

ORDINANCE NO. 2013-108

AN ORDINANCE AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ENTER INTO A JOB CREATION TAX CREDIT AGREEMENT WITH MAC LTT, INC. , PURSUANT TO SECTION 181.21 OF THE KENT CODIFIED ORDINANCES; AND DECLARING AN EMERGENCY.

WHEREAS, Mac LTT, Inc. has expanded with a new manufacturing site in Kent used for the construction of truck trailers; and

WHEREAS, Mac, LTT, Inc. has promised to create more than 25 new full time jobs at said locations; and

WHEREAS, Mac LTT, Inc. has also qualified for a State of Ohio Job Creation Income Tax Credit; and

WHEREAS, Mac LTT, Inc. has met the City of Kent criteria for acceptance of a Job Creation Income Tax Credit pursuant to Kent Codified code section 181.21; and

WHEREAS, both the City of Kent and Mac LTT, Inc. will benefit from entering into the Job Creation Income Tax Credit agreement.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

SECTION 1. That Kent City Council does hereby authorize the City Manager, or his designee, to execute the Jobs Creation Income Tax Credit Agreement with Mac LTT, Inc., a copy of which is attached hereto as Exhibit "A" and made a part hereof.

SECTION 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: 10/16/2013
DATE

MAYOR AND PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

I hereby certify that Ordinance No. 2013- 108 was duly enacted this 16th day of October, 2013, by the Council of the City of Kent, Ohio.

CLERK OF COUNCIL

EXHIBIT A

TAX CREDIT AGREEMENT

Grantee:	MAC LTT, Inc.		Grant Control No.:	TI_2011_0748	
Address:	1400 Fairchild Avenue		Federal Tax Identification Number	45-2966184	
City:	Kent		State:	OH	Zip: 44240-1818
Project Location:	1400 Fairchild Avenue City of Kent, OH 44240-1818		Tax Credit Effective Date:	January 1, 2012	
Project County:	Portage	Tax Credit End Date:	December 31, 2018		
Job, Payroll and Investment Commitments					
Full-Time Equivalent Employees to be Created:	250	Full-Time Equivalent Employees to be Retained:	3	New Payroll to be created:	\$7,800,000
Baseline Payroll:	\$520,000	Pay Increase Factor:	1.02200	Baseline Income Tax Revenue:	\$23,362
Percentage of Minority and Disadvantaged Hiring:		10	Investment:	\$6,100,000	
Tax Credit Approved by the Tax Credit Authority					
Program	Tax Credit Percentage	Number of Years	Approval Date:		
Job Creation Tax Credit	55%	7	July 25, 2011		
Grantee Notice					
Grantee Contact Name:	Jim Maiorana		Title:	Executive Vice President	
Address:	1400 Fairchild Avenue, Kent		State:	OH	
Zip:	44240-1818		Fax Number:	N/A	

This Tax Credit Agreement (this "Agreement") is made and entered into by and between the State of Ohio, Tax Credit Authority ("Grantor"), located at 77 South High Street, Columbus, Ohio 43215 and Grantee, located at 1400 Fairchild Avenue, City of Kent, OH 44240-1818 with respect to Grantee's operations at the Project Location (the "Project") as further described in Exhibit I, Scope of Work. The Scope of Work is incorporated by reference into this Agreement as if fully set forth herein.

1. **Grantor's Findings.** Pursuant to Section 122.17 of the Ohio Revised Code ("O.R.C.") and based upon a review of relevant information and the representations made by Grantee to the Tax Credit Authority in Grantee's application for financial assistance and at the meeting of the Tax Credit Authority on the approval date set forth above, Grantor has determined the following:

(a) Grantee's Project will increase payroll and income tax revenue in the State of Ohio (the "State");

(b) Grantee's Project is economically sound and will benefit the people of this State by increasing opportunities for employment and strengthening the economy of this State; and

(c) Receiving the tax credit is a major factor in Grantee's decision to go forward with the Project.

Grantee affirms such representations and acknowledges that Grantor has relied on such representations to induce Grantor to grant the tax credits contemplated by this Agreement.

