
PERFORMANCE AGREEMENT

Dated as of December 1, 2017

AMONG

BOONE COUNTY, MISSOURI

AND

SMITH & WESSON CORP.

AND

RYAN BOONE COUNTY, LLC

Prepared By:

**Gilmore & Bell, P.C.
Kansas City, Missouri**

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, dated as of December 1, 2017, as from time to time amended and supplemented in accordance with the provisions hereof (this “**Agreement**”), is between **BOONE COUNTY, MISSOURI**, a first class county and political subdivision organized and existing under the laws of the State of Missouri (the “**County**”), and **SMITH & WESSON CORP.**, a corporation existing under the laws of the State of Delaware (the “**Company**”), and for the limited purposes provided in **Sections 3.8, 4.1-4.3, 4.6, 4.8, 5.1, 8.7 and 8.9-8.11** below, **RYAN BOONE COUNTY, LLC**, a Minnesota limited liability company (the “**Developer**”).

RECITALS:

1. The County is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the “**Act**”), to purchase, construct, extend and improve certain projects (as defined in Section 100.010 of the Revised Statutes of Missouri, as amended) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing, industrial development and administrative office purposes upon such terms and conditions as the County shall deem advisable.

2. Pursuant to the Act, the County Commission of the County adopted Commission Order 203-2017 on April 18, 2017 (i) approving the Company’s Project (as defined herein), and (ii) declaring the official intent of the County to issue taxable industrial development revenue bonds to provide funds to finance the costs of the Project.

3. Following notice to affected taxing jurisdictions in accordance with Section 100.059.1 of the Act, the County Commission adopted Commission Order _____ on November 30, 2017 (the “**Ordinance**”), (i) approving a plan for the Company’s economic development project (the “**Chapter 100 Plan**”), and (ii) authorizing the issuance of up to \$44,000,000 principal amount of Taxable Industrial Development Revenue Bonds (Smith & Wesson Corp. Project), Series 2017 (the “**Bonds**”), to pay the costs of a portion of the Project consisting of constructing the Project Improvements (defined below), located on the Project Site (defined below).

4. Pursuant to the Order the County is authorized to lease the Project Site and the Project Improvements (collectively, as defined more fully in **Section 1.1** below, the “**Project**”) to the Developer pursuant to a Lease Agreement dated of even date herewith (the “**Lease**”), between the County, as lessor, and Developer, as lessee. Developer will sublease the Project to the Company by that certain Sublease of even date herewith (the “**Sublease**”) for the purpose of setting forth the terms and conditions of the Project’s exemption from *ad valorem* real property taxes and certain payments in lieu of taxes to be made by the Company with respect to the Project in consideration of the construction and installation of the Project at the direction of the Company as more fully described in the Lease and the Sublease.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the County and the Company hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to the words and terms defined in the Recitals, the Lease (defined below), and the Indenture (defined below), the following words and terms as used herein shall have the following meanings:

“Agreement” means this Performance Agreement dated as of December 1, 2017, between the County, the Company and the Developer, as from time to time amended and supplemented in accordance with the provisions hereof.

“Annual Compliance Report” means the Annual Compliance Report required to be filed by the Company by **Section 3.3** hereof, a copy of which is attached hereto as **Exhibit B**.

“Affiliate” means any person, corporation, limited liability company, limited liability partnership, trust, partnership or other comparable entity which is directly or indirectly controlled by, under common control with, or which controls the Company.

“Bonds” has the meaning provided in Recital 3 above.

“Company” has the meaning provided in the first paragraph of this Agreement.

“Completion Date” means the date of execution of the certificate for the applicable component of the Project required by **Section 4.5** of the Lease and **Section 503** of the Indenture and filed with the Trustee, which shall be deemed filed if not actually filed by the day the County issues an occupancy certificate for any Project Improvements located on the Project Site and the Sublease commences.

“County Assessor” means the Assessor of Boone County, Missouri.

“Developer” has the meaning provided in the first paragraph of this Agreement.

“Event of Default” means any Event of Default as provided in **Section 6.1** hereof.

“Indenture” means that certain Trust Indenture between the County and BOKF, N.A. of even date herewith.

“Job” means a full-time position with the Company or an Affiliate of the Company, of not less than 35 hours per week at the Project Site, which shall include normal full-time employee benefits offered by the Company. Positions filled by workers who are not directly employed by the Company do not qualify as “Jobs” for purposes of this definition.

“Lease” has the meaning provided in Recital 4 above.

“Leased Property” means the Project.

“PILOT Payments” or **“PILOTS”** means the payments in lieu of taxes provided for in **Article III** hereof.

“Project” means, collectively, the Project Site and the Project Improvements and all additions, modifications, improvements, replacements and substitutions made to the Project pursuant to the Lease as

they may at any time exist, the costs of which will be paid in whole or in part, or for which the Company will be reimbursed in whole or in part, from the proceeds of the sale of the Bonds.

“**Project Costs**” means all costs of purchasing, constructing, improving and installing the Project.

“**Project Improvements**” shall have the same meaning as provided in **Exhibit B** to the Indenture and as provided in Recital 4 above.

“**Project Site**” shall mean the property described on **Exhibit A** hereto.

“**Relevant Period**” shall mean the period of time from the commencement of the term of the Lease until the expiration or earlier termination of the Lease.

“**Sublease**” has the meaning provided in Recital 4 above.

“**Test Date**” means October 31 of each year, beginning on October 31, 2019 and ending on October 31, 2028.

“**Trustee**” shall mean the Trustee under the Indenture.

