

EXHIBIT B  
AUTHORIZING ORDINANCE

AN ORDINANCE

AUTHORIZING THE EXECUTION AND DELIVERY OF AN AMENDMENT TO THE FEE AGREEMENT BETWEEN KERSHAW COUNTY, SOUTH CAROLINA, AND INVISTA S.À R.L., ITS AFFILIATES AND ASSIGNS, TO PROVIDE FOR AN EXTENSION OF THE INVESTMENT PERIOD AND THE TERM; AND OTHER RELATED MATTERS.

WHEREAS, Kershaw County, South Carolina ("County"), acting by and through its County Council ("County Council") is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended ("Act"), (i) to enter into agreements with a qualifying industry to encourage investment in projects constituting economic development property through which the industrial development of the State of South Carolina will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and thus utilize and employ manpower and other resources of the State; (ii) to covenant with such industry to accept certain payments in lieu of *ad valorem* taxes ("FILOT") with respect to such investment;

WHEREAS, INVISTA S.À r.l., a company authorized to do business in the State of South Carolina, along with its affiliates and assigns (collectively, "Company"), operates a nylon fiber manufacturing facility in the County ("Project");

WHEREAS, the Company entered into a "Fee-in-Lieu of *Ad Valorem* Taxes Agreement," dated as of December 12, 2006, a copy of which is attached as Exhibit A ("Fee Agreement"), with respect to the Company's estimated investment of approximately \$35,000,000 ("Project Commitment");

WHEREAS, rather than \$35,000,000, the Company expects to have invested approximately \$56,000,000 through December 31, 2011, and agrees to invest an additional \$15,000,000 in the Project in calendar years 2012 through 2015 in new, otherwise taxable assets that INVISTA shall report on SCDOR Form PT-300, Schedule S and on which FILOT Payments would be required under the FILOT Agreement and applicable law ("Additional Investment"), so that the total expected investment in the Project would be approximately \$71,000,000;

WHEREAS, in consideration of the FILOT Payments with respect to the Additional Investment, the County has determined to amend the Fee Agreement to provide for the amendments as set forth in "First Amendment to the Fee Agreement," a copy of which is attached in substantially final form as Exhibit B ("First Amendment"), as follows:

- (a) *Investment Period Extension.* The Fee Agreement's Investment Period is extended by four years so that the Investment Period ends on December 31, 2015, and each other Section of the Fee Agreement is revised to reflect the Investment Period's four-year extension;
- (b) *Term Extension.* The Fee Agreement's Term is extended by ten years from twenty years to thirty years, and each other Section of the Fee Agreement is revised to reflect the Term's ten-year extension;
- (c) *Number of FILOT Payments.* The number of FILOT Payments permitted under the Fee Agreement's Section 3.1 is increased from twenty annual FILOT Payments to thirty annual FILOT Payments, and

each other Section of the Fee Agreement is revised to reflect the increase of the number of FILOT Payments from twenty to thirty;

((a) through (c) are, collectively, "Incentives"); and

(d) *Amount of FILOT Payments.* For any Additional Investment that the Company places in service during calendar years 2012 through 2015, the Company is entitled to make each annual FILOT Payment based on the actual amount of the Additional Investment that the Company placed in service in the applicable calendar year. If, by the end of calendar year 2015, the Additional Investment that the Company placed in service during calendar years 2012 through 2015 does not equal at least \$15,000,000, then the Company shall make each, subsequent, annual FILOT Payment with respect to the Additional Investment as if the Company had invested the amount of the shortfall as machinery and equipment in calendar year 2015 and removed from service the amount of the shortfall in calendar year 2024. Nothing in this section changes the Company's right to reduce its FILOT Payments based on a "Diminution of Value" as that term is defined in the Fee Agreement.

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

**Section 1. Statutory Findings.** The County affirms: (i) the Project benefits the general public welfare of the County by providing service, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project gives rise to no pecuniary liability of the County or incorporated municipality or 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 First Amendment to Fee Agreement.** The Chair of County Council, or in the Chair's absence, the Vice-Chair, is authorized and directed to execute and deliver the First Amendment, which restates the nature of the Incentives, and which is in substantially final form as attached to this Ordinance and presented before this meeting, with any revisions as may be approved by the Chair of County Council in the name of and on behalf of the County, and the Clerk to County Council is authorized and directed to attest the same; and the Chair of County Council is further authorized and directed to deliver the executed First Amendment to the Company.

**Section 3. General Repealer.** The County Council repeals any part of an ordinance, or a resolution that conflicts with any part of this Ordinance.

**Section 4. 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 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.

KERSHAW COUNTY, SOUTH CAROLINA

*Gene Wise*

Gene Wise, Chairman of County Council

ATTEST:

*Merri on Seigler*

Merri Seigler, Clerk to County Council

READINGS:

First Reading:	November 8, 2011
Second Reading:	November 22, 2011
Public Hearing:	November 22, 2011
Third Reading:	December 13, 2011