

STATE OF TEXAS

§

COUNTY OF HARRIS

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**INDUSTRIAL DISTRICT AGREEMENT**

This **AGREEMENT** made and entered into by and between the **CITY OF DEER PARK, TEXAS**, a municipal corporation of Harris County, Texas, hereinafter called "**CITY**", and \_\_\_\_\_ a \_\_\_\_\_ hereinafter called "**COMPANY**".

**Witnesseth:**

**WHEREAS**, it is the established policy of the City Council of the City of Deer Park, Texas, to adopt such reasonable measures from time to time as are permitted by law and which will tend to enhance the economic stability and growth of the **CITY** and its environs by attracting the location of new and the expansion of existing industries therein, and such policy is hereby reaffirmed and adopted by this City Council as being in the best interest of the **CITY** and its citizens; and

**WHEREAS**, heretofore, as authorized by Ordinance, **CITY** and **COMPANY** previously entered into an Industrial District Contract, designating certain **COMPANY** property as an Industrial District of **CITY**; and

**WHEREAS**, as authorized by Ordinance dated the \_\_\_\_\_ day of \_\_\_\_\_, 2014, **CITY** and **COMPANY** entered into an Industrial District Contract designating certain **COMPANY** property as part of an Industrial District of **CITY**; and annexing or de-annexing property to create a fifty foot (50') strip around the Industrial District to create or preserve said Industrial District; and

**WHEREAS**, it is the desire of both **CITY** and **COMPANY** to take the necessary steps under applicable Texas law to extend the term of said Industrial District Contract as to the property described herein, thereby enhancing the economic stability and growth of **CITY**; and

**WHEREAS**, **COMPANY** desires to minimize its tax burden and avoid regulation by **CITY** of **COMPANY**'s structures and properties within such District, and **CITY** desires to be relieved of furnishing **CITY** services to **COMPANY** therein; and

**WHEREAS**, **CITY** on the \_\_\_\_\_ day of \_\_\_\_\_, 2014, enacted its Ordinance No. \_\_\_\_\_ designating the land described in Exhibit "A", attached hereto and shown on the plat attached hereto as Exhibit "B", as part of the Deer Park Industrial District, hereinafter called "the **DISTRICT**", and annexing or de-annexing certain property, and authorizing the execution of this **AGREEMENT**;

**WHEREAS**, **CITY** desires to encourage the expansion and growth of industrial plants within said Districts and for such purpose desires to enter into this **AGREEMENT** with **COMPANY** pursuant to the Ordinance adopted by the City Council of said **CITY** and recorded in the official minutes of said **CITY**;

**NOW, THEREFORE**, in consideration of the premises and the mutual agreements of the parties contained herein and pursuant to the authority granted under the Municipal Annexation Act and the Ordinances of **CITY** referred to above, **CITY** and **COMPANY** hereby agree with each other as follows:

**I.**

**CITY** covenants, agrees and guarantees that during the term of this **AGREEMENT**, provided below, and subject to the terms and provisions of this

**AGREEMENT**, said District shall continue to retain its extraterritorial status as an industrial district, at least to the extent that the same covers the Land belonging to **COMPANY** and its assigns, unless and until the status of said Land, or a portion or portions thereof, as an industrial district may be changed pursuant to the terms of this **AGREEMENT**. Subject to the foregoing and to the later provisions of this **AGREEMENT**, **CITY** does further covenant, agree and guarantee that such industrial district, to the extent that it covers said Land lying within said District and not now within the corporate limits of **CITY**, shall be immune from annexation by **CITY** during the term hereof (except as hereinafter provided) and shall have no right to have extended to it any services by **CITY**, including without limitation hereby; water, sanitary sewer, sewer disposal, garbage and trash disposal, drainage, police, fire, ambulance, street improvement or maintenance; and that all Land, including that which has been heretofore annexed, shall not have extended to it by Ordinance any rules and regulations (a) governing plats and subdivisions of land, (b) prescribing any building, electrical, plumbing or inspection code or codes, or (c) attempting to exercise in any manner whatever control over the conduct of business thereon.