2. **Grant and Term of Tax Credit.** Grantor hereby makes for the benefit of Grantee a grant in the form of a refundable tax credit (the "Grant") allowed for the taxable years or tax periods beginning on the Tax Credit Effective Date and ending on the Tax Credit End Date as set forth on the first page of this Agreement (the "Term") for the sole and express purpose of supporting the Project. The amount of the tax credit attributable to the Grant for each taxable year during the Term, or for each calendar year during the Term that includes a tax period (the "Annual Tax Credit"), shall be based on the amount of **Excess Income Tax Revenue** received by the State for taxes withheld by Grantee during such taxable year or calendar year, as the case may be. Excess Income Tax Revenue is defined in division (A)(3) of Section 122.17 of the O.R.C and shall be calculated as further described in Section 4 of this Agreement. The percentage of Excess Income Tax Revenue that will be allowed as the Annual Tax Credit shall be the Tax Credit Percentage set forth on the first page of this Agreement. Annual Tax Credits may be claimed against any tax imposed by Sections 5725.18, 5729.03, 5733.06 or 5747.02 or levied under Chapter 5751 of the O.R.C. Notwithstanding the foregoing, Grantee shall not be eligible to receive an Annual Tax Credit for any taxable year during the Term, or for any calendar year during the Term that includes a tax period, in which the total payroll of Grantee in the Project or at the Project Location, for the taxable year or calendar year, as the case may be, is less than the **Baseline Payroll**, as set forth on page one of this Agreement. With respect to taxes imposed under Sections 5733.06 or 5747.02 or Chapter 5751 of the O.R.C., each Annual Tax Credit which is claimed for any taxable year or tax period during the Term shall be claimed in the order required under Sections 5733.98, 5747.98 or 5751.98 of the O.R.C.

3. **Job Creation and Payroll.** As a condition of the Grant, Grantee shall undertake and accomplish the Project and activities as set forth in **Exhibit I**. Within three (3) years of the Project's Tax Credit Effective Date, Grantee shall (a) employ at the Project Location the total number of Full-Time Equivalent Employees set forth on the first page of this Agreement as "to be created" and "to be retained" and (b) generate the amount of New Payroll to be created as set forth on the first page of this Agreement. New Payroll shall be calculated by subtracting the Baseline Payroll, as set on the first page of this Agreement, from the total annual payroll of the Project generated at the Project Location ("**New Payroll**") as reported by Grantee as adjusted pursuant to Section 4 of the Agreement and verified by the Director of Development (the "**Director**"). To remain eligible for an Annual Tax Credit, Grantee shall thereafter maintain at least Six Hundred and Sixty Thousand Dollars (\$660,000.00) of New Payroll throughout the Term of this Agreement. Throughout the Term, Grantee shall pay its Full-Time Equivalent Employees an average of at least one hundred fifty percent (150%) of the federal minimum wage.

4. **Excess Income Tax Revenue.**

(a) **Excess Income Tax Revenue Defined.** Subject to the other provisions of Section 4 of this Agreement, Excess Income Tax Revenue shall be calculated as follows: (x) the Income Tax Revenue attributed to Full-Time Equivalent Employees employed by Grantee in the Project, minus (y) the Baseline Income Tax Revenue, as adjusted annually. For each year during the Term, the Baseline Income Tax Revenue for such year shall be increased from the prior year by an amount equal to the (xx) Baseline Income Tax Revenue for the immediately preceding year, times (yy) the Pay Increase Factor as set forth on the first page of this Agreement.

(b) **Pro-rated Application of the Baseline Income Tax Revenue.** If Grantee becomes eligible for the credit after the first day of Grantee's taxable year or after the first day of the calendar year that includes the tax period, the Baseline Income Tax Revenue shall be reduced for such partial year pursuant to division (A)(2) of Section 122.17 of the O.R.C.

(c) Failure to Execute Agreement. If Grantee failed to enter into this Agreement within sixty (60) days after having received this Agreement from the Ohio Department of Development, then Grantor shall amend the Baseline Income Tax Revenue to reflect the Income Tax Revenue based on the Full-Time Equivalent Employees during the most recent twelve-month period prior to the execution of this Agreement. The revised Baseline Income Tax Revenue shall be adjusted annually for each calendar year as described in Section 4(a) above.

