

MEGA TAX CREDIT AGREEMENT

Adaptive Materials, Inc.

ORIGINAL

This Agreement is made between the Michigan Economic Growth Authority ("MEGA"), whose address is 300 N. Washington Square, Lansing, Michigan 48913 and Adaptive Materials, Inc. ("Company"), a Michigan corporation, whose address is 4403 Concourse Drive, Suite C, Ann Arbor, Michigan 48108, and whose Employer Identification Number is [REDACTED]

PREAMBLE

By signing this Agreement, the Company acknowledges and agrees to the following:

- The MEGA has the authority to grant an authorized business a credit against the tax imposed by the single business tax act, 1975 PA 228, as amended.
- By an Initiation of legislation, the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, is repealed effective for tax years that begin after December 31, 2007.
- The MEGA can only grant a tax credit against the tax imposed by the single business tax act, 1975 PA 228, as amended, for tax years beginning before December 31, 2007.
- The MEGA has awarded a credit to the Company if the Company meets the Eligibility criteria and applies for a credit for a tax year that begins before December 31, 2007.
- The MEGA has no authority to award a tax credit against any other business tax, however, the legislature enacted 2007 PA 36 which states in part, "For a period of time not to exceed 20 years as determined by the Michigan economic growth authority, a taxpayer that is an authorized business may claim a credit against the tax imposed by this act equal to the amount certified each year by the Michigan economic growth authority".

- Upon the execution of a written Agreement between the Company and the Michigan Economic Growth Authority, the Company will become an authorized business.

RECITALS

WHEREAS, the MEGA has been created by the Michigan Economic Growth Authority Act, Act No. 24 of Public Acts of 1995, as amended (the "Act"), with the power to provide tax credits to businesses involved in manufacturing, mining, research, development, wholesale, trade and/or office operations, and enterprise.

WHEREAS, the Legislature has determined that it is in the public interest to promote economic growth and to encourage private investment, job creation and job upgrading for the residents of the State of Michigan.

WHEREAS, the MEGA has determined that providing tax credits to the Company for job expansion will promote and serve the intended purposes of and in all respects will conform to the provisions and requirements of the Act.

WHEREAS, the MEGA and the Company desire to set forth the terms and conditions of the MEGA Tax Credit that the MEGA has authorized to the Company.

NOW, THEREFORE, the parties agree as follows:

1.0 DEFINITIONS

- (a) "Agreement" means this written agreement.
- (b) "Application" means any information submitted to the MEGA in support of the Company's request for a Tax Credit.
- (c) "Anniversary Date" means December 31, 2007.

(d) "Authority" or "MEGA" means the Michigan Economic Growth Authority created by the Act.

(e) "Average Weekly Wage" means the total Salaries and Wages paid during the applicable tax year to employees performing Qualified New Jobs at the Project, divided by 52, divided by the number of Qualified New Jobs at the Project.

(f) "Base Employment Level" means the minimum number of Full-Time Jobs to be maintained at the Company in Michigan, as specified in Schedule A attached to this Agreement.

(g) "Business" means a proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, corporation, cooperative, limited liability company or any other organization.

(h) "Certificate" or "Tax Credit Certificate" means the certificate required to be issued by Public Act 23 of 1995, as amended, which states that the Company is an authorized business, the amount of the Tax Credit authorized for a tax year, and the Company's federal employer identification number or Michigan Treasury number.

(i) "Certificate Application" or "Application for a MEGA Tax Credit Certificate" means the written information submitted each year in support of the Company's request for a Tax Credit Certificate.

(j) "Company" means Adaptive Materials, Inc., which is an authorized business as defined in the Act, upon execution of this Agreement.

(k) "Facility" means the "Project" or the site within this state at which the Company has committed to creating Qualified New Jobs.

(l) "Full-time Job" means a job performed by an individual who is employed for consideration for 35 hours or more each week and for which the Company withholds income and social security taxes.

(m) "Look-back Job" means one or all of the seven Qualified New Jobs created after May 1, 2007 and before August 29, 2007.

(n) "MEGA Employment Credit" or "Employment Credit" means a credit against the Single Business Tax authorized by Section 37c of Public Act 23 of 1995.

(o) "MEGA Tax Credit" or "Tax Credit" means a MEGA Employment Credit.

(p) "Person" means an individual or Business.

(q) "Project" means the facility at which the Company will create Qualified New Jobs as described under Project Description.

(r) "Qualified New Job" means a Full-time Job at the Project held by a Michigan resident employed by the Company, that is:

(1) created by the Company after May 1, 2007 and

(2) in excess of the Base Employment Level.