**CITY** and **COMPANY** acknowledge circumstances might require **CITY** to provide limited emergency services to **COMPANY's** property. Emergency services are limited to fire and EMT emergency services. If **COMPANY** is not a member of the Channel Industries Mutual Aid Association ("CIMA"), **COMPANY** agrees to reimburse **CITY** for its costs arising out of any emergency response requested by **COMPANY** to **COMPANY's** property, and to which **CITY** agrees to respond. If **COMPANY** is a member of CIMA,

the obligations of **COMPANY** and **CITY** shall be governed by the CIMA agreement, to which agreement **CITY** is a party.

## II.

In the event that any portion of the Land has heretofore been annexed by **CITY**, **COMPANY** agrees to render and pay full **CITY** ad valorem taxes on such annexed Land and improvements, and tangible personal property.

Under the terms of the Texas Property Tax Code, the appraised value for tax purposes of the annexed portion of Land, improvements, and tangible personal property shall be determined by the Harris County Appraisal District. The parties hereto recognize that said Appraisal District has no authority to appraise the Land, improvements, and tangible personal property in the unannexed area for the purpose of computing the "in lieu" payments hereunder. Therefore, the parties agree that the appraisal of the Land, improvements, and tangible personal property in the unannexed area shall be conducted by **CITY**, at **CITY's** expense, by an independent appraiser of **CITY's** selection, said appraisal shall be prepared in accordance with generally accepted appraisal standards established by the Uniform Standards for Appraisal Practice and with the provisions of the Texas Property Tax Code. The parties recognize that in making such appraisal for "in lieu" payment purposes, such appraiser must of necessity appraise the entire (annexed and unannexed) Land, improvements, and tangible personal property.

Nothing herein contained shall ever be interpreted as lessening the authority of the Harris County Appraisal District to establish the appraised value of Land,

improvements, and tangible personal property in the annexed portion, for ad valorem tax purposes.

### III.

A. On or before April 15, 2015, and on or before each April 15<sup>th</sup> thereafter, unless an extension is granted in accordance with the Texas Property Tax Code, through and including April 15, 2026, **COMPANY** shall provide **CITY** with a written description of its Land and all improvements and tangible personal property located on the Land as of the immediately preceding January 1<sup>st</sup>, stating its opinion of the Property's market value, and being filed by an authorized Officer of **COMPANY** authorized to do so, or **COMPANY's** duly authorized agent, (**COMPANY's** "Rendition"). **COMPANY** may file such Rendition on a Harris County Appraisal District rendition form, or similar form. The properties which **COMPANY** must render and upon which the "in lieu of" taxes are assessed are more fully described in subsection 1, 2 and 3 of subsection D, of this Paragraph III (sometimes collectively called the "Property"). A failure by **COMPANY** to file a Rendition as provided for in this paragraph, shall not constitute a waiver by **COMPANY** for the current tax year, of all rights of protest and appeal under the terms of this **AGREEMENT**.

B. **COMPANY** shall furnish to **CITY** a written report of the names and addresses of all persons and entities who store any tangible personal property on the Land by bailment, lease, consignment, or other arrangement with **COMPANY** ("products in storage"), and are in the possession or under the management of **COMPANY** on January 1<sup>st</sup> of each Value Year, further giving a description of such products in storage.

C. On or before the later of December 31, 2015, or 30 days from mailing of an invoice and in like manner on or before each December 31<sup>st</sup> thereafter, through and including December 31, 2026, **COMPANY** shall pay to **CITY** an amount “in lieu of taxes” on **COMPANY’s** Property as of January 1<sup>st</sup> of the current calendar year (“Value Year”).

D. **COMPANY** agrees to render to **CITY** and pay an amount “in lieu of taxes” on **COMPANY’s** Land, improvements and tangible personal property in the unannexed area equal to the sum of:

1. Sixty-three percent (63%) of the amount of ad valorem taxes which would be payable to **CITY** if all of **COMPANY’s** Land and improvements which existed on January 1, 2015, January 1, 2016, January 1, 2017, and January 1, 2018 had been within the corporate limits of **CITY** and appraised each year by **CITY’s** independent appraiser.

2. Sixty-four percent (64%) of the amount of ad valorem taxes which would be payable to **CITY** if all of **COMPANY’s** Land and improvements which existed on January 1, 2019, January 1, 2020, January 1, 2021, and January 1, 2022 had been within the corporate limits of **CITY** and appraised each year by **CITY’s** independent appraiser.

