

AN ORDINANCE

AUTHORIZING THE EXECUTION AND DELIVERY OF ONE OR MORE INCENTIVE AGREEMENTS BY AND BETWEEN CHARLESTON COUNTY, SOUTH CAROLINA, AND PROTEGO (USA) INC., AND ONE OR MORE EXISTING OR TO-BE-FORMED OR ACQUIRED SUBSIDIARIES, OR AFFILIATED OR RELATED ENTITIES, TO PROVIDE FOR SPECIAL SOURCE REVENUE CREDITS; AUTHORIZING THE EXPANSION OF THE JOINT COUNTY INDUSTRIAL AND BUSINESS PARK FORMED WITH COLLETON COUNTY TO INCLUDE THE PROJECT; TO PROVIDE FOR THE ADDITION OF ONE OR MORE PROJECT AFFILIATES; AND OTHER MATTERS RELATED THERETO.

WHEREAS, Charleston County, South Carolina ("County"), acting by and through its County Council ("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 Title 4, Chapter 29 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 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

WHEREAS, pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended ("MCIP Act"), the County is authorized to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. Under the authority provided in the MCIP Act, the County created a multi-county park with Colleton County ("Park") pursuant to that "Agreement for the Establishment of a Multi-County Industrial/Business Park" dated September 1, 1995, as amended; and

WHEREAS, Protego (USA), Inc., a South Carolina corporation, its affiliated and related entities and assigns ("Company"), is planning an investment consisting of the expenditure of approximately \$3,768,000 ("Investment") along with the creation of approximately 17 new, full-time jobs ("Jobs"), not to include those 12 jobs existing on the Company payroll, as reported by the Company on October 27, 2016, which the Company intends to relocate to the Project Site, through the acquisition, construction, lease, and purchase of certain land, buildings, furnishings, fixtures, and equipment in order to establish a facility to manufacture safety products and components within the County ("Project"); and

WHEREAS, the Project will comprise a portion of real property located entirely in the County of Charleston, with improvements thereon, within such tax map parcel bearing Tax Map Number 393-00-00-307, a description of which is set forth on the attached **Exhibit A** ("Project Site"); and

WHEREAS, LBP Building 400, LLC, a South Carolina limited liability company, owns the Project Site and the Company plans to lease the Project Site from LBP Building 400, LLC for the purpose of undertaking the Project in the County; and

WHEREAS, pursuant to Section 3 of the Park Agreement, the boundaries of the Park created therein may be enlarged pursuant to agreement of the County Councils of Charleston

County and Colleton County and with the consent of any municipalities within such new boundaries; and

WHEREAS, the County desires to enlarge the boundaries of the Park to include the Project Site and to ensure that the Project Site remains in the Park or any other multi-county industrial park created under the MCIP Act for as long as the Company is located at the Project Site; and

WHEREAS, in connection with the Project, the Company has requested the County to enter into an incentive agreement, to the extent and subject to the conditions provided in that agreement, to establish the commitments of (i) the Company to make the Investment and create the Jobs; and (ii) the County to provide certain special source revenue credits against certain payments in lieu of taxes made in connection with the Project; and

WHEREAS, in accordance with Article VIII, Section 13 of the South Carolina Constitution, real and personal property having a situs in the 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

WHEREAS, the County has determined to provide an annual special source revenue credit ("SSRC") for the Project in an amount equal to 69% of each annual Fee Payment due from all taxpayers owning assets comprising the Project, for a period of seven (7) years, beginning with the first year the investment is placed in service, the terms and conditions of which are more fully set forth in an agreement attached hereto as **Exhibit B** ("Infrastructure Credit Agreement").

NOW THEREFORE, BE IT ORDAINED, by the County Council as follows:

Section 1. Findings. The County hereby finds and affirms based on information provided by the Company: (i) the Project will benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise provided locally; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against its general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public.