(s) "Salaries and Wages" means wages, tips and other compensation reported in Box 1 of the employees' W-2 forms.

(t) "Statement of Eligibility" or "Statement" means the certified statement required by Section 4.2 of this Agreement.

2.0 REPRESENTATIONS

2.1 Representations by the MEGA. With respect to the Agreement, the MEGA makes the following representations and warranties as of the date of execution of this Agreement:

(a) The MEGA is a public body established and acting pursuant to the Act.

(b) The MEGA has the necessary power under the Act to grant MEGA Tax Credits and has duly taken all action on its part required to authorize, execute and deliver this Agreement. This Agreement, when executed, will be valid, binding and enforceable in accordance with its terms.

(c) The MEGA will issue the Company's Initial Tax Credit Certificate upon execution of this Agreement in the form attached to this Agreement.

2.2 Representations by the Company. With respect to this Agreement, the Company makes the following representations and warranties as of the date of execution of this Agreement:

(a) Existence and Power. The Company is validly existing and is in good standing under the laws of the State of Michigan and is duly qualified to transact business in Michigan.

(b) Corporate Authority. The execution, delivery and performance by the Company of this Agreement have been duly authorized by all necessary corporate action and will not violate any provision of law or of its articles of incorporation or its bylaws.

(c) Full Disclosure. Neither this Agreement, the Company's Application, nor any written statements furnished by the Company, to the MEGA in connection with the authorization of a MEGA Tax Credit, contain any untrue statement of a material fact or omit a material fact.

(d) Eligibility. The Company's Primary Business Activity is a "high technology activity" as that term is defined in the Act.

(e) Project Description. The Company will lease and cause to be equipped an existing building in Pittsfield Township, Washtenaw County, in which to relocate and expand its research and development and manufacturing of alternative energy portable fuel cell systems ("the Project"). The Project will result in the creation of the statutory minimum of 5 Qualified New Jobs no later than the Anniversary Date and 25 Qualified New Jobs no later than four years after the Anniversary Date. The Qualified New Jobs created will pay an Average Weekly Wage of at least \$871 and at no time will the average wage paid for these Qualified New Jobs be less than 300 percent of the federal minimum wage which shall, from time to time, be in effect.

The Company believes that the Project is economically sound and affirms that the investment capital and/or financing needed to complete the Project is now committed or will soon be available to the Company. As of Board Date, the Project had not begun.

(f) Site Reuse. The Company has considered the reuse or redevelopment of property previously used for an industrial or commercial

purpose and the Company has determined the use of such property is feasible in locating the Project.

(g) Certification. The Company has made the certifications required by Section 8(3)(f) of the Act, which are attached to this Agreement as Schedule B.

(h) Binding Agreement. When executed by both parties, this agreement will be a valid and binding obligation of the Company enforceable against the Company in accordance with its terms.

3.0 MEGA TAX CREDIT

Based upon the Company's Application and the Representations and Warranties made in this Agreement, the Authority has authorized the following tax credits subject to the conditions specified in Section 4.0 of this Agreement.

3.1 Employment Credit

(a) An Employment Credit equal to 100 percent of the state's personal income tax rate, as it exists at the beginning of the Company's tax year for which the credit is being sought, multiplied by the total Salaries and Wages, before deducting any personal or dependency exemptions, of employees performing Qualified New Jobs. The Employment Credit is authorized for seven consecutive tax years beginning with the Company's tax year ending December 31, 2007.

(b) No more than 100 Qualified New Jobs may be used in calculating the Employment Credit as provided in Section 37c (2) of Public Act 23 of 1995.

(c) The maximum amount of total Salaries and Wages that may be used in any single tax year in calculating the Employment Credit, for any one Qualified New Job, is \$250,000.

4.0 CONDITIONS OF THE MEGA TAX CREDITS

4.1 Eligibility. The Company shall not be eligible for the Tax Credit provided in Section 3.0 of this Agreement unless:

(a) The statutory minimum of 5 Qualified New Jobs have been created at the Project, no later than the Anniversary Date.

(b) The statutory minimum of 25 Qualified New Jobs have been created at the Project no later than four years after the Anniversary Date.

(c) The Average Weekly Wage paid to all employees performing Qualified New Jobs is at least \$871.

(c) The minimum Base Employment Level as required by Schedule A has been maintained.

(e) The Company's Primary Business Activity continues to be a "high technology activity" as that term is defined in the Act.