(d) Treatment of Relocated Employees. If employees or employment positions are relocated to the Project from other Grantee operations located in the State or from an affiliate company of Grantee in the State for which aggregate annual payroll is less than Two Hundred Thousand Dollars (\$200,000), the Transferred Income Tax Revenue, as defined in paragraph (V) of O.A.C. Rule 122:7-1-01, shall be added to the Income Tax Revenue of the Project for year immediately following the tax year the relocation takes place and for each year during the remainder of the Term of the Grant. If employees or employment positions are relocated to the Project from other Grantee operations located in the State or from an affiliate company of Grantee in the State for which aggregate annual payroll is Two Hundred Thousand Dollars (\$200,000) or greater, the Transferred Income Tax Revenue shall be added both to the Income Tax Revenue and the Baseline Income Tax Revenue of the Project for each year following the tax year in which the relocation takes place.

(e) Calculation of the Annual Tax Credit. The Annual Tax Credit shall be the product of the Excess Income Tax Revenue multiplied by the Tax Credit Percentage for the calendar year reporting period set forth on the first page of this Agreement.

5. Submission of Annual Progress Reports. During the Term, Grantee shall submit to the Director an Annual Progress Report. The Annual Progress Report shall specify the number of Full-Time Equivalent Employees first employed by Grantee as a result of the Project, the total number of Full-time Equivalent Employees employed by Grantee at the Project, the total payroll of Grantee at the Project, the total Income Tax Revenue withheld in connection with the Full-time Equivalent Employees for the preceding taxable or calendar year, the Excess Income Tax Revenue attributed to Full-Time Equivalent Employees, the average hourly base wage of the Full-Time Equivalent Employees, the total investment for the Project to date, and any other information the Director deems appropriate to perform the Director's duties pursuant to Section 122.17 of the O.R.C. Grantee's Annual Progress Report shall be received by the Director on behalf of Grantor, no later than March first of each year. The chief executive officer, chief financial officer, or any other officer of the company authorized to sign on behalf of Grantee shall certify to Grantor in writing the accuracy of the information contained in the Annual Progress Report with respect to such Grantee. Failure of Grantee to submit a completed Annual Progress Report shall be a default under this Agreement and shall be permit Grantor to exercise the remedies, including but not limited to termination, set forth in Section 16 of this Agreement. All reports shall be undertaken at the sole expense of Grantee.

6. Certificate of Verification. The Director shall verify the amounts reported pursuant to Section 5 of this Agreement and, if the Director determines such amounts to be supported by the Annual Progress Report, shall issue a Certificate of Verification to Grantee stating that the amounts have been verified. The amounts verified by the Director are subject to further audit and examination by the Director and the Tax Commissioner or the Superintendent of Insurance.

7. Conditions of the Grant.

(a) Fee Reservations. Grantee's receipt of the Grant is contingent upon Grantee's payment to Grantor of the appropriate servicing fees, as set forth in O.A.C. Rule 122:7-1-04.

(b) Sufficient Funding to Complete Project. Grantee warrants and represents to Grantor that Grantee has obtained sufficient funding, in addition to the financial benefit of Annual Tax Credits, to complete the Project.

8. Grantee's Location. Grantee shall maintain operations at Project Location for the greater of (a) seven years from the Tax Credit Effective Date or (b) the Term of the Grant plus three years. On or before March first of each year following the Term of the Grant and continuing for the period Grantee is required to maintain operations (the "Post-Term Reporting Period"), Grantee shall provide Grantor with a written certification that Grantee has maintained operations at the Project Location. The written certification shall be signed by Grantee's chief executive officer, chief financial officer, or other officer authorized to sign on behalf of Grantee.

9. Effect of Failure.

(a) Effect of Failure to Create or Retain Jobs and Payroll. Grantee shall be in default of this Agreement if Grantee fails to achieve and maintain the number of Full-Time Equivalent Employees and New Payroll in the amounts set forth on the first page of this Agreement or fails to perform any of its obligations under this Agreement and such failure to perform continues uncured for more than thirty (30) days after written notice (a "Default Notice") from Grantor. Upon such default, Grantor may reduce the Tax Credit Percentage of the Grant and/or the Term. Any such reduction shall take effect in any taxable year or tax period as permitted in Section 122.17(E) of the O.R.C.

(b) Effect of Failure to Maintain Operations. If Grantee fails to maintain operations at the Project Location, during the Term and through the Post-Term Reporting Period, Grantee may be required to refund to the State an amount of money determined in accordance with Section 122.17(K) of the O.R.C. In determining the amount of the Grant, if any, to be refunded to the State, Grantor shall consider the effect of Market Conditions on the Project and whether Grantee continues to maintain other operations in the State.