ARTICLE II

REPRESENTATIONS

Section 2.1. County’s Representations. As described herein, the County hereby represents that the Project will significantly benefit the County and the State of Missouri by (i) stimulating economic development in the County and the State through the retention of permanent jobs; and (ii) increasing local and state tax revenues.

Section 2.2. Company’s Representations. The Company hereby represents that the Project will significantly benefit the County and the State of Missouri by (i) stimulating economic development in the County and the State through the creation or retention of Jobs; and (ii) increasing local and state tax revenues.

ARTICLE III

PROPERTY TAX EXEMPTION; PILOT PAYMENTS

Section 3.1. Property Tax Exemption. So long as the County owns title to the Leased Property, the County expects that the Leased Property will be exempt from ad valorem taxes on real property. The first year of the exemption period shall begin on January 1, 2017. Notwithstanding any other provision of this Agreement to the contrary, the last year of such exemption period shall be 2028. The Company covenants and agrees that, during each year the Leased Property is exempt from ad valorem taxes by reason of the County owning title, the Company will make annual payments in lieu of taxes to the County (each such payment, a “**PILOT Payment**”) as described in this Article III relating to the Project. The County and the Company hereby agree that the tax abatement provided by this Agreement shall only apply to the Project Site and the Project Improvements financed with the proceeds

of the Bonds (i.e., property constituting a part of the Project) and shall not apply to property not financed with proceeds of the Bonds.

Section 3.2. Payments in Lieu of Taxes.

(a) Because ownership of the Project Site will be transferred to the County in 2017, the real property would not be subject to ad valorem taxation for 2017 and 2018, and, therefore, the Company is required to make a PILOT payment equal to 100% of the taxes that would otherwise be due for years 2017 and 2018. The County acknowledges that the Project Improvements will be made by the Company in calendar years 2017 and 2018 and agrees that the Company shall receive 10 years of 50% ad valorem real property tax abatement beginning in 2019. In addition to the 100% PILOT payment for years 2017 and 2018, the Company covenants and agrees to make PILOT Payments to the County on or before each December 31, commencing December 31, 2019, in an amount equal to the applicable percentage shown below times the amount of ad valorem real property taxes which would otherwise be due with respect to the Project Improvements:

Project Site (Real Property)	50% PILOT Payments	100% PILOT Payments
Warehouse, Distribution, and Office Building Real Property	2019 – 2028	2018 and 2029 and thereafter

(b) The Developer shall exercise its option pursuant to **Section 11.4** of the Lease to purchase the Project no later than December 31, 2028. If title to the Project or the applicable portion thereof as described in the preceding sentence has not been transferred by the County to the Developer before December 31, 2028, then on December 31, 2029, and each year thereafter until title to the Project or the applicable portion thereof as described in the preceding sentence is transferred to the Developer, the Company shall pay to the County a PILOT Payment equal to 100% of the amount that would otherwise be payable to each taxing jurisdiction but for the County’s ownership thereof.

(c) The County Assessor will, until this Agreement is terminated, determine an assessed valuation with respect to the Project in accordance with Article X, Section 4(b) of the Missouri Constitution and Section 137.115 of the Revised Statutes of Missouri, as amended, as if title to the Project were in the name of the Company or an Affiliate and not the County. Such assessment shall be performed as of January 1 of each year. To facilitate the assessment, the Company agrees to provide to the County Assessor each year, by the same date on which property declarations are required by law to be made, a report that includes the following information:

- (1) a list of the Project Improvements completed during the calendar year; and
- (2) such other information as the County Assessor may reasonably require to complete the assessment of the Project.

The itemization shall be consistent with the information provided to the County and the Trustee under the Lease.

Section 3.3. Adjustment of Payments In Lieu of Taxes for Failure to Maintain Qualifying Jobs.

(a) The Company currently maintains 0 Jobs and the County and the Company understand and agree that the property tax abatement set forth in **Section 3.1** above is conditioned upon the Company's maintaining the number of Jobs set forth in Section 3.3(b), for so long as the abatement described herein is in effect, *provided* that each of such required number of Jobs shall have an annual wage of not less than the average annual income for employed persons in the County (said Jobs being referred to herein as "**Qualifying Jobs**") (based on the most recent County wage data available prior to the applicable Test Date, as provided by the Missouri Department of Economic Development.)

(b) If the Company fails to maintain the required number of Qualifying Jobs (as set forth below), as certified by the Company in writing to the County (measured by determining the actual number of Qualifying Jobs on that last day of each month on each of the immediately preceding 12 months ending on each Test Date and then calculating the 12-month average), the tax abatement and PILOT Payments set forth in **Section 3.2** shall be adjusted for the applicable year only, per the following chart:

Year 1: October 31, 2019 Test Date (provided that the Company has commenced operations on or before October 31, 2018):

- Minimum 46 Qualifying Jobs – No adjustment to abatement
- 23-45 Qualifying Jobs – Abatement adjusted to 25% (PILOT Payment adjusted to 75%)
- Below 23 Qualifying Jobs – Abatement adjusted to 0% and Agreement terminates

Year 1: October 31, 2019 Test Date (if the Company has not commenced operations on or before October 31, 2018), determine the number of whole months from the date of commencement of operations through October 31, 2019, then divide that number of months by twelve (12) and multiply such quotient by each of the following numbers to adjust the Year 1 requirement:

- Minimum 46 Qualifying Jobs – No adjustment to abatement
- 23-45 Qualifying Jobs – Abatement adjusted to 25% (PILOT Payment adjusted to 75%)
- Below 23 Qualifying Jobs – Abatement adjusted to 0% and Agreement terminates