3. Sixty-five percent (65%) of the amount of ad valorem taxes which would be payable to **CITY** if all of **COMPANY’s** Land and improvements which existed on January 1, 2023, January 1, 2024, January 1, 2025, and January 1, 2026 had been within the corporate limits of **CITY** and appraised each year by **CITY’s** independent appraiser.

4. For purposes of this Section, a substantial increase in value of new improvements shall be defined as an increase in value that is the lesser of at least five percent (5%) of the total appraised value of Land and improvements, on January 1, 2015; or a cumulative value of at least \$5,000,000.

(a) On any Substantial increase in value of any improvements, and tangible personal property (excluding inventory) dedicated to new construction, in excess of the appraised value of same on January 1, 2014, resulting from new construction (exclusive of construction in progress, which shall be exempt from taxation) up to and including \$100,000,000, for each Value Year following completion of construction in progress, an amount equal to

1 <sup>st</sup> Year After Operation Begins	10%
2 <sup>nd</sup> Year After Operation Begins	20%
3 <sup>rd</sup> Year After Operation Begins	30%
4 <sup>th</sup> Year After Operation Begins	40%
5 <sup>th</sup> Year After Operation Begins	50%
6 <sup>th</sup> Year After Operation Begins	Contract Rate

of the amount of ad valorem taxes which would be payable to **CITY** if all of said new construction had been within the corporate limits of **CITY** and appraised by **CITY's** independent appraiser. Any improvements and tangible personal property (excluding inventory) which has been designated under the previous Industrial District Contract as "New Construction" shall continue under the new construction progressive rate

until the full contract rate is reached as if under the previous contract as listed (if any) under Schedule "C" attached hereto.

(b) In order to continue to enhance the economic stability and growth of **CITY** by attracting the location of new and the expansion of existing industries, **CITY** and **COMPANY** agree to enter into negotiations to determine new construction progressive rates appropriate for any new construction project exceeding \$100,000,000.

In the event **CITY** and **COMPANY** enter into negotiations to determine new construction progressive rates for a new construction project exceeding \$100,000,000 and **CITY** and **COMPANY** are unable to agree on new construction progressive rates, then the progressive rates set forth in Section III (D)(4)(a) shall apply to such project.

(c) For purposes of this contract, new construction shall be determined as a separate production unit, or component of a production unit, that is constructed new and not rehabilitated, renovated or refurbished. It may also include new structures, of whatever type or character, that are necessary to support the operation of a production unit, that is constructed new and not rehabilitated, renovated or refurbished. New equipment that is added in connection with either a separate production unit, or a new structure necessary to support the operation of a production unit, may be considered as part of the new construction value. Each project shall be considered on its own for the purpose of determining if it meets the required increase in value to be treated as new construction.

(d) Existing Plant Value shall be defined as the value of all land and improvements existing on **COMPANY's** property described in Exhibit "A" attached hereto on January 1, 2014 less the value of any improvements considered to be new construction on that date. As of January 1 of the year the value of any improvements considered as new construction becomes subject to the full contract rate, the Existing Plant Value of **COMPANY** shall be increased by the amount of said new construction value.

(e) In any year, if Existing Plant Value depreciates below the value established on January 1, 2014, or the Existing Plant Value as adjusted by new construction value becoming subject to the full contract rate as provided in accordance with this Section, an amount equal to the amount of the depreciation shall be removed from the oldest new construction and be subject to the full contract rate. Any remaining new construction value shall be treated in accordance with this Section. In any subsequent year, if Existing Plant Value increases to or above the Existing Plant Value established on January 1, 2014, or the Existing Plant Value as adjusted by new construction value becoming subject to the full contract rate in accordance with this Section, any new construction value previously used to make up Existing Plant Value shall be treated as new construction in accordance with Section III, Paragraph D, subparagraph 2(a); and

5. (a) Sixty-three percent (63%) of the amount of ad valorem taxes which would be payable to **CITY** on all of **COMPANY's** tangible personal property of every description, including, without limitation, inventory, oil, gas, and mineral interests, items of leased equipment, railroads, pipelines, and products in storage located on the Land, if all of said tangible personal property which existed on January 1, 2015, January 1, 2016, January 1, 2017, and January 1, 2018 had been within the corporate limits of **CITY** and appraised each year by **CITY's** independent appraiser;