(c) Definition of Market Conditions. For the purposes of this Agreement, "Market Conditions" shall be determined by the Director, with information, including from the Federal Reserve Bank of Cleveland or other sources as the Director reasonably deems appropriate. If applicable, the Director may consider any or all of the following:

(i) Two consecutive quarters of decline in manufacturing employment in the State as a whole or, when possible, by relevant manufacturing sector. Employment figures will be those reported by the Ohio Department of Job and Family Services.

(ii) A decline, as a whole or by relevant sector, in 12 of the 36 months as detailed in the Federal Reserve Bank's national industrial production index.

(iii) Whether another business locates in Grantee's facility at the Project Site and employs individuals.

(iv) Whether Grantee obtains a written agreement of the purchaser of the facility to assume the job creation and retention obligations set forth in the Agreement.

(v) The extent to which Grantee received an economic benefit as a result of the award of Grant Funds which would not have otherwise been possible if Grantee had not have received the Grant Funds.

their officials, employees and agents related to the performance of the Agreement which may arise under either the Constitution of the State of Ohio or the Constitution of the United States of America, including but not limited to claims under the dormant commerce clause or equal protection, on or before the date of the Agreement and arising out of the past and/or present business relationship between Grantor and Grantee with respect to the Agreement and the transactions contemplated thereby.

13. **Records Maintenance and Access.**

(a) **Maintenance of Records.** Grantee shall establish and maintain for at least four (4) years after the end of the Post-Term Reporting Period, or such earlier termination of this Agreement, such records as are required by Grantor in Section 5 above and all relevant supporting documentation. The parties further agree that records required by Grantor with respect to any questioned costs, audit disallowances, litigation or dispute between Grantor and Grantee shall be maintained for the time needed for the resolution of such issue and that in the event of early termination of this Agreement, or if for any other reason Grantor shall require a review of the records related to the Project, Grantee shall, at its own cost and expense, segregate all such records related to the Project from its other records of operation. Grantee shall maintain and organize its records in such form so that, in case of a review of its records or an audit, Grantee is able to verify and document the information it provides in its Annual Progress Reports pursuant to Section 5 of this Agreement.

(b) **Inspection and Copying.** At any time during normal business hours upon written notice and as often as Grantor may reasonably deem necessary, Grantee shall make available to Grantor and to other appropriate State agencies or officials for examination all of its records with respect to matters covered by this Agreement including, but not limited to, records of personnel and terms of employment, and Grantee shall permit Grantor and other appropriate State agencies or officials to audit, examine and make excerpts or transcripts from such records.

14. **Certification of Funds.** None of the rights, duties and obligations described in this Agreement shall be binding on either party until all applicable statutory provisions of the O.R.C., including but not limited to, Section 126.07, have been complied with, and until such time as all funds have been made available and are forthcoming from the appropriate State agencies.

15. **Indemnification.** Grantee agrees to hold Grantor harmless from any and all liabilities or claims caused by or resulting from Grantee's performance of the obligations or activities in furtherance of the Project and activities set forth in the Scope of Work. Grantee will reimburse Grantor for any judgments arising from Grantee's performance hereunder which may be obtained against Grantor, including, but not limited to, judgments for infringements of patents or copyrights. Grantee agrees to reimburse Grantor for all costs incurred by Grantor in defending against any such claims or legal actions if called upon by Grantor to do so.

16. **Default and Remedies.**

(a) **Default.** Grantee shall be in default of this Agreement if Grantee fails to create and retain the number of Full-Time Equivalent Employees and New Payroll in the amounts set forth on the first page of this Agreement, invest the amount set forth on the first page of this Agreement, or perform any of its obligations under this Agreement and such failure to perform continues uncured for more than thirty (30) days after a Default Notice from Grantor.

(b) **Remedies.** Following a default by Grantee, Grantor may exercise one or more of the following remedies:

- (i) **Reduction of Percent or Term.** Grantor may reduce the percentage and/or the Term of the Grant in accordance with Section 122.17(E) of the O.R.C and O.A.C. Rule 122:7-1-08.
- (ii) **Termination.** Grantor may terminate this Agreement including Grantor's obligations to issue tax credit certifications of the Annual Tax Credit. Pursuant to Section 122.17 (K) of the O.R. C. and Section 9(b) of this Agreement, Grantor may require Grantee to refund to the State an amount equal to all or a portion of the Annual Tax Credits.
- (iii) **Other Legal Remedies.** Grantor may pursue any other legal or equitable remedies Grantor may have under this Agreement or applicable law.