The Company may not count as a Qualified New Job for a Tax Credit, any job that is transferred to the Project from: (i) a Michigan location of a Business that is listed in the Company's Application, or (ii) a Michigan location of a Business that, on or after the date of the Company's Application, acquires or otherwise gains control of the Company, is acquired or controlled by the Company, or comes under common control with the Company.

4.2 Statement of Eligibility. Any time after 5 Qualified New Jobs have been created at the Project, but in no case later than 30 days after the Anniversary Date, and in all cases prior to or concurrent with the first application for a Tax Credit Certificate, the Company shall file a Certified Statement of Eligibility in a form as specified by the Authority from time to time. The Statement shall contain the following information:

(a) The aggregate number of Full-time Jobs at all Michigan locations of the Company, excluding Qualified New Jobs at the Project.

(b) The number of Qualified New Jobs.

(c) The Average Weekly Wage paid to employees performing Qualified New Jobs.

(d) A certification by an officer of the Company that the Company's Primary Business Activity is a "high technology activity" as that term is defined in the Act.

(e) A certification by an authorized officer of the Company that the information provided in the Statement of Eligibility is true.

4.3 Anniversary Date Extension. The Company may make a request of the MEGA to extend its Anniversary Date to March 31, 2009 if it is unable to meet the minimum criteria for Eligibility by the Anniversary Date, and if the legislature creates a new tax and authorizes the MEGA to grant tax credits against that new tax, and if the Company meets the legal requirements required for a tax credit against the new business tax. This request, and approval, of the MEGA is the only way the Company may amend this Agreement. The Company may also

request that the number of years of credit that it was originally granted remains unchanged. The MEGA is not representing that a request will be granted.

4.4 Tax Credit Certificate. To obtain a Tax Credit Certificate in connection with the tax credits authorized in this Agreement for any tax year, the Company shall:

(a) Maintain the minimum number of Qualified New Jobs, as required by Schedule A of this Agreement, for the applicable tax year. In computing the number of Qualified New Jobs in any tax year except the tax years ending December 31, 2007 and December 31, 2011, the Company shall determine the number of Qualified New Jobs as of the last day of each of the four quarters of the applicable tax year, total the results for the four quarters, and divide the sum by four (4)

In computing the number of Qualified New Jobs for the tax year ending December 31, 2007, the Company shall determine the number of Qualified New Jobs as of the last day of each quarter of the applicable tax year and beginning with the first quarter in which there are at least 5 Qualified New Jobs, compute the average number of Qualified New Jobs over the remaining quarters of the tax year.

In computing the number of Qualified New Jobs for the tax year ending December 31, 2011, the Company shall determine the number of Qualified New Jobs as of the last day of each quarter of the applicable tax year and beginning with the first quarter in which there are at least 25 Qualified New

Jobs, compute the average number of Qualified New Jobs over the remaining quarters of the tax year.

(b) Pay an Average Weekly Wage in connection with the Qualified New Jobs of at least the amount required by Schedule A of this Agreement for the applicable tax year.

(c) Pay an average hourly wage in connection with Qualified New Jobs that equals or exceeds 300 percent of the highest hourly federal minimum wage in effect for the applicable tax year.

(d) Maintain its Base Employment Level as required by Schedule A. In computing the Base Employment Level in any tax year, the Company shall determine the aggregate number of Full-time Jobs at all Michigan locations of the Company, excluding the Qualified New Jobs at the Project for which it is seeking a Tax Credit, as of the last day of each of the four quarters in that tax year. The sum of the results for the four quarters, divided by four, is the Base Employment Level for that year.

(e) Certify that the Primary Business Activity of the Company was a "high technology activity" as that term is defined in the Act, throughout the applicable tax year:

(f) Make an Application to the MEGA for a Tax Credit Certificate as provided in Section 5.0 of this Agreement.

(g) Provided that the Company has initially satisfied the requirements of Section 4.1, failure of the Company to satisfy the requirements of Section 4.3 in any given year does not preclude the Company from qualifying for and

obtaining a Tax Credit in any other year authorized by Section 3.1 of this Agreement.

4.5 Audit and Verification. The information provided in the Application, the Application for a MEGA Tax Credit Certificate, and the Statement of Eligibility are subject to audit and verification by the Authority or its designee. Upon reasonable advance notice to the Company by the Authority, the Company shall permit the Authority or its designee, during normal business hours, to inspect the relevant files of the Company solely for the purpose of verifying eligibility for the Tax Credits authorized under, and compliance with, this Agreement. The files subject to inspection include, but are not limited to, those relevant to wage and hour records, job classification, job assignments and employment histories.