Year 2: October 31, 2020 Test Date:

- Minimum 66 Qualifying Jobs – No adjustment to abatement
- 33-65 Qualifying Jobs – Abatement adjusted to 25% (PILOT Payment adjusted to 75%)
- Below 33 Qualifying Jobs – Abatement adjusted to 0% and Agreement terminates

Year 3-10: October 31, 2021 to October 31, 2028 Test Dates:

- Minimum 96 Qualifying Jobs – No adjustment to abatement
- 48-95 Qualifying Jobs – Abatement adjusted to 25% (PILOT Payment adjusted to 75%)
- Below 48 Qualifying Jobs – Abatement adjusted to 0% and Agreement terminates

(c) The Company shall file with the County annually, commencing on November 10, 2019, and continuing on each November 10 thereafter while this Agreement remains in effect, an Annual Compliance Report in the form attached hereto as **Exhibit B**. The Company agrees to provide a copy of the Annual Compliance Report to the County Commission for review and acceptance by Order at a regular County Commission meeting held after November 10 but before December 31 of each year. The

Company also agrees to provide reasonable access to the Company's payroll records for purposes of verifying the number of Qualifying Jobs.

(d) The calculations set forth in this **Section 3.3** shall be performed on each Test Date, with any resulting PILOT Payment due as a result of such calculation to be applicable only for the year in which such Test Date occurs. In no event shall the Company's PILOT Payment(s) calculated pursuant to this section and to **Section 3.2** hereof exceed 100% of the actual property taxes that would have otherwise been payable on the Project, but for the County's ownership thereof, for the given year.

Section 3.4. Distribution of PILOT Payments. Within 30 days of the date of receipt of each PILOT Payment, the County Treasurer, or other designated billing/collection agent, shall distribute the PILOT Payment, after reduction for the administrative costs of the County as provided by **Section 3.6** below, among the taxing jurisdictions in proportion to the amount of taxes which would have been paid in each year had the Leased Property not been exempt from taxation pursuant to this Agreement.

Section 3.5. Obligation of County to Effect Tax Abatement. The County agrees to take all actions within its control to obtain and/or maintain in effect the exemption referred to in **Section 3.1** above, including any filing required with any governmental authorities; provided, however, the County shall not be liable for any failure of any other governmental taxing authority to recognize the exemption provided herein. The County covenants that it will not voluntarily take any action that may cause or induce the levy or assessment of *ad valorem* taxes on the Project. In the event such a levy or assessment should occur, the County shall, at the Company's request and at the Company's expense, fully cooperate with the Company in all reasonable ways to prevent and/or remove any such levy or assessment against the Project.

Section 3.6. Administration Costs. Under Section 100.050 of the Act, the County may require the Company to reimburse the County for its *actual* costs of issuing the Bonds and administering the plan including costs associated with this Agreement. The attached **Exhibit C** reflects the County's anticipated, direct costs for administering the program over its 11 year life and said amount will be added to the PILOT Payment billing from the County Treasurer as indicated in **Exhibit C**.

Section 3.7. Other Property Taxes In Connection with the Project; Credits. The real and personal property tax exemption provided by the County's ownership of the Leased Property is expected to apply to all interests in the Leased Property during the period it is owned by the County. If any ad valorem property taxes are levied by or on behalf of any taxing jurisdiction against any interest in the Leased Property during the period the County owns the Leased Property (including, without limitation, any ad valorem taxes levied against the Company's rights in the Lease), the amount of ad valorem tax payments related to such levy or levies which are paid by the Company and received by the County shall be credited against and reduce on a pro rata basis the amount of the PILOT Payments the Company is obligated to pay pursuant to this Agreement. The Company shall be responsible for any taxes related to any interest in the Leased Property which the Company owns in its own name or granted to the Company other than pursuant to the Lease.

Section 3.8. Sales Tax Exemption. The County has provided a project exemption certificate to the Company and the Developer in connection with the Developer's acquisition of construction materials for the Project. Nothing herein shall limit the Company's right to any exemption of sales taxes not resulting from the County's ownership of title to the Project.

Section 3.9. Credits for Certain Tax Payments. Nothing in this Agreement shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit

hereunder to such extent it has made any payment for *ad valorem* property taxes on the Project to the County or any other taxing jurisdiction.

Section 3.10. Company's Right To Protest Taxes. Notwithstanding any other provision of this Agreement to the contrary, nothing in this Agreement shall be construed to limit or in any way restrict the availability of any provision of Missouri law which confers upon the Company the right to appeal, protest or otherwise contest any property tax valuation, assessment, classification or similar action; provided, however, the Company agrees that it will not appeal, protest or otherwise contest any real property tax valuation or assessment or any personal property tax or assessment unless the amount of such valuation or assessment, as applicable, will cause the total assessed valuation of all property for such year to be greater than 105% of the total amount of assessed valuation for said real property or personal property set forth in the cost-benefit analysis contained in the Chapter 100 Plan. Either party to this Agreement may present this Agreement and the Chapter 100 Plan to the appropriate tribunal (County Board of Equalization, the Missouri State Tax Commission or other tribunal) in connection with a Motion to Dismiss any such appeal.