(c) **Early Termination.** Grantor may also terminate this Agreement if Grantee defaults under another Agreement between the Grantor and/or the Tax Credit Authority and Grantee. The events permitting early termination by Grantor shall be considered a default by Grantee and subject to the remedies available under paragraph (b) of this Section.

17. **Conflict of Interest.** No personnel of Grantee, contractor of Grantee or personnel of any such contractor, and no public official who exercises any functions or responsibilities in connection with the review or approval of any work completed under this Agreement, shall, prior to the completion of such work, voluntarily or involuntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his or her functions or responsibilities with respect to the completion of the work contemplated under this Agreement. Grantee shall immediately disclose in writing to Grantor any such person who, prior to or after the execution of this Agreement, acquires any personal interest, voluntarily or involuntarily. Grantee shall cause any such person who, prior to or after the execution of this Agreement, acquires any personal interest, voluntarily or involuntarily, to immediately disclose such interest to Grantor in writing. Thereafter, such person shall not participate in any action affecting the work under this Agreement unless Grantor determines that, in light of the personal interest disclosed, his or her participation in any such action would not be contrary to the public interest.

18. **Adherence to State and Federal Laws, Regulations.**

(a) **General.** Grantee agrees to comply with all applicable federal, state, and local laws related to the Project and the operations of Grantee's business in the State in all material aspects. Grantee accepts full responsibility for payment of all unemployment compensation, insurance premiums, worker's compensation premiums, all income tax withholdings, social security withholdings, and any and all other taxes or payroll withholdings required for all employees engaged by Grantee on the performance of the Project.

(b) **Ethics.** In accordance with Executive Order 2011-03K (the "Order"), Grantee, by its signature on this document, certifies that it: (1) has reviewed and understands the Order, (2) has reviewed and understands the Ohio ethics and conflict of interest laws including, without limitation, Ohio Revised Code §§ 102.01 *et seq.*, §§ 2921.01, 2921.42, 2921.421 and 2921.43, and §§ 3517.13(I) and (J), and (3) will take no action inconsistent with those laws and the Order, as any of them may be amended or supplemented from time to time. Grantee understands that failure to comply with the Ohio ethics and conflict of interest laws is, in itself, grounds for termination of this Agreement and the grant made pursuant to this Agreement and may result in the loss of other contracts or grants with the State.

(c) **Outstanding Liabilities.** Grantee represents and warrants to Grantor that Grantee does not owe: (1) any delinquent taxes to the State or a political subdivision of the State; (2) any moneys to the State or a State agency for the administration or enforcement of any environmental laws of the State; or (3) any

other moneys to the State, a State agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

(d) Falsification of Information. Grantee represents and warrants to Grantor that Grantee, any parent company of such Grantee, and any other related entity or member have made no false statements to Grantor in the process of obtaining this Grant. If Grantee, any parent company of Grantee, or other related entity, officer, director or equity holder has knowingly made a false statement to Grantor to obtain this Grant, Grantee shall be required to immediately pay to Grantor an amount equal to the aggregate of all Annual Tax Credits and shall be ineligible for any future economic development assistance from the State, any State agency or a political subdivision pursuant to Section 9.66(C)(1) of the O.R.C. Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to Section 2921.13(F)(1) of the O.R.C., which is punishable by a fine of not more than \$1,000.00 and/or a term of imprisonment of not more than six months.

(e) Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization. If applicable, Grantee must certify compliance with Section 2909.33 of the O.R.C.

(f) Public Records. Financial statements and other information submitted by Grantee to Grantor and Director are not public records pursuant to Section 122.17(G) of the O.R.C. However, Grantor may use such information in issuing public reports, in connection with court proceedings, and to provide information to the Tax Commissioner or Superintendent of Insurance in connection with the tax credit. Grantee acknowledges that this Agreement and other records in the possession or control of Grantor regarding the Project are public records under Ohio Revised Code § 149.43 and are open to public inspection unless a legal exemption, such as trade secret exception, applies.

19. Notices. Any notice or report required or permitted to be given under this Agreement shall be deemed to have been sufficiently given for all purposes if mailed by first class certified or registered mail or sent by commercial delivery to the following addresses of the parties or to such other address as either party may hereafter furnish by written notice to the other party.