Section 2. Authorization to Execute and Deliver Infrastructure Credit Agreement. The County Council authorizes and directs the County Council Chairman and the Clerk to Council to execute the Infrastructure Credit Agreement, which shall be in substantially the form now before the meeting at which this Ordinance received third reading, or with such modifications and revisions which shall not be materially adverse to the County and shall be deemed approved by the County Council upon the Chairman's and the Clerk to Council's execution of the Infrastructure Credit Agreement; the Clerk to County Council is further authorized and directed to deliver the executed Infrastructure Credit Agreement to the Company.

Section 3. Inclusion and Maintenance of Project in Park.

(A) By separate ordinance (the "MCIP Ordinance") of the County Council, the County, in cooperation with Colleton County (the "Partner County") and with consent of the City of North

Charleston, will designate the Project Site as a multi-county industrial park pursuant to Article VIII, Section 13 of the South Carolina Constitution, the MCIP Act, and the terms of the “Agreement for the Establishment of a Multi-County Industrial/Business Park” (the “MCIP Agreement”). The County Council shall use its best efforts to ensure that the Project Site is incorporated into and remains in the Park (or a successor multi-county industrial park) for as long as the Company is located at the Project Site.

(B) The County will provide for a period not less than 20 years that the annual allocation of the Fee Payment generated by the Project within the boundaries of the Multi-County Park will be distributed (after distribution of a portion of the Fee Payments to the Partner County in accordance with the MCIP Agreement) as follows:

(i) to the County, for providing the SSRCs (as defined in Section 2 of the Infrastructure Credit Agreement), an amount equal to the annual SSRC authorized by this Ordinance and defined in Sections 2 and 3 of the Infrastructure Credit Agreement; and

(ii) except as may otherwise be provided by ordinance of the County Council from time to time, the balance of the Fee Payments to the County and other overlapping taxing entities, in accordance with the applicable provisions of section 9 of the MCIP Agreement.

Section 4. Further Acts. The County Council authorizes the County Administrator, other County staff, and the County Attorney, along with any designees and agents who any of these officials deems necessary and proper, in the name of and on behalf of the County (each an “Authorized Individual”) to take whatever further actions, and enter into whatever further agreements, as any Authorized Individual deems to be reasonably necessary and prudent to effect the intent of this Ordinance and induce the Company to locate the Project in the County.

Section 5. General Repealer. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 6. Severability. Should any part, provision, or term of this Ordinance be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such finding or determination shall not affect the rest and remainder of the Ordinance or any part, provision or term thereof, all of which is hereby deemed separable.

This Ordinance takes effect and is in full force only after the County Council has approved it following three readings and a public hearing.

CHARLESTON COUNTY,
SOUTH CAROLINA

A. Victor Rawl, Chairman
Charleston County Council

(SEAL)
ATTEST:

Beverly T. Craven, Clerk to Council
Charleston County Council

READINGS:

First Reading: March 28, 2017
Second Reading: April 6, 2017
Third Reading: April 25, 2017
Public Hearing: April 25, 2017

EXHIBIT A

Description of Project Site

All that certain piece, parcel or tract of land, containing 1.74 acres, more or less, with the improvements thereon, situate, lying and being in the County of Charleston, State of South Carolina, identified by Tax Map Number 393-00-00-307.

EXHIBIT B

Infrastructure Credit Agreement

INFRASTRUCTURE CREDIT AGREEMENT

BY AND BETWEEN

PROTEGO (USA), INC.

AND

CHARLESTON COUNTY, SOUTH CAROLINA

APRIL 25, 2017

**PREPARED BY:
PARKER POE ADAMS & BERNSTEIN LLP
1201 MAIN STREET, SUITE 1450
COLUMBIA, SOUTH CAROLINA 29201
(803) 255-8000**

INFRASTRUCTURE CREDIT AGREEMENT

THIS INFRASTRUCTURE CREDIT AGREEMENT (“Agreement”) is made and entered into as of **April 25, 2017**, by and among Charleston 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 Charleston County Council (“County Council”) as the governing body of the County and Protego (USA), Inc., a company formerly known to the County as Project Safety, a South Carolina corporation, its affiliated and related entities and assigns (“Company”) and any other party that may join as a Project Affiliate (hereinafter, the County, the Company, and any Project Affiliate are referred to collectively as “Parties,” and individually as a “Party”).