Section 3.11. Cessation of Operations at the Project Site. Except as provided in Section 4.12, if for any reason the Company completely vacates, abandons or ceases operations at the Project Site, as subtenant of the Developer, during the term of this Agreement, and the Developer fails to exercise its option to purchase the Project within 90 days after such vacancy, abandonment or cessation of operations, the Company shall make a PILOT Payment to the County (to be distributed as provided in **Section 3.3**) equal to 100% of the amounts that would otherwise be payable to each taxing jurisdiction if the Project was not owned by the County and, thereafter, this Agreement shall terminate. Such payment shall be made on or before December 31 in the year in which the Company ceases operations (in a *pro rata* amount assuming the Project was placed on the tax rolls effective on the date of cessation through said December 31).

Section 3.12. No Abatement on Special Assessments, Licenses or Fees. The County and the Company hereby agree that the property tax exemptions described in this Agreement shall not apply to special assessments and shall not serve to reduce or eliminate any other licenses or fees owing to the County or any other taxing jurisdiction with respect to the Project. The Company hereby agrees to make payments with respect to all special assessments, licenses and fees which would otherwise be due with respect to the Project if such Project was not owned by the County.

ARTICLE IV

COVENANTS, REPRESENTATIONS AND AGREEMENTS

Section 4.1. Inspection. The County may conduct such periodic inspections of the Project as may be generally provided in the County's code. In addition, the Company and the Developer agree that the County and its duly authorized agents shall have the right at reasonable times (during business hours), subject to at least five Business Days' advance written notice and to the Company's and the Developer's usual business proprietary, safety and security requirements, to enter upon the Project Site to examine and inspect the Project and only such records of the Company and the Developer as may be required to demonstrate compliance with this Agreement.

Section 4.2. Compliance with Laws. To the best of the Company's and the Developer's knowledge, the Project is and will be in material compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project, including environmental laws, subject to all applicable rights of the Company and the Developer to contest the same.

Section 4.3. Purchase, Construction, Improvement, Installation and Operation. The Project will be purchased, constructed, improved, installed and operated in a manner that is generally consistent with the intent of the Project herein and in the Lease. In the event the Project purchased, constructed, improved and installed is materially inconsistent with the description of the Project contained herein and in the presentation to the County Commissioners of the County, such that the intended use and nature of the Project is not related to such description of the Project, the County reserves the right to declare an Event of Default in accordance with **Section 6.1** hereof.

Section 4.4. Representations and Warranties.

(a) The Company represents, warrants and covenants that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The Company is a corporation duly organized and validly existing under the laws of the State of Delaware and is authorized to do business in and is in good standing under the laws of the State of Missouri.

(2) The Company has the right, power and authority to enter into, execute, deliver and perform this Agreement.

(3) The execution, delivery and performance by the Company of this Agreement has been duly authorized by all necessary corporate action, and does not violate the articles of incorporation or bylaws of the Company, as the same may be amended and supplemented, or to the best of the Company's knowledge, any applicable provision of law, nor does it constitute a breach of or default under or require any consent under any agreement, instrument or document to which the Company is now a party or by which the Company is now or may become bound.

(4) To the best of the Company's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Company that would impair its ability to perform under this Agreement.

(5) The Company has obtained (or prior to the applicable time required will obtain) and will maintain all government permits, certificates and consents (including without limitation appropriate environmental approvals) necessary to conduct its business and operate the Project.

(6) During the Relevant Period, the Company agrees to maintain insurance for the Project in the types and amounts as are required by the Developer in the Lease.

(7) The Company covenants that operation of the Project will comply in all material respects with all presently applicable building and zoning, health, environmental and safety orders and laws and all other applicable laws, rules and regulations.

(8) The Company covenants that it shall: (1) comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of

all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project, as to the manner of use or the condition of the Project, (2) pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Agreement.

(b) The Developer represents, warrants and covenants that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The Developer is a Minnesota limited liability company duly organized and validly existing under the laws of the State of Missouri and is authorized to do business in and is in good standing under the laws of the State of Missouri.

(2) The Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement.

(3) The execution, delivery and performance by the Developer of this Agreement has been duly authorized by all necessary corporate action, and does not violate the articles of incorporation or bylaws of the Developer, as the same may be amended and supplemented, or to the best of the Developer's knowledge, any applicable provision of law, nor does it constitute a breach of or default under or require any consent under any agreement, instrument or document to which the Developer is now a party or by which the Developer is now or may become bound.

(4) To the best of the Developer's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Developer that would impair its ability to perform under this Agreement.

(5) The Developer has obtained (or prior to the applicable time required will obtain) and will maintain all government permits, certificates and consents (including without limitation appropriate environmental approvals) necessary to conduct its business and operate the Project.

(6) During the Relevant Period, the Developer agrees to maintain insurance for the Project in the types and amounts as are required by the Developer in the Lease.

(7) The Developer covenants that development of the Project will comply in all material respects with all presently applicable building and zoning, health, environmental and safety orders and laws and all other applicable laws, rules and regulations.

(8) The Developer covenants that it shall: (1) comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project, as to the manner of use or the condition of the Project, (2) pay all costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Developer to comply with the provisions of this Agreement.

(c) The County represents, warrants and covenants that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The County is a county of the first classification and municipal corporation organized and existing under the laws of the State of Missouri.

(2) The execution, delivery and performance by the County of this Agreement have been duly authorized by all necessary County actions.

(3) The County has the right, power and authority to enter into, execute, deliver and perform this Agreement.

(4) To the best of the County's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the County that would impair its ability to perform under this Agreement.

Section 4.5. Survival of Covenants. All warranties, representations, covenants and agreements of the Company contained herein shall survive termination of this Agreement for any reason.