(b) Sixty-four percent (64%) of the amount of ad valorem taxes which would be payable to **CITY** on all of **COMPANY's** tangible personal property of every description, including, without limitation, inventory, oil, gas, and mineral interests, items of leased equipment, railroads, pipelines, and products in storage located on the Land, if all of said tangible personal property which existed on January 1, 2019, January 1, 2020, January 1, 2021, and January 1, 2022 had been within the corporate limits of **CITY** and appraised each year by **CITY's** independent appraiser;

(c) Sixty-five percent (65%) of the amount of ad valorem taxes which would be payable to **CITY** on all of **COMPANY's** tangible personal property of every description, including, without limitation, inventory, oil, gas, and mineral interests, items of leased equipment, railroads, pipelines, and products in storage located on the Land, if all of said tangible personal property which existed on January 1, 2023, January 1, 2024, January 1,

2025, and January 1, 2026 had been within the corporate limits of **CITY** and appraised each year by **CITY's** independent appraiser.

#### **IV.**

This **AGREEMENT** shall extend for a period beginning on the 1<sup>st</sup> day of January 2015, and continuing thereafter until December 31, 2026, unless extended for an additional period or periods of time upon mutual consent of **COMPANY** and **CITY** as provided by the Municipal Annexation Act. **CITY** and **COMPANY** agree that in order to reach mutual consent for an extended agreement for an additional period beyond December 31, 2026, extended agreement negotiations shall commence no later than January 5, 2026. In the event this **AGREEMENT** is not so extended for an additional period beyond December 31, 2026 by June 1, 2026, the covenant of **CITY** not to annex **COMPANY's** land and improvements shall terminate and **CITY** shall have the right to commence annexation proceedings on June 1, 2026 as to all land and property covered by this **AGREEMENT**. **COMPANY** and **CITY** agree that **CITY** shall initiate extended agreement negotiations no later than January 5, 2026. In the event **CITY** is delayed to begin extended agreement negotiations on January 5, 2026, **CITY's** right to commence annexation proceedings on June 1, 2026 shall be delayed by the number of days that the extended agreement negotiations commencement are delayed, but annexation proceedings shall not be delayed beyond August 1, 2026.

#### **V.**

This **AGREEMENT** may be extended for an additional period or periods by agreement between **CITY** and **COMPANY** and/or its assigns even though it is not

extended by agreement between **CITY** and all of the owners of all land within the District of which it is a part.

## VI.

A. In the event **COMPANY** elects to protest the valuation for tax purposes set on its said properties by **CITY** or by the Harris County Appraisal District for any year or years during the terms hereof, nothing in this **AGREEMENT** shall preclude such protest and **COMPANY** shall have the right to take all legal steps desired by it to reduce the same.

Notwithstanding such protest by **COMPANY**, **COMPANY** agrees to pay to **CITY** on or before the date therefore hereinabove provided, at least the total of (a) the total amount of ad valorem taxes on the annexed portions, plus (b) the total amount of the “in lieu of taxes” on the unannexed portions of **COMPANY’s** hereinabove described property for the last preceding year.

When the **CITY** or Harris County Appraisal District (as the case may be) valuation on said property of **COMPANY** has been so finally determined, then within thirty (30) days thereafter and if after the normal due date **COMPANY** shall make payment to **CITY** of any additional payment due hereunder based on such final valuation, without penalty or interest, and **CITY** shall refund to **COMPANY**, without interest, any amount by which **COMPANY’s** payment is found to have been excessive.

B. Should **COMPANY** disagree with any appraisal made by the independent appraiser selected by **CITY** pursuant to Article II above (which shall be given in writing to **COMPANY**), **COMPANY** shall, within thirty (30) days of receiving such copy, give written notice to **CITY** of such disagreement. In the event **COMPANY** does not give

such written notice of disagreement within such time period, the appraisal made by said independent appraiser shall be final and controlling for purposes of the determination of “in lieu of taxes” payments to be made under this **AGREEMENT**.

