

**ARTICLE 3
STATE AND LOCAL COMMITMENTS**

3.1 Site Related Financial Assistance

3.1.1 County Purchase of Land. Subject to approval by the County Council, it is anticipated by the parties that the County will provide the Land to the Company (or a Third Party or Affiliate, as determined by the Company) for the Project at no cost.

3.1.2 Set-Aside Grant. The Secretary of Commerce, as Chairman of the Coordinating Council, will recommend, subject to approval by the Coordinating Council, that the Coordinating Council approve a grant of \$2.5 million to be used to partially reimburse the County for the acquisition of the Land and previous construction by the County of infrastructure serving the Land, see Exhibit C. The Company will be required to enter into the Performance Agreement and to satisfy the job creation and capital investment requirements set forth therein, and the County and the Coordinating Council will enter into a Grant Award Agreement. Funds under the Set-Aside Grant will be made available in accordance with the Coordinating Council's guidelines and procedures, a copy of which is attached hereto as Exhibit D, and the terms of the Performance Agreement and the Grant Award Agreement.

3.1.3 Nexus Safe Harbor Legislation. Section 12-6-60 of the Code of Laws of South Carolina, 1976, as amended (the "SC Code"), provided that owning or utilizing a distribution facility (as defined therein) within the State would not be considered in determining whether the company has nexus with the State for income tax, corporate license fee or sales tax purposes. However, this provision was repealed for tax years beginning after June 9, 2010. Subject to available resources and to the extent permitted by law, DOC agrees to use its good faith, best efforts to obtain legislation to renew and extend the nexus safe harbor provision.

3.1.4 [Reserved.]

3.1.5 [Reserved]

3.1.6 [Reserved.]

3.1.7 Job Development Credits. Upon application by the Company and subject to approval by the Coordinating Council, the Company and the Coordinating Council will enter into a revitalization agreement in the form attached as Exhibit E (the "Revitalization Agreement"), pursuant to which the Company will be eligible to claim "Job Development Credits" in accordance with Section 12-10-80 of the SC Code and the terms of the Revitalization Agreement. Such credits shall be in the form of a refund of a portion of the withholding tax liability owed by the Company on behalf of its employees to the State. The Company may use Job Development Credits refunded to the Company to reimburse the Company for eligible project costs incurred in connection with construction of and improvements to real property, pollution control equipment, build to suit lease costs for the Land and Facility, and such other items as may be permitted by law and as approved by the Coordinating Council and as set forth in the Revitalization Agreement. Only Qualified Jobs paying at or above \$17.98 per hour or Qualified Jobs paying at or above \$12.00 per hour that are subject to a bonus plan will be eligible for Job Development Credits. Job Development Credits are limited to \$3,250 per employee, per

year. The Job Development Credits shall run for a period of 10 years, beginning once the Company has certified that it has met the Minimum Investment Requirement and the Minimum Job Requirement and begins claiming Job Development Credits. A company may not begin claiming Job Development Credits later than the first quarter following the fifth anniversary of its date of approval.

3.1.8 Permitting. Subject to available resources and to the extent permitted by law, DOC will assist with the identification, coordination, and timely issuance of all State, County and local construction, zoning, environmental and other permits, approvals and consents that may be necessary or desirable in connection with the construction of the Project and the operation thereof by the Company. Based upon the information provided to DOC by the Company concerning the Project, and to the best of its knowledge, DOC presently foresees no problem with respect to the permitting of the Project by the County or the State of South Carolina.

3.1.9 Training. DOC agrees use its best efforts to assist the Company in obtaining a commitment from readySC™, subject to approval by the South Carolina State Board for Technical and Comprehensive Education, to allow readySC™ to work closely with the Company through a comprehensive and customized process that includes recruiting, screening, and training workers to meet the Company's specifications. See attached Exhibit E.

3.2 State Income Tax Credits and Exemptions.

3.2.1. Statutory Tax Credits. Subject to available resources and to the extent permitted by law, DOC agrees to use its best efforts to assist the Company with its attempts to qualify for the following statutory tax incentives: (i) a corporate income tax credit for job creation and (ii) such other statutory tax credits for which the Company may qualify.

3.2.2. Sales Tax Exemptions. Subject to available resources and to the extent permitted by law, DOC agrees to assist the Company with its attempts to qualify for the sales tax exemptions available to companies locating in this State.

3.2.3. Enhanced Incentives. In the event that the Company substantially exceeds the projected investment and/or job creation levels set forth in this Agreement, the Public Parties agree to give appropriate consideration to enhanced incentives that are at least commensurate with incentives provided to projects of a comparable scope.

ARTICLE 4 MISCELLANEOUS

4.1 Governing Law. The governing law of this Agreement shall be the laws of the State of South Carolina without giving effect to any choice of law provision or rule (whether of the State of South Carolina or any other jurisdiction).

4.2 Understanding. The Company understands and agrees that the grants, awards, and inducements to be made by the County, readySC™, and the Coordinating Council under the

terms and conditions of this Agreement are based and conditioned solely upon and made expressly contingent upon and subject to the Company's commitment to the creation of not less than the Minimum Job Requirement and its investment of not less than the Minimum Investment Requirement. The Company further acknowledges that, as set forth above, the commitments by the Public Parties herein are subject to approvals by governing councils or as required by statute or the South Carolina Constitution and, therefore, do not create binding commitments absent those approvals.

4.3 Binding Effect. This Agreement and each document contemplated hereby or related hereto shall be binding upon and inure to the benefit of the parties hereto and to their respective successors and assigns.

4.4 Subsequent Agreements. This Agreement contemplates the preparation and execution of a number of subsequent agreements. The parties hereto agree to work in good faith and diligently to pursue the consummation of such agreements. In the event of any inconsistencies between the provisions of this Agreement and the terms of any subsequent agreement relating to an incentive, the terms of such subsequent agreement shall prevail.

4.5 Confidentiality. The Company acknowledges and agrees that this Agreement, will be subject to disclosure pursuant to the South Carolina Freedom of Information Act; provided, however, that DOC agrees to utilize applicable exemptions of the South Carolina Freedom of Information Act located in Section 30-4-40 of the SC Code to the maximum extent authorized by law to protect confidential information related to this Agreement and the Project. DOC further agrees that, if it is required to respond to a request for information pursuant to the South Carolina Freedom of Information Act, DOC will notify the Company of such request for information and DOC's intended response prior to sending the response.

4.6 Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect and for any reason whatsoever, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. In the event any such provision is held to be invalid, illegal or unenforceable, the parties hereto shall make their best efforts to agree on a provision in substitution for such invalid, illegal or unenforceable provision that is as near in economic benefit as possible to the provision found to be invalid, illegal or unenforceable.

4.7 Assignment. This Agreement is not assignable by the Company without the prior written consent of the Public Parties, which shall not be unreasonably withheld, except that the Company may assign this Agreement to an affiliate of the Company without the prior written consent of the Public Parties provided that the Company promptly notifies the Public Parties and obtains their ratification of the assignment within thirty (30) days following the assignment. "Affiliate" shall mean any corporation, partnership, or other entity which controls or is controlled by or is under common control with the Company. However, the Public Parties recognize and agree that Project ownership may be split between two or more entities in a build to suit or equipment lease arrangement, and all such entities shall be entitled to the full benefits of this Agreement.

4.8 Notices. Any notice to be provided under this Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to