Section 4.6. Indemnification. The Company and the Developer shall indemnify and defend the County to insure that the County, the Trustee, and the County Assessor are held harmless from and against all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done in, on or about, the Project during the term of the Lease, and against and from all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, arising during the term of the Lease from any event described in **Section 10.5** of the Lease to the extent and subject to the limitations provided therein provided, however, the indemnification contained in this **Section 4.6** shall not extend to the County if such claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, are the result of the negligence or willful misconduct by the County, or the performance or failure to perform by the County of its obligations under the Lease.

Section 4.7. Costs of Issuance of the Bonds. The Company agrees to pay on the date of the initial issuance of the Bonds, all costs of issuance incurred in connection therewith, provided that a closing memorandum detailing all costs of issuance is provided to the Company for review at least five Business Days prior to the initial issuance of the Bonds.

Section 4.8. Maintenance of Existence. The Company and Developer agree that during the Relevant Period hereunder, they will maintain their corporate or limited liability company existence, and will not dissolve or otherwise dispose of all or substantially all of their assets; provided, however, that the Company or Developer may, without violating the agreement contained in this Section, consolidate with or merge into another domestic corporation or limited liability company (i.e., a corporation incorporated and existing under the laws of one of the states of the United States) or permit one or more other domestic corporations or limited liability companies to consolidate with or merge into them, or may sell or otherwise transfer to another domestic corporation or limited liability company all or substantially all of their assets as an entirety and thereafter dissolve, provided, the surviving, resulting or transferee corporations or limited liability companies expressly assume in writing all the obligations of the Company or Developer contained in this Agreement; and, further provided, that the surviving, resulting or transferee corporations or limited liability companies, as the case may be, have a consolidated net worth (after giving effect to said consolidation, merger or transfer) at least equal to or greater than that of the Company or Developer immediately prior to said consolidation, merger or transfer and there shall be delivered to the County and the Trustee a Certificate of an independent certified public accountant to such effect. The term "net worth", as used in this Section, shall mean the difference obtained by subtracting total liabilities (not including as a liability any capital or surplus item) from total assets of the Company or Developer and all of its subsidiaries.

Section 4.9. Maintenance and Repairs. Throughout the term of the Lease the Company or the Developer, as applicable, shall, at its own expense, (i) keep the Project in reasonably safe operating condition and keep the Project in good repair, reasonable wear, tear, depreciation and obsolescence excepted, making from time to time all repairs thereto and renewals and replacements thereof it determines to be necessary and (ii) keep the Project and all parts thereof free from filth, nuisance or conditions unreasonably increasing the danger of fires. Without limiting the generality of the foregoing, the Company shall at all times remain in compliance with all provisions of the City's codes relating to maintenance and appearance.

Section 4.10. Taxes, Assessments and Other Governmental Charges.

(a) Subject to subsection (b) of this Section, the Company shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Project, or any part thereof or interest therein (including the leasehold estate of the Company therein) or any buildings, improvements, machinery and equipment at any time installed thereon by the Company, or the income therefrom, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all utility charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of the Bonds or encumber the County's title to the Project; provided that with respect to any special assessments or other governmental charges that are lawfully levied and assessed which may be paid in installments, the Company shall be obligated to pay only such installments thereof as become due and payable during the term of the Lease.

(b) The Company shall have the right, in its own name or in the County's name, to contest the validity or amount of any tax, assessment or other governmental charge which the Company is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted at least 10 days before the tax, assessment or other governmental charge complained of becomes delinquent if and provided (1) the Company, before instituting any such contest, gives the County written notice of its intention so to do, (2) the Company diligently prosecutes any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (3) the Company promptly pays any final judgment enforcing the tax, assessment or other governmental charge so contested and thereafter promptly procures record release or satisfaction thereof. The County agrees to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge. The Company shall save and hold harmless the County from any costs and expenses the County may incur related to any of the above.

(c) Nothing in this Agreement shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit against any payments in lieu of taxes due under **Article III** hereof to the extent of any ad valorem taxes imposed with respect to the Project paid pursuant to this Section.

Section 4.11. Permits and Authorizations. The Company shall not do or permit others under its control to do any work on the Project related to any repair, rebuilding, restoration, replacement, modification or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The County agrees to act promptly on all requests for such municipal permits and authorizations. All such work shall be done in a

good and workmanlike manner and in strict compliance with all applicable material building and zoning laws and governmental regulations and requirements, and in accordance with the requirements.

Section 4.12. Damage or Destruction.

(a) If the Project is damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as practicable, shall either (1) make the determination described in subsection (f) below, or (2) repair, restore, replace or rebuild the same so that upon completion of such repairs, restoration, replacement or rebuilding the Project is of a value not less than the value thereof immediately prior to the occurrence of such damage or destruction.

Unless the Company makes the determination described in subsection (f) below, the Net Proceeds of casualty insurance required by **Section 4.4(a)(6)** hereof received with respect to such damage or loss to the Project shall be used to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof. Insurance monies in an amount less than \$1,000,000 may be paid to or retained by the Company to be held in trust and used as provided herein. Insurance monies in any amount of \$1,000,000 or more shall be paid to the Trustee and deposited in the Project Fund and shall be disbursed as provided in **Section 4.4** of the Lease to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof. If the Company makes the determination described in subsection (f) below, the Net Proceeds shall be deposited with the Trustee and used to redeem Bonds as provided in subsection (f).

(b) If any of the insurance monies paid by the insurance company as hereinabove provided remain after the completion of such repairs, restoration, replacement or rebuilding, and this Agreement has not been terminated, the excess shall be deposited in the Bond Fund, subject to the rights of any leasehold mortgagee. Completion of such repairs, restoration, replacement or rebuilding shall be evidenced by a certificate of completion in a form satisfactory to the County and Trustee. If the Net Proceeds are insufficient to pay the entire cost of such repairs, restoration, replacement or rebuilding, the Company shall pay the deficiency.