The Authority or its designee shall use all information received pursuant to inspection of the Company's files solely for the purpose of verifying eligibility for the Tax Credits authorized under this Agreement. The Company may request confidentiality pursuant to Section 5(3) of the Act on financial or proprietary information retained by the Authority in the course of its inspection of the files.

4.6 Administrative Fee. An Administrative fee of \$4,355 is due and payable upon submission of the Certified Statement of Eligibility required in Section 4.2.

5.0 ANNUAL APPLICATION FOR TAX CREDIT CERTIFICATE

5.1 For each year that it seeks a Tax Credit under this Agreement, the Company shall complete an Application for a MEGA Tax Credit Certificate.

5.2 The Certificate Application shall be filed with the Authority at least 45 days prior to the day the Company's Single Business Tax return is due. If the

Company receives an extension of the deadline to file its Michigan Single Business Tax return for the applicable tax year, the Company shall notify the MEGA of the extension and the Certificate Application shall be filed with the Authority at least 45 days prior to the extended deadline.

5.3 The form of the Certificate Application shall be as specified by the Authority from time to time. The Certificate Application shall contain the following information:

- (a) The Base Employment Level.
- (b) The number of Qualified New Jobs at the Project as of the end of each of the four quarters in the applicable tax year.
- (c) The total Salaries and Wages, before deducting any personal or dependency exemptions, paid to employees who performed Qualified New Jobs at the Project during the applicable tax year.
- (d) A certification by an officer of the Company that the Company's Primary Business Activity is a "high technology activity" as that term is defined in Section 3(k) of the Act.
- (e) A certification by an authorized officer of the Company that the other information provided in the Certificate Application is true.
- (f) Any other information which is reasonably related to determining the applicable Tax Credit.

5.4 The information in a Certificate Application is subject to audit and verification by the Authority or its designee in accordance with the provisions of Section 4.5 of this Agreement.

5.5 Within 45 days of receiving a complete Certificate Application, the MEGA will review that application to determine whether the requirements of this Agreement have been satisfied and, if so, will calculate the credit authorized under this Agreement and issue a Tax Credit Certificate to the Company.

6.0 ADJUSTMENT, REDUCTION, OR TERMINATION OF CREDITS

6.1 If the Company does not comply with the conditions required in Section 4.1, this Agreement is null and void, the Company is no longer an authorized business, and no Tax Credits are, or will be, authorized under this Agreement.

6.2 Failure of the Company to comply with any provision of this Agreement, other than as a result of a clerical or technical error which is corrected when it is discovered to be an error, may result in revocation of the Company's designation as an authorized business or the reduction or loss of Tax Credits for which a Certificate has not yet been issued.

6.3 A Tax Credit authorized by the Authority is subject to adjustment in any tax year following the tax year for which a Tax Credit Certificate was issued, if the information on which the tax credit certification was based is found to be incorrect or cannot be verified.

6.4 If the Authority determines that the Company misrepresented information in order to qualify for, or increase the amount of a Tax Credit, the Authority may revoke the Company's designation as an authorized business and notify the Michigan Department of Treasury of that revocation. Any tax credits that have been received based upon a misrepresentation may be subject to recovery by the State of Michigan.

6.5 Prior to taking any adverse action against the Company under Sections 6.1, 6.2, 6.3, 6.4, or 7.0, the Authority shall provide the Company with written notice of its intent to take such action and of the basis for that action and shall provide the Company with a reasonable opportunity to respond.

7.0 RECOVERY OF CREDIT FOR JOBS REMOVED FROM THE STATE

As required by MCL 208.37c, if the Company removes from the State fifty-one percent or more of the number of the Look -back Jobs it created within three tax years after the first tax year for which the Company claims a Tax Credit, the Company shall repay to the State an amount equal to the total of the Tax Credits it claimed prior to removing those jobs from the State. Notwithstanding the previous sentence, the Company shall not be obligated to repay any amounts to the State under this Section 7.0 so long as the total number of Qualified New Jobs under this Agreement remains greater than 51% of the total number of Look-back Jobs. For purposes of this section "removes from the State" means reducing the number of Qualified New Jobs engaged in research, development, engineering or quality assurance operations related to Company's automotive and industrial products at the Project while contemporaneously expanding or initiating research, development, engineering or quality assurance operations related to its automotive and industrial products at a location outside the State. The Company shall not be eligible for a Tax Credit under any other provision of this Agreement for a tax year for which it is required to repay any Tax Credits pursuant to this Section 7. A Tax Credit required to be repaid pursuant to this section shall be repaid no later than twelve months after the date on which the

Company removed from the State an aggregate number of jobs equal to fifty-one percent of the number of Look-back Jobs it created. No Tax Credit Certificates will be issued pursuant to Section 5.5 of this Agreement until all amounts required to be repaid pursuant to this section, are received by the Michigan Department of Treasury.