Should **COMPANY** give such notice of disagreement, **COMPANY** shall also submit to **CITY** with such notice a written statement setting forth what **COMPANY** believes to be the market value of **COMPANY's** hereinabove described property. Both parties agree to thereupon enter into good faith negotiations in an attempt to reach an agreement as to the market value of **COMPANY's** property for “in lieu” purposes hereunder. If, after the expiration of forty-five (45) days from the date the notice of disagreement was received by **CITY**, the parties have not reached agreement as to such market value, the parties agree to submit the dispute to final arbitration as provided in subparagraph 1 of this Article VI B. Notwithstanding any such disagreement by **COMPANY**, **COMPANY** agrees to pay to **CITY** on or before December 31, of each year during the term hereof, at least the total of (a) the ad valorem taxes on the annexed portions, plus (b) the total amount of the “in lieu” payments for the last preceding year.

1. A Board of Arbitrators shall be created composed of one person named by **COMPANY**, one by **CITY**, and a third to be named by those two. In case of no agreement on this arbitrator within 10 days, the parties will join in a written request that the Chief Judge of the U.S. District Court for the Southern District of Texas appoint the third arbitrator who, as the “Impartial Arbitrator” shall preside over the arbitration proceeding. The sole issue to be determined in the arbitration shall be resolution of the difference between the parties as to the fair

market value of **COMPANY's** property for calculation of the "in lieu" payment and total payment hereunder for the year in question. The Board shall hear and consider all relevant and material evidence on that issue including expert opinion, and shall render its written decision as promptly as practicable. That decision shall then be final and binding upon the parties, subject only to judicial review as may be available under the Texas General Arbitration Act (Chapter 172, Subsections 172.001-172.020 of the Texas Civil Practice and Remedies Code). Costs of the arbitration shall be shared equally by the **COMPANY** and the **CITY**, provided that each party shall bear its own attorney's fees.

#### **VII.**

**CITY** shall be entitled to a tax lien on **COMPANY's** above described property, all improvements thereon, and all tangible personal property thereon, in the event of default in payment of "in lieu of taxes" payments hereunder, which shall accrue penalty and interest in like manner as delinquent taxes, and which shall be collectible by **CITY** in the same manner as provided by law for delinquent taxes.

#### **VIII.**

This **AGREEMENT** shall inure to the benefit of and be binding upon **CITY** and **COMPANY**, and upon **COMPANY's** successors and assigns, affiliates and subsidiaries, and shall remain in force whether **COMPANY** sells, assigns, or in any other manner disposes of, either voluntarily or by operation of law, all or any part of the property belonging to it within the territory hereinabove described, and the agreements herein contained shall be held to be covenants running with the land owned by **COMPANY** situated within said territory, for so long as this **AGREEMENT** or any extension thereof

remains in force. **COMPANY** shall give **CITY** written notice within thirty (30) days of any disposition of Land, with information on the location and other particulars of the sale, assignment or lease, not considered confidential, regarding the property sold, assigned or leased and the identity of the purchaser, assignee or lessee.

In the event any of **COMPANY's** land included in the **DISTRICT** is sold by **COMPANY** to a third party, other than an affiliate of **COMPANY**, **CITY** shall enter into an agreement binding the purchaser and its assigns upon terms substantially similar to those contained in this **AGREEMENT** for the balance of the term of this **AGREEMENT**.

In the event such purchaser or its assigns for any reason fails to execute such **AGREEMENT** within four months after the date of the sale, then all of the land described in such deed shall be excluded from the coverage of this **AGREEMENT** and shall be subject to annexation by **CITY**. Upon such sale of any land of **COMPANY** within the **DISTRICT** to a third party, other than an affiliate of **COMPANY**, responsibility and liability for the performance of this **AGREEMENT** thereafter with respect to the land, improvements and personal property included in such sale shall be the sole responsibility of the purchaser and its assigns, and thereafter 100% fair market value figures to be used in computing the payments to be made by **COMPANY** pursuant to Section III hereof shall be applied only on the land, improvements and personal property still owned by **COMPANY** or its affiliates as of the particular January 1<sup>st</sup> specified in Section III. If the land included in such sale does not adjoin **CITY**, **COMPANY** shall permit **CITY** to annex a suitable strip of land out of **COMPANY's** land from **CITY's** boundary to the land being sold to permit its annexation, both the size and location of such strip to be designated by **COMPANY**.