(c) Except as otherwise provided in this Agreement, and unless the Company makes the determination in subsection (f) below, in the event of any such damage by fire or any other casualty, the provisions of this Agreement shall be unaffected and the Company shall remain and continue liable for the payment of all PILOTS and all other charges required hereunder to be paid by the Company, as though no damage by fire or any other casualty has occurred.

(d) The County and the Company agree that they will cooperate with each other, to such extent as such other party may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage, and that they will execute and deliver to such other parties such instruments as may be required to facilitate the recovery of any insurance monies.

(e) The Company agrees to give prompt notice to the County and the Trustee with respect to all fires and any other casualties occurring in, on, at or about the Project Site.

(f) If the Company determines that rebuilding, repairing, restoring or replacing the Project is not practicable and desirable, any Net Proceeds of casualty insurance received with respect to such damage or loss shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal

of any Bonds as the same become due, all subject to rights of any leasehold mortgagee (if any). The Company agrees to be reasonable in exercising its judgment pursuant to this subsection (f).

(g) The Company shall not, by reason of its inability to use all or any part of the Project during any period in which the Project is damaged or destroyed or is being repaired, rebuilt, restored or replaced, nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement from the County, the Trustee or the Owners or to any abatement or diminution of the amounts payable by the Company under this Agreement or of any other obligations of the Company under this Agreement except as expressly provided in this Section.

Section 4.13. Bondowner Approval. Notwithstanding anything to the contrary contained in this Agreement, the proceeds of any insurance received subsequent to a casualty may prior to the application thereof by the County or the Trustee be applied as directed by the Owners of 100% of the principal amount of Bonds outstanding, subject and subordinate to the rights of the County and the Trustee to be paid all their expenses (including attorneys' fees, trustee's fees and any extraordinary expenses of the County and the Trustee) incurred in the collection of such gross proceeds.

Section 4.14. As used in this Section, the following terms have the following meanings:

"Environmental Laws" means any now-existing or hereafter enacted or promulgated federal, state, local, or other law, statute, ordinance, order, rule, regulation or court order pertaining to (i) environmental protection, regulation, contamination or clean-up, (ii) toxic waste, (iii) underground storage tanks, (iv) asbestos or asbestos-containing materials, or (v) the handling, treatment, storage, use or disposal of Hazardous Substances, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act, all as amended from time to time.

"Hazardous Substances" means all (i) "hazardous substances" (as defined in 42 U.S.C. §9601(14)), (ii) "chemicals" subject to regulation under Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended from time to time (iii) natural gas liquids, liquefied natural gas or synthetic gas, (iv) any petroleum, petroleum-based products or crude oil, or (v) any other hazardous or toxic substances, wastes or materials, pollutants, contaminants or any other substances or materials which are included under or regulated by any Environmental Law.

(a) The Company will provide the County and the Trustee with copies of any notifications of releases of Hazardous Substances or of any environmental hazards or potential hazards which are given by or on behalf of the Company to any federal, state or local or other agencies or authorities or which are received by the Company from any federal, state or local or other agencies or authorities with respect to the Project Site. Such copies shall be sent to the County and the Trustee concurrently with their being mailed or delivered to the governmental agencies or authorities or within ten days after they are made or received by the Company.

(b) The Company will use its reasonable best efforts to comply with and operate and at all times use, keep and maintain the Project and every part thereof (whether or not such property constitutes a facility, as defined in 42 U.S.C. § 9601 *et. seq.*) in material conformance with all applicable Environmental Laws. Without limiting the generality of the foregoing, the Company will not use, generate, treat, store, dispose of or otherwise introduce any Hazardous Substance into or on the Project or any part thereof nor cause, suffer, allow or permit anyone else to do so except in the ordinary course of the operation of the Company's business and in compliance with all applicable Environmental Laws.

ARTICLE V

SALE AND ASSIGNMENT

Section 5.1. The benefits granted by the County to the Company and the Developer pursuant to this Agreement shall belong solely to the Company and the Developer, and such benefits shall not be transferred (other than to an affiliate of the Company or the Developer), assigned, pledged or in any other manner hypothecated without the express written consent of the County, except that the Company or the Developer shall have the right to assign or transfer its interest hereunder, including the benefits hereunder, in connection with any assignment or transfer of its interest in the Leased Property that is permitted pursuant to the Lease; but nothing herein shall preclude the Company from assigning or pledging its interest in the Leased Property so long as the Company continues to occupy the Leased Property and otherwise remains responsible for its undertakings herein.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1. Events of Default. If any one or more of the following events shall occur and be continuing, it is hereby defined as and declared to be and to constitute an Event of Default hereunder:

- (a) the Company fails to make any PILOT Payments required to be paid hereunder within 10 days after written notice and demand by the County;
- (b) The occurrence and continuance of an Event of Default by the Company under the Lease following any applicable notice and grace period provided therein;
- (c) the Company shall fail to perform any of its obligations hereunder for a period of 60 days (or such longer period as the County and the Company may agree in writing) following written notice to the Company from the County of such failure which notice shall include a specific description of the Company's failure hereunder); provided, however, that if such failure is not subject to cure within such 60 days, such failure shall not constitute an Event of Default hereunder if the Company initiates action to cure such default and pursues such action diligently;
- (d) any representation of the Company contained herein proves to be materially false or erroneous and is not corrected or brought into compliance within 60 days (or such longer period as the County and the Company may agree in writing) after the County has given written notice to the Company specifying the false or erroneous representation and requiring it to be remedied; provided, however, that if such matter is not subject to cure within such 60 days after such notice, it shall not constitute an Event of Default hereunder if the Company initiates action to cure the default within such 60 days after such notice and pursues such action diligently; or
- (e) the delivery to the County by the Company of an Annual Compliance Report that shows fewer than the minimum number of Qualifying Jobs pursuant to **Section 3.3(b)** to continue to receive abatement (23 in Year 1, 33 in Year 2, and 48 in Years 3-10).