WITNESSETH:

(a) WHEREAS, 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, and Title 4, Chapter 29 of the Code of Laws of South Carolina 1976, as amended, including Section 4-29-68 (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 (defined herein) 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 expand, in conjunction with one or more other counties, a joint county industrial or business park in order to facilitate the grant of such special source revenue credits; and

(b) WHEREAS, pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (“MCIP Act”), the County is authorized to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. Under the authority provided in the MCIP Act, the County created a multi-county park with **Colleton County** (“Park”) pursuant to that “Agreement for the Establishment of a Multi-County Industrial/Business Park” (“Park Agreement”) dated September 1, 1995, as amended; and

(c) WHEREAS, the Company is planning an investment consisting of the expenditure of **\$3,768,961** (“Investment”) in connection with the acquisition by construction, lease, and purchase of certain land, buildings, furnishings, fixtures, and equipment and the creation of approximately **17 new, full-time jobs** (“Jobs”) with a corresponding anticipated annual **total payroll of \$556,873** (“Payroll”), for the purpose of locating a facility to manufacture safety products and components in the County (collectively, the “Project”); and

(d) WHEREAS, the Project will comprise a portion of real property located entirely in the County of Charleston, with improvements thereon, with such tax map parcel bearing Tax Map Number 393-00-00-307, a description of which is set forth on the attached **Exhibit A** (“Project Site”); and

(e) WHEREAS, the Investment shall include the fair market value of the Project Site, which will be leased to the Company; and

(f) WHEREAS, the County, no later than December 31, 2017, will place the Project, including the Project Site, into the Park as previously formed by the Park Agreement; and

(g) WHEREAS, 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, annual 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").

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

Section 1. *Representations of the Company and County.*

Section 1.1 The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The Company is a corporation duly organized, validly existing, and in good standing, under the laws of the State of South Carolina, has power to enter into this Agreement, and by proper corporate action has been duly authorized to execute and deliver this Agreement.

(b) The Company is the lessee of the Project Site with an option to purchase.

(c) This Agreement has been duly executed and delivered by the Company and constitutes the legal, valid, and binding obligation of the Company, enforceable in accordance with its terms except as enforcement thereof may be limited by bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally.

(d) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, will result in a material breach of any of the terms, conditions, or provisions of any corporate restriction or any agreement or instrument to which the Company is now a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the property or assets of the Company, other than as may be created or permitted by this Agreement.

(e) The agreement of the County to provide the SSRCs has been instrumental in inducing the Company to acquire the Project in Charleston County and in the State of South Carolina.

(f) THE COMPANY EXPRESSLY AGREES THAT IT WILL NOT TAKE ANY ACTION TO FILE FOR OR RECEIVE THE ABATEMENT OF ARTICLE X, SECTION 3(G) OF THE STATE CONSTITUTION OR THE CREDIT FOR THE LOCAL OPTION SALES TAX IN THE COUNTY WITH RESPECT TO ANY PROPERTY ON WHICH SPECIAL SOURCE REVENUE CREDITS ARE CLAIMED.

Section 1.2 The County makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State which acts through the County Council as its governing body and by the provision of the Act is authorized and empowered to enter into the transactions contemplated by the Agreement and to carry out its obligations hereunder. The County has duly authorized the execution and delivery of this Agreement and any and all other agreements described herein or therein.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions

contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, will result in a material breach of any of the terms, conditions, or provisions of any agreement or instrument to which the County is now a party or by which it is bound, or will constitute a default under any of the foregoing

Section 2. *Special Source Revenue Credits.*

Subject to the provisions herein, the County grants an annual special source revenue credit (“SSRC”) to the Company in an amount equal to 69% of the aggregate of all Fee Payments for the Project, per year for a period of seven (7) years (“Credit Period”), as extended, the aggregate value of which shall not exceed \$200,000.