If to Grantor:

Tax Credit Authority
77 South High Street, 28th Floor
Columbus, Ohio 43215-6130

ATTN: Executive Director
Fax No.: (614) 644-1789

If to Grantee:

Grantee Notice Address as listed on Page One of this Agreement

With a copy to the Chief Legal Counsel of the Ohio Department of Development

For purposes of the Annual Report documents required under Section 5 of this Agreement and requests for amendments under Section 20(e) of this Agreement, e-mail notices and reports with confirmations between Grantor's Authorized Representative and an authorized representative of the Grantee shall be permitted. For all other purposes, Notices shall be given by first class certified or registered mail or sent by commercial delivery to the addresses listed above, as may be modified.

20. **Miscellaneous.**

(a) **Governing Law.** This Agreement shall be governed by Section 122.17 of the O.R.C. and all other laws of the State as to all matters, including but not limited to matters of validity, construction, effect and performance.

(b) **Forum and Venue.** Grantee irrevocably submits to the non-exclusive jurisdiction of any federal or state court sitting in Columbus, Ohio, in any action or proceeding arising out of or related to this Agreement, Grantee agrees that all claims in respect of such action or proceeding may be heard and determined in any such court, and Grantee irrevocably waives any objection it may now or hereafter have as to the venue of any such action or proceeding brought in such court or that such court is an inconvenient forum. Nothing in this Agreement shall limit the right of Grantor to bring any action or proceedings against Grantee in the courts of any other jurisdiction. Any actions or proceedings by Grantee against Grantor or the State of Ohio involving, directly or indirectly, any matter in any way arising out of or related to this Agreement shall be brought only in a court in Columbus, Ohio.

(c) **Entire Agreement.** This Agreement, including its exhibits and documents incorporated into it by reference, constitutes the entire agreement and understanding of the parties with respect to its subject matter. Any prior written or verbal agreement, understanding or representation between the parties or any of their respective officers, agents, or employees is superseded and no such prior agreement, understanding or representation shall be deemed to affect or modify any of the terms or conditions of this Agreement.

(d) **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

(e) **Amendments or Modifications.** Grantor or Grantee may at any time during the Term request amendments or modifications to this Agreement, but such amendments or modifications shall not be effective until a written amendment is executed by each of the parties to this Agreement. Requests for amendment or modification of this Agreement shall be in writing and shall specify the requested changes and the justification for such changes. The parties shall review the request for modification taking into consideration the statute, regulations and goals relating to the Project. Should the parties agree in principle to modify of this Agreement, then an amendment shall be prepared, approved, and executed in the same manner as the original Agreement. Notwithstanding the foregoing and pursuant to Section 122.17(E) of the O.R.C. and O.A.C. Rule 122:7-1-08, Grantor may change the percentage and the Term of the Grant set forth in this Agreement in appropriate circumstances without the consent of Grantee and without a written amendment.

(f) **Forbearance Not a Waiver.** No act of forbearance or failure to insist on the prompt performance by Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by Grantor of any of its rights hereunder.

(g) **Pronouns.** The use of any gender pronoun shall be deemed to include all the other genders, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.

(h) **Headings.** Section headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

(i) Assignment. Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned or subcontracted by Grantee without the prior express written consent of Grantor. Such consent shall not be unreasonably withheld.

(j) Successor in Interest. Where Grantor has consented to an assignment as provided above in division (i) of this Section 19, each and all of the terms and conditions of this Agreement shall extend to and bind and inure to the benefit of not only Grantee, but to its respective successors and assigns.

(k) Survival. Any provision of this Agreement which, by its nature, is intended to survive the expiration or other termination of this Agreement, including, without limitation, any indemnification obligation, shall so survive and shall benefit the parties and their respective successors and permitted assigns.

Signature: Each of the parties has caused this Grant Agreement to be executed by its authorized representatives as of the dates set forth below their respective signatures effective as of the Tax Credit Effective Date:

GRANTEE:

MAC LTT, Inc.,
an Ohio corporation

By:  _____

Printed Name: Jim Maiorana

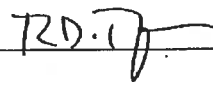
Title: President

Date: MAY 9 2013

GRANTOR:

State of Ohio Tax Credit Authority

David Goodman
Chairperson

By:  _____

Printed Name: Ryan D. Burgess

Title: Assistant Director

Date: 6/14/13

EXHIBIT I

SCOPE OF WORK

MAC LTT, Inc. The City of Kent, Portage County

On July 25, 2011, the Ohio Tax Credit Authority approved a 55 percent, seven-year tax credit to MAC LTT, Inc. (MAC) for the creation of \$7.8 million in additional payroll as a result of the company's expansion in the City of Kent, Portage County. As part of the tax credit agreement, the Authority requires the company to maintain operations at the project site in the City of Kent for at least ten years.