8.0 MISCELLANEOUS

8.1 Reporting. The Company shall provide the MEGA with such information regarding its participation in the Tax Credit Program as the MEGA may reasonably require for so long as this Agreement is effective.

8.2 Assignment of Credits. The Tax Credits authorized by this Agreement shall not be transferred or assigned to any other Person provided, however, that in the event a Person acquires all or substantially all of the assets of the Company in Michigan, after the date of this Agreement, the Authority shall authorize the transfer of the Company's rights under this Agreement to that Person if:

(a) The Person agrees in writing to assume all of the duties and responsibilities of the Company under this Agreement.

(b) The Authority makes a determination, which determination shall be made on a reasonable basis, that such a transfer would be consistent with and serve the purposes of the Act and this Agreement.

8.3 Severability. If any clause, provision, or section of this Agreement is held illegal or invalid by any court, the invalidity of that clause, provision, or section shall not affect any of the remaining clauses, provisions, or sections

hereof and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision, or section had not been contained in this Agreement.

8.4 Notices. All notices, certificates, requests or other communications shall be sufficiently given when delivered, if delivered by registered or certified mail, postage prepaid, return receipt requested, or by messenger or professional courier service, addressed as follows:

If to the MEGA: Michigan Economic Development Corp.
Michigan Economic Growth Authority
300 North Washington Square
Lansing, Michigan 48913
Attention: Board Secretary

If to the Company: Adaptive Materials, Inc.
4403 Concourse Drive
Suite C
Ann Arbor, Michigan 481078
Attention: Matthew Hoffman, Controller

8.5 Entire Agreement and Amendment. Subject to the Act, this Agreement and the Schedules attached to it contain the entire Agreement between the Company and the MEGA with respect to the matters described herein and supersede any and all previous Agreements. This Agreement may not be amended except with the written consent of the Authority and the Company.

8.6 Captions. The captions in this Agreement are for convenience only and in no way define, limit or describe the scope of intent of any provisions or sections of this Agreement.

8.7 Interpretation. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Michigan.

8.8 Acceptance. The terms of this Agreement are accepted this 29th day of August, 2007.

Michigan Economic Growth Authority

By Karen Ammarman

Karen Ammarman
Secretary to the MEGA Board

Adaptive Materials, Inc.

By Michelle Crumm

Michelle Crumm
Chief Business Officer

Adaptive Materials, Inc.

**Schedule A: Minimum Employment and Wage Levels
to Qualify for the MEGA Tax Credits**

<u>Year of Credit</u>	<u>Tax Year Ending December 31</u>	<u>Minimum # of Qualified New Jobs</u>	<u>Minimum Average Weekly Wage</u>	<u>Minimum Base Employment Level</u>
1	2007	5	\$871	31
2	2008	5	\$871	31
3	2009	5	\$871	31
4	2010	5	\$871	31
5	2011	25	\$871	31
6	2012	25	\$871	31
7	2013	25	\$871	31

Adaptive Materials, Inc.

Schedule B

Adaptive Materials, Inc. certifies that:

1. It will follow a competitive bid process, open to all Michigan residents and firms, for the construction, rehabilitation, development or renovation of the facility, and that it will not discriminate against any contractor on the basis of its affiliation or non-affiliation with any collective bargaining organization.

2. It will make a good faith effort to employ, if qualified, Michigan residents at the facility.

3. It will make a good faith effort to employ or contract with Michigan residents and firms to construct, rehabilitate, develop, or renovate the facility.

By: Michelle Crumm
Michelle Crumm
Chief Business Officer

Date: 8/29/07

Certificate Number

[REDACTED]

Initial Tax Credit Certificate

Issued this 31st day of August, 2007, by the

Michigan Economic Growth Authority

to Adaptive Materials, Inc., Employer Identification Number 38-3495545, which is an Authorized Business pursuant to Public Act 24 of 1995, as amended.

The MEGA authorizes to Adaptive Materials, Inc., an Employment Credit of 100 percent for seven consecutive tax years, beginning with the Company's tax year ending December 31, 2007, under Section 37c of Public Act 23 of 1995.

The Michigan Legislature encourages recipients of MEGA Tax Credits to make a good faith effort to use Michigan-based suppliers and vendors when purchasing goods and services.

By *Karen A. ...*

Secretary to the MEGA Board