The SSRC set forth in this Agreement shall apply to all Fee Payments due with respect to the Investment made and placed in service after January 1, 2017 and before December 31, 2021 (the “Investment Period”). The Credit Period shall commence in the first property tax year for which a Fee Payment becomes due. The Parties anticipate that the first year of the Credit Period will begin in property tax year 2018 in connection with the Investment made in calendar year 2017.

Any SSRC provided under this Agreement shall be used to reimburse the Company, and any taxpayer owning assets comprising the Project, including the Project Site, 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 Project and Project Site, for improved or unimproved real estate, or for 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 amount of Investment in such eligible expenditures as of such time.

To the extent that the Company has achieved the Investment and either the Jobs or Payroll commitment before the end of the Investment Period but the total amount of SSRCs reimbursed by the end of the Credit Period is less than \$200,000, the Credit Period will extend for an additional two (2) years, without further action of the County. The County may further extend the Credit Period thereafter by an additional three (3) years to allow the Company to obtain in the aggregate a total of \$200,000 in SSRCs. However, if there is sufficient Fee Payment due in any given year during the Credit Period against which an annual SSRC could be applied, then the annual SSRC must be taken to the fullest extent against such Fee Payment in such year.

Section 3. *Jobs Certification and Special Source Revenue Credit Repayments.*

At the end of the Investment Period the Economic Development Department of the County shall audit the capital investment and additional Jobs and Payroll creation of the Company to gauge the Company’s compliance with the Special Source Revenue Credit minimum thresholds described below and shown in **Exhibit B**. In determining the Company’s level of achievement with respect to the Investment, Jobs, and Payroll commitments, the County shall use the applicable value that would be the highest achieved in any year during the Investment Period. The Company may be obligated to repay all or a portion of the rebated SSRCs as follows:

(a) The County will provide the Company SSRC against Fee Payments as provided in Section 4-1-175 of the Act in an amount equal to 69% of each annual Fee Payment to be made by the Company during the Credit Period, subject to the remaining provisions of this Section. The SSRC shall be used by the Company to defray a portion of its costs of certain infrastructure during the Investment Period. The SSRC will be received by the Company during years Credit Period following the placement in service of the initial asset investment which shall coincide with the first Fee Payment due to the County by the Company. Upon receipt of payment of all Fee Payments and any ad valorem property taxes then due with respect to the

Project or any other property of the Company located in the County, the County shall rebate to the Company the SSRC to be paid by check for such year no later than 90 days following receipt of the annual filing and payment.

(b) If the Company's total capital investment at the end of the Investment Period (the "Total Capital Investment") is at least \$3,769,000 and the Company's net new job creation at the end of the Investment Period (the "Job Creation") is at least 17 Jobs and Payroll creation at the end of the Investment Period (the "Payroll Creation") is at least \$556,873, the amount of the SSRC shall be equal to 69% of each annual Fee Payment to be made by the Company during the Credit Period, not to exceed the cumulative amount of \$200,000 for all SSRC rebated hereunder.

(c) If any one or more of Total Capital Investment, Job Creation, or Payroll Creation does not meet the minimum amount set forth in paragraph (b) of this Section, but the Total Capital Investment is at least \$3,015,200 and Job Creation is at least 14 and Payroll Creation is at least \$445,498, the amount of the SSRC shall be equal to 55% of each annual Fee Payment to be made by the Company during the Credit Period not to exceed the cumulative amount of \$160,000 for all SSRC rebated hereunder.

(d) If any one or more of Total Capital Investment, Job Creation, or Payroll Creation does not meet the minimum amount set forth in paragraph (c) of this Section, but Total Capital Investment is at least \$2,412,160 and Job Creation is at least 11 and Payroll Creation is at least \$356,399, the amount of the SSRC shall be equal to 44% of each annual Fee Payment to be made by the Company during the Credit Period, not to exceed the cumulative amount of \$128,000 for all SSRC rebated hereunder.