Section 6.2. Remedies on Default. Upon an Event of Default hereunder this Agreement may be terminated by written notice to the Company from the County. Upon such termination the Company shall make a PILOT Payment to the County equal to (i) the *pro rata* amount payable pursuant to **Section 3.3** hereof from January 1 of the year in question through the effective date of termination, plus (ii) the *pro rata* amount of taxes that would be due for the remaining portion of the year assuming the Leased Property was placed on the tax rolls effective on the date of termination through December 31; provided, however, the payment of PILOT Payments following cessation of operations shall be governed by **Section 3.11**; and provided further, the Company shall receive a credit for all PILOT Payments made pursuant to **Section 3.2** herein and such credit shall reduce the amount of any payments due under this Section.

Upon any termination of this Agreement the Company agrees to pay interest and penalties on all amounts due hereunder that are late to the same extent as if such payments were late tax payments under Missouri law.

Section 6.3. Payments on Defaulted Amounts. Any amounts due hereunder which are not paid when due shall bear interest at the interest rate imposed by Missouri law on overdue *ad valorem* real estate taxes from the date such payment was first due. In addition, amounts payable hereunder in lieu of *ad valorem* real and personal property taxes which are not paid when due shall be subject to penalties imposed by Missouri law on overdue *ad valorem* real estate taxes.

Section 6.4. Enforcement. In addition to the remedies specified in **Section 6.2**, upon the occurrence of an Event of Default, the County or any taxing jurisdiction that would benefit from the PILOT Payments provided for in this Agreement may bring an action for specific performance to enforce such payments. In the event of litigation pertaining to the enforcement of this Agreement, the losing party shall pay all costs of litigation, including reasonable attorneys' fees.

Section 6.5. Failure of the County to Perform its Obligations. In the event the County shall fail to perform any of its obligations hereunder for (i) a period of 60 days (or such longer period as the Company and the County may agree in writing) following written notice to the County from the Company of such failure which notice shall include a specific description of the County's failure hereunder), or (ii) if such failure is not subject to cure within such 60 days, the County shall have failed to initiate action to cure such default and shall pursue such action diligently; the Company may declare that the County is in default under this Agreement and may pursue any legal remedy available to it to enforce this Agreement.

ARTICLE VII

TERM OF AGREEMENT

Section 7.1. Term of Agreement. This Agreement shall become effective upon execution, and subject to earlier termination pursuant to the provisions of this Agreement (including particularly the following sentence and **Article VI** hereof), shall have an initial term commencing as of the date of this Agreement and terminating on December 31, 2028 (the "Stated Expiration Date"). This Agreement shall automatically terminate upon the earlier to occur of the following:

- (a) the payment in full of the Bonds (or any bonds issued to refund the Bonds) and the payment of all amounts due under this Agreement;
- (b) the expiration of the Lease Term set forth in **Section 3.2** of the Lease; or

(c) the occurrence and continuance of an Event of Default and the subsequent termination of this Agreement pursuant to the provisions of the Lease and this Agreement.

Section 7.2. Payments in Final Year. The foregoing provisions of **Section 7.1** shall not relieve the Company of its obligation to make any PILOT Payments owing during the year in which the Bonds are paid, to the extent the Company receives the ad valorem tax exemption contemplated for that year.

Section 7.3. Amendments. The parties shall consider appropriate amendments to this Agreement at the time of future acquisitions and improvements. The parties agree to negotiate in good faith in connection with, and to promptly consider, appropriate amendments to this Agreement.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.1. Mutual Assistance. The County and the Company agree to take such actions as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

Section 8.2. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be given in the manner specified in the Lease.

Section 8.3. Severability. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 8.4. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 8.5. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 8.6. Waiver. The County and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the County under the Lease executed in connection with the Bonds. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Company in any bankruptcy court.

Section 8.7. Entire Agreement. This Agreement, together with the Lease, the Indenture and any other documents entered into of even date herewith, constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the County, Developer and the Company with respect to the subject matter hereof, except as may be set forth in the Indenture or the Lease.

Section 8.8. Electronic Storage of Documents. The parties agree that the transaction described herein may be conducted and related documents may be sent, received or stored by electronic means.

Section 8.9. Employee Verification. The Company and Developer shall comply with and satisfy the requirements of Section 285.530.2, RSMo., as amended, which requires (1) any business entity receiving tax abatement (i.e., the Developer and the Company) to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the business entity receiving tax abatement, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the entity receiving tax abatement. The Company shall provide such affidavits and documentation to the County Treasurer on or before November 15 of each year during the term of this Agreement, beginning November 15, 2018, and also upon execution of this Agreement.

Section 8.10. Complete Agreement. The Company, the Developer and the County understand that oral or unexecuted agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable. To protect the Company, the Developer and the County from misunderstanding or disappointment, any agreements the Company, the Developer and the County reach covering such matters are contained in this Agreement and in the Lease, which are the complete and exclusive statements of the agreement between the Company, the Developer and the County, except as the Company, the Developer and the County may later agree in writing to modify this Agreement and the Lease.