MAC is a privately held stand-alone division of MAC enterprises and will be a partnership between Mike Conny and Jim Maiorana. The company will have the financial support of other MAC divisions to get things started. MAC will branch out into a new product line of trailers that it does not currently manufacture – some have been developed and have a backlog of sales; however, additional space is needed to produce the other products. This proposed expansion will make MAC the most diverse trailer manufacturer in North America.

The Job Creation Tax Credit is a major factor in MAC's decision to expand in Ohio. Ohio is in competition with the state of Texas for this project, which has an existing facility and offers freight savings.

The project in the City of Kent includes the purchase and renovation of an existing facility along with the purchase of machinery and equipment. MAC will make a fixed-asset investment in building acquisition costs, in machinery and equipment, and in building renovations. The company proposes to hire operations, engineering, IT, human resources, and administrative employees.

The company will create 250 full-time equivalent employees generating \$7.8 million in additional annual payroll at the project location within three years of the project's initial operations and retain \$520,000 in existing payroll at the project site for the term of the tax credit.

By letter dated June 22, 2011, the City of Kent has expressed its support for the proposed project.

The tax credit will begin January 2012 and will end December 2018.

Disclaimer: Please note that this is a general description of the overall project, and will not be used for purposes of determining compliance under this agreement.

(vi) Whether a relocation of the operations of the facility is within the State and employs an equivalent number of jobs.

(ix) Any other information Grantor determines in its reasonable judgment to be relevant under the circumstances.

10. **Relocation.**

(a) **Relocation of Employment Positions.** Except as otherwise provided in paragraph (b) of this Section 10, Grantee shall not relocate a substantial number of employment positions, as that term is defined in paragraph (R) of O.A.C. Rule 122:7-1-01, from elsewhere in this State to the Project Location during the Term.

(b) **Exceptions to Relocation Prohibition.** Grantee may relocate any number of employment positions from elsewhere in this State to the Project Location if the Director determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the taxpayer of the relocation.

(c) **Effect of Relocation.**

(i) If Grantee relocates employment positions in accordance with divisions (a) and/or (b) of this Section, the transferred payroll and transferred income tax shall be treated in accordance with paragraphs (D) or (E) of O.A.C. Rule 122:7-1-09, as applicable, and Section 4 of this Agreement.

(ii) If Grantee relocates employment positions in violation of divisions (a) and/or (b) of this Section 10 or in violation of division (D)(8) of Section 122.17 of the O.R.C., Grantor may reduce the percentage of the Grant and/or the Term. Any such reduction shall take effect in any taxable year or tax period as permitted in Section 122.17(E) of the O.R.C.

11. **Non-Discrimination.**

(a) **Minority Hiring Requirement.** Grantee shall make a good faith effort to hire minority and disadvantaged persons as defined in Paragraphs (F) and (L) of the Ohio Administrative Code ("O.A.C.") Rule 122:7-1-01 at the Project Location in the Percentage of Minority and Disadvantaged Hiring set forth on the first page of this Agreement. Grantee shall maintain or make a good faith effort to maintain the Percentage of Minority and Disadvantaged Hiring during the Term of this Agreement.

(b) **Equal Employment Opportunity.** Grantee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, ancestry, veteran status, disability or age. Grantee shall ensure that applicants for employment are considered for employment, and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, ancestry, veteran status, disability or age.

12. **Waiver of past or present claims.** As a specific inducement to Grantor to enter into the Agreement and agree to the transactions contemplated by the Agreement, and in consideration of the benefits provided by the Grantor to the Grantee pursuant to the Agreement, Grantee, for itself and its officers, directors, owners, employees, representatives and agents, hereby knowingly, voluntarily, and intelligently waives and releases Grantor, the State and their officials, employees and agents, from any and all claims or causes of actions which Grantee now has or may have against Grantor, the State and