(e) If the Total Capital investment is below \$2,412,160 or Job Creation is below 11 or Payroll Creation is below \$356,399, then no SSRC will be made available to the Company by the County.

(f) **Exhibit B** to this Agreement, along with the provisions of this Section, shall be used to determine the level of the SSRC the Company is entitled to receive. If a conflict should arise between this Section and Exhibit B, Exhibit B shall control.

(g) At the end of the Investment Period, the Economic Development Department of the County shall audit the capital investment and additional job and annual payroll creation of the Company to gauge the Company's compliance with the SSRC minimum thresholds described in this Section. In the event that the Company has failed to meet the minimum requirements of Total Capital Investment, Job Creation, and Payroll Creation as provided in paragraph (e) of this Section, and the County disallows the SSRC as provided in paragraph (e) of this Section, the Company, upon receipt of notice from the County of such disallowance, shall repay the County all previously rebated SSRC. These repayments will be paid in two (2) equal installments which shall coincide with the next two scheduled annual Fee Payments.

(h) In the event that the Company has failed to meet the minimum requirements of Total Capital Investment, Job Creation, and Payroll Creation as provided in paragraph (b) of this Section, and the County reduces the amount of the SSRC as provided in paragraphs (c) or (d) of this Section, the Company, upon receipt of notice from the County of such reduction, shall repay the County the difference between the amount of all previously rebated SSRC and the amount of the SSRC as calculated at the reduced percentage of the applicable paragraph (c) or (d). These repayments will be paid in two (2) equal installments which shall coincide with the next two scheduled annual Fee Payment.

(i) The headcount and salary (minus benefits) profile to be utilized as a benchmark against which to measure compliance with the hiring target outlined above shall be 12 Jobs and \$789,600 in total annual payroll, as reflected in the Project Profile Worksheet provided to the County on October 27, 2016. During the Investment Period, by February 1 in each of the five years following the initial placement of assets into

service, the Company will provide to the County Economic Development Director on Company letterhead a progress report on hiring outlining the current number of full time equivalent employees and associated payroll.

(j) The Company acknowledges that the County will review and base the amount of the annual SSRC upon all documentation received by the County by February 1 each year. Failure by the Company to provide documentation attesting to new hiring and payroll will result in the reduction or elimination of the SSRC in any given year.

(k) In accordance with Section 4-29-68(A)(2)(ii) of the Code, to the extent that the Company claims SSRC as reimbursement for investment in personal property, including machinery and equipment, if such property is removed from the Project during the term of this Agreement, the amount of the Fee Payments due on such personal property for the year in which the personal property was removed from the Project also shall be due for the two years following such removal.

(l) Any repayments shall be the obligation of the Company, including any repayment of SSRCs that may have been paid to or allocated to the owner of the Project Site.

(m) If, at any time during the Investment Period, the Company achieves at least 17 net new Jobs, \$556,873 in new annual Payroll, and an Investment amount of at least \$3,769,000, and certifies the same in writing to the County, the County shall release the Company from any SSRC repayment obligations hereunder.

(n) The Company hereby acknowledges that the County has no obligation to pay directly for the costs for qualifying infrastructure for which the SSRCs are granted and is only obligated to reimburse the appropriate SSRC amount directly to the Company.

Section 4. *Suspension of Payment of Special Source Revenue Credits.*

(a) If any of the following events shall occur, the County, in its sole discretion, may suspend payment of any remaining SSRCs to the Company until compliance, to the satisfaction of the County, with the requirements of paragraph (b) of this Section has occurred:

- (i) The Company advises the County that it will not satisfy the investment, job creation, or payroll requirements set forth in Section 3 hereof; or
- (ii) The Company is actively attempting to sell the Project, or a substantial portion of the Project; or
- (iii) The County obtains information it deems to be reliable that representations of the Company regarding the investment, job creation, or payroll requirements set forth in Section 3 are inaccurate or misleading.