Section 8.11. Personally Identifiable Information. To the extent that the Company and/or the Developer provides the County directly, or through its agents, any personally identifiable information relating to the Company's or the Developer's employees, the County will make all reasonable efforts to ensure that such information is kept strictly confidential.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective corporate names, all as of the date first above written.

BOONE COUNTY, MISSOURI

By: _____
Name: Daniel K. Atwill
Title: Presiding Commissioner

[SEAL]

ATTEST:

By: _____
Name: Taylor W. Burks
Title: County Clerk

SMITH & WESSON CORP.

By:
Name:
Title:

ACKNOWLEDGMENT AND AGREEMENT OF ASSESSOR

The County Assessor of Boone County, Missouri, acknowledges receipt of this Agreement and agrees to perform the duties imposed on the County Assessor by **Article III** of this Agreement.

**OFFICE OF THE BOONE COUNTY,
MISSOURI ASSESSOR**

By: _____

Name: Tom Schauwecker

Title: County Assessor

ACKNOWLEDGMENT AND AGREEMENT OF DEVELOPER

DEVELOPER ENTITY, as Developer, acknowledges receipt of this Agreement and agrees to perform the duties imposed on the Developer by **Sections 3.8, 4.1-4.3, 4.6, 4.8, 5.1, 8.7 and 8.9-8.11** of this Agreement.

RYAN BOONE COUNTY, LLC

By: _____
Name Printed:
Title:

EXHIBIT A

DESCRIPTION OF PROJECT SITE

The real property located in Boone County, Missouri as more specifically described below:

Legal Description

A TRACT OF LAND LOCATED IN THE SOUTH HALF OF SECTION 6, TOWNSHIP 48 NORTH, RANGE 11 WEST, BOONE COUNTY, MISSOURI AND BEING A PART OF THE LAND DESCRIBED BY THE TRUSTEE'S DEED RECORDED IN BOOK 2428, PAGE 139 AND BEING PART OF THE LAND DESCRIBED IN WARRANTY DEED RECORDED IN BOOK 4321, PAGE 111 AND BEING THE LAND SHOWN IN THE SURVEY RECORDED IN BOOK 3521, PAGE 139 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT 1:

COMMENCING AT THE CENTER OF SAID SECTION 6 AS SHOWN IN SURVEY RECORDED IN BOOK 1352, PAGE 443; THENCE WITH THE EAST LINE OF SAID SOUTHWEST QUARTER OF SAID SECTION 6, S 1°02'00"W, 256.72 FEET TO THE POINT OF BEGINNING:

THENCE FROM THE POINT OF BEGINNING SAID POINT ALSO BEING ON THE NORTH LINE OF SAID SURVEY RECORDED IN BOOK 3521, PAGE 139; THENCE WITH THE LINES OF SAID SURVEY, S 1°02'00"W, 238.48 FEET; THENCE N 89°40'30"E, 1308.30 FEET; THENCE LEAVING SAID SURVEY LINES, S 0°19'30"E, 1150.08 FEET; THENCE S 89°40'30"W, 1982.03 FEET; THENCE S 0°19'30"E, 1009.33 FEET TO THE SOUTH LINE OF SAID SURVEY RECORDED IN BOOK 3521, PAGE 139; THENCE WITH THE LINES OF SAID SURVEY, S 88°56'05"W, 859.79 FEET; THENCE N 1°51'55"E, 1413.55 FEET; THENCE N 2°32'50"E, 48.03 FEET; THENCE N 1°46'20"E, 924.70 FEET; THENCE N 88°42'40"E, 1449.02 FEET TO THE POINT OF BEGINNING AND CONTAINING 100.52 ACRES.

EXHIBIT B

ANNUAL COMPLIANCE REPORT

Date: _____, 20__

A. COMPANY INFORMATION.

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Contact: _____ Telephone: _____

Title: _____ Fax: _____

B. EMPLOYMENT INFORMATION.

The highest actual number of “Qualifying Jobs” during each of the immediately preceding 12 months ending on October 31, 20__ (the October 31st prior to this Report) is set forth below in the column labeled “Total Qualifying Jobs.”

The highest average annual wage of the “Qualifying Jobs” at the Project Site for the immediately preceding 12 months ending on October 31, 20__ (i.e. the sum of the annual wage of each “Qualifying Job” divided by the number of “Qualifying Jobs”) is set forth below in the row labeled “Average Wage.”

The 12-month average of the highest actual number of “Qualifying Jobs” during each month for the immediately preceding 12 months ending on October 31, 20__ is set forth below under the row labeled “12-Month Average.”

	Total Qualifying Jobs	Average Wage
November		
December		
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
12-Month Average		

Attached is a copy of a report verifying the above calculation containing at a minimum the following information for each Qualifying Job:

1. Name or last 4 digits of Social Security Number or other agreed upon designation.
2. Hire Date.
3. Separation Date.
4. Annual Wage (however, for privacy purposes, all annual wages may be listed in a manner that does not match a specific wage with a particular employee).

C. CERTIFICATION.

The undersigned hereby represents and certifies that, to the best knowledge and belief of the undersigned, this Annual Compliance Report contains no information or data, contained herein or in the exhibits or attachments, that is false or incorrect in any material respect.

Dated this ____ day of _____, _____.

Signature: _____
Name: _____
Title: _____

EXHIBIT C

ANNUAL BOONE COUNTY ADMINISTRATION COSTS