respect to (i) the preparation, review, approval and execution of this Agreement, (ii) the preparation, review, approval and execution of any related multi-county park documents, (iii) the preparation, review, approval and execution of other documents related to the Agreement and multi-county park documents, and (iv) the fulfillment of its obligations under this Agreement and any multi-county park documents, and in the implementation and administration of the terms and provisions of the documents after the date of execution thereof.

(b) In addition to the reimbursement of Administrative Expenses as provided in subsection (a) of this section, the Company agrees to reimburse the County for expenses incurred by the County for accountants and similar experts used by the County in the computation, preparation and verification of the annual Payments-in-Lieu-of-Taxes and any special source revenue credits, *provided, however*, the maximum annual reimbursement pursuant to this subsection is capped at five hundred dollars (\$500.00).

SIGNATURES FOLLOW ON NEXT PAGE.

IN WITNESS WHEREOF, LANCASTER COUNTY, SOUTH CAROLINA, and ADORNUS MANUFACTURING, LLC (and as Project Affiliate, ADORNUS HOLDINGS, LLC), pursuant to due authority, have duly executed this Special Source Revenue Credit Agreement, all as of the Effective Date.

**LANCASTER COUNTY, SOUTH CAROLINA**

By: \_\_\_\_\_  
Steve Harper, Chair, County Council

\_\_\_\_\_  
Larry Honeycutt, Secretary, County Council

ATTEST:

\_\_\_\_\_  
Sherrie Simpson, Clerk to Council

**ADORNUS MANUFACTURING, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ADORNUS HOLDINGS, LLC**  
(As Project Affiliate)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_