(b) Upon written notice from the County that one or more events described in paragraph (a) of this Section has occurred, the Company may provide to the County Economic Development Director information, including documentation, establishing that such event has not occurred or, that if it has occurred, is no longer continuing. If it is established to the County's reasonable satisfaction that such event has not, or no longer is, occurring, the County agrees to resume payment of the SSRCs as provided in Section 3 hereof.

(c) In the event that it is not established to the County's reasonable satisfaction that such event has not, or no longer is, occurring, then by written notice to the Company the County may terminate its requirement to pay SSRCs under this Agreement. In such event the Company shall repay the County such amounts of SSRCs as the County has previously paid to the Company. Pending such payment, the amount of such SSRCs shall be deemed to be past due Fee Payments due to be paid under this Agreement pursuant to the MCIP Act and shall be secured by a lien, and shall be enforceable and collectible as *ad valorem* taxes as provided in the MCIP Act.

Section 5. *Casualty; Condemnation.*

(a) In the event the Project is damaged by fire, explosion, or any other casualty, the Company shall be entitled to terminate this Agreement and there shall be no SSRC repayment obligation as set forth under this Agreement. If the Company elects to rebuild or cause to rebuild the Project, the benefits under this Agreement shall remain suspended until the Project is rebuilt and any investment, credit, or compliance periods set forth herein shall be extended by the time period required to complete the rebuilding of the Project.

(b) In the event that title to or temporary use of the entire Project should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain, or by voluntary transfer under threat of such taking, or in the event that title to a portion of the Project shall be taken rendering continued operation of the Project commercially infeasible in the judgment of the Company, then the Company shall have the option to terminate this Agreement and no repayment obligations herein shall apply.

Section 6. *Removal of Personal Property.* In accordance with Section 4-29-68(A)(2)(ii) of the Code (unless such statute is otherwise amended during the term of this Agreement), to the extent that the County reimburses the Company SSRCs as reimbursement for investment in personal property, including machinery and equipment, if such property is removed from the Project during the Term of the Credit Period, the amount of Fee Payments due on such personal property for the year in which the personal property was removed from the Project also shall be due for the two years following such removal.

Section 7. *Project Shall Remain in the Park .* The County shall ensure that the Project, once placed in the Park, will remain in the Park for a period not less than 20 years. If, for any reason, the Park Agreement is modified to exclude the Project prior to the payment of all SSRCs hereunder, or is otherwise terminated, then the County will 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 Agreement.

Section 8. *Default and Remedies*

(a) The following events shall constitute "Events of Default" under this Agreement, that is to say, if the Company shall fail duly and punctually to perform any covenant, condition, agreement or provision contained in this Agreement on the part of the Company to be performed including, without limitation, the failure to pay Fee Payments or Administration Expenses, which failure shall continue for a period of 30 days after written notice by the County specifying the failure and requesting that it be remedied is given to the Company by first class certified mail or overnight courier service, unless the County shall agree in writing to an extension of time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the County shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Company within the applicable period and diligently pursued until the default is corrected.

(b) Upon the happening and continuance of any Event of Default, then and in every such case any party hereto in its discretion may:

(i) by mandamus, or other suit, action, or proceeding at law or in equity, enforce all of its rights and require the other party to carry out any agreements with or for its benefit and to perform its or their duties under the Infrastructure Credit Act and this Agreement;

(ii) bring suit upon this Agreement;

(iii) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of its rights.

(c) No remedy in this Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

(d) No delay or omission of either party to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default, or an acquiescence therein; and every power and remedy given by this Agreement to the parties hereto may be exercised from time to time and as often as may be deemed expedient.

Section 9. Termination. This Agreement and the application of the SSRCs to the Fee Payments for the Investment in the Project, including the Project Site, will terminate should the Company cease to operate at the Project Site.

Section 10. Notices. Any notice, election, demand, request, or other communication to be provided under this 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, or may subsequently furnish, 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: Charleston County, South Carolina
ATTN: County Administrator
4045 Bridgeview Drive
Charleston, South Carolina 292405

Charleston County
ATTN: Economic Development Manager
4000 Faber Place Drive, Suite 140
North Charleston, South Carolina 29405

WITH A COPY TO: Joseph Dawson, III Esquire
(which shall not Charleston County Attorney
constitute notice) 4045 Bridge View Drive
Charleston, South Carolina 29405

AS TO THE COMPANY: Protego (USA), Inc.
Attn: Chris Mason, President

497 Jessen Lane
Charleston, SC 29492

WITH A COPY TO:
(which shall not
constitute notice)

Parker Poe Adams & Bernstein LLP
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 11. *Binding Effect.* This 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 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 12. *Counterparts.* The Parties may execute this 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 13. *Governing Law.* This Agreement and all documents executed in connection with this Agreement are construed in accordance with and governed by the laws of the South Carolina. To the extent of any conflict between the provisions of this Agreement and the Act, the Act controls.

Section 14. *Amendments.* The Parties may modify or amend this Agreement only in a writing signed by the Parties.

Section 15. *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 Agreement, subject to any approvals required to be obtained from County Council.

Section 16. *Severability.* If any provision of this 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 Agreement and the Act, it being the intention of the County to offer the Company the strongest inducement possible to encourage the Company to proceed with the Project in the County.

Section 17. *Assignment.* This Agreement may be assigned in whole or in part only with the consent of the County in its sole discretion. The County may grant such consent by adoption of a Resolution.

Section 18. *Limited Obligation.* THIS AGREEMENT AND THE SPECIAL SOURCE REVENUE CREDITS BECOMING DUE HEREUNDER ARE LIMITED OBLIGATIONS OF THE COUNTY PROVIDED BY THE COUNTY SOLELY FROM THE FEE PAYMENTS RECEIVED BY THE COUNTY FOR THE PROJECT PURSUANT TO THE PARK AGREEMENT, AND DO NOT AND SHALL NEVER CONSTITUTE A GENERAL OBLIGATION OR AN INDEBTEDNESS OF THE COUNTY OR ANY MUNICIPALITY 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 DO NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR ANY MUNICIPALITY OR A CHARGE AGAINST THEIR GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY ARE NOT PLEDGED FOR THE SPECIAL SOURCE REVENUE CREDITS.

Section 19. Force Majeure. The Company is not responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fire, floods, inability to obtain materials, conditions arising from government orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Company's reasonable control.

Section 20. Liability. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any member, agent, or employee of the County its governing body or the Company or any of its officer, employees, or agents in his individual capacity, and neither the members of the governing body of the County nor any official executing this Agreement shall be liable personally on the Agreement or be subject to any personal liability or accountability by reasons thereof.

Section 21. Administrative Expenses. The Company shall, promptly upon written request therefor but in no event later than 60 days after receiving written notice from the County specifying the nature of such expenses and requesting the payment of the same, reimburse the County from time to time for its administration expenses (the "Administration Expenses") with regard to this Agreement including, without limitation, all reasonable and necessary legal fees and costs incurred by the County in entering and enforcing this Agreement and a one-time processing fee with respect to the ordinance authorizing this Agreement of \$750.

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

CHARLESTON COUNTY, SOUTH CAROLINA

A. Victor Rawl, Chairman
Charleston County Council

(SEAL)
ATTEST:

Beverly Craven, Clerk to Council
Charleston County Council

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

PROTEGO (USA), INC.

By: _____

Its: _____

EXHIBIT A

Project Site Description

A portion of a parcel of real property, consisting of approximately 1.74 acres, located in the County of Charleston, South Carolina, with improvements thereon, identified by Tax Map Number 393-00-00-307.

EXHIBIT B

County SSRC Repayment Chart