## IX.

In the event **COMPANY** rents or leases (hereinafter called “the lease”) any of its land to any Lessee other than to an affiliate, **COMPANY** shall request that Lessee shall, on or before the due dates provided for herein for the payment of the “in lieu” payments, and on or before the due dates provided herein for the payment of Actual City taxes, make payments to **CITY** as follows:

The total value of Lessee’s improvements and personal property located on the leased land shall be ascertained, and the Lessee shall make payments for each year of the lease and proportionately for lease periods of less than one year as though it had entered into this **AGREEMENT** as a party thereto as specified in Section III. Lessee shall pay **CITY** as an “in-lieu” payment, an amount determined in accordance with the procedure outlined in Section III. For each year that the lease remains in force and effect, like payments shall be due in the above manner, with adjustments made upward or downward for increases or decreases in Lessee’s Adjusted Market Value of improvements and personal property. The payments herein provided for shall be secured by a lien on the improvements and personal property on the leased land. If Lessee does not make the required “in-lieu” and “Actual City Tax” payments, **COMPANY** shall permit **CITY** to annex a suitable strip of land out of **COMPANY’s** land from **CITY’s** boundary to the land being leased to permit its annexation. Both the size and location of such strip is to be designated by **COMPANY**.

## X.

If any other company within the **DISTRICT** defaults on their Industrial District Agreement and said defaulting company is not contiguous with the **CITY’s** boundary,

**COMPANY** shall permit **CITY** to annex a suitable strip of land out of **COMPANY's** land from **CITY's** boundary to the defaulting company's land to permit its annexation. Both the size and location of such strip is to be designated by **COMPANY**.

## **XI.**

The following language shall be included in storage contracts or leases and **COMPANY** agrees to use its best efforts to amend its existing contracts so that this language will appear in all contracts on or before January 1, 2015. Such language is as follows to wit:

“The term “Stored Product” as used in this **AGREEMENT** shall mean that Product” stored in **COMPANY** facilities located within the **DISTRICT** on January 1 of any year of the Lease.

Lessees agree to file any and all information returns or rendition forms required by **CITY** with respect to such Stored Product. Lessees acknowledge that such information shall be used in the valuation of such Stored Product and that these valuations will be provided to the proper governmental jurisdictions to be used as the basis of taxes, in lieu of payments, charges or assessments levied upon such Stored Product.

In the event that Stored Product is stored in facilities located within the **DISTRICT**, Lessees acknowledge and agree that such Stored Product shall be subject to in lieu payments, charges or assessments of **CITY**. Lessees and **CITY** agree that in lieu payments, charges or assessments upon Stored Product will be equal tithe sum of:

1. Sixty-three percent (63%) of the amount of taxes which would have been levied upon Stored Product if such Stored Product were stored in facilities within the city limits of Deer Park instead of within the **DISTRICT** on January 1, 2015, January 1, 2016, January 1, 2017, and January 1, 2018.

2. Sixty-four percent (64%) of the amount of taxes which would have been levied upon Stored Product if such Stored Product were stored in facilities within the city limits of Deer Park instead of within the **DISTRICT** on January 1, 2019, January 1, 2020, January 1, 2021, and January 1, 2022.

3. Sixty-five percent (65%) of the amount of taxes which would have been levied upon Stored Product if such Stored Product were stored in facilities within the city limits of Deer Park instead of within the **DISTRICT** on January 1, 2023, January 1, 2024, January 1, 2025, and January 1, 2026.

Lessees agree that they shall be obligated to remit in lieu payments, charges or assessments, if any, directly to the Tax Department in the City Hall of Deer Park, Texas, and that this **AGREEMENT** shall have full force and effect and be legally binding between itself and **CITY**. If any payment is not made on or before its due date, the same interest, penalties, attorney's fees and cost of collection shall be recoverable by **CITY** as in the case of delinquent ad valorem tax.

## **XII.**

The benefits accruing to **COMPANY** under this **AGREEMENT** shall also extend to **COMPANY's** affiliates and to any properties owned or acquired by said affiliates within the **DISTRICT** and the ANNEXED AREA, and where reference is made herein to

land, improvements and personal property owned by **COMPANY** that shall also include land, improvements and personal property owned by its affiliates. The word “affiliates” shall mean any corporation, partnership association, or unincorporated organization that directly or indirectly, through one or more intermediaries, at the time in question, controls, or is controlled by or is under common control with **COMPANY**.

### **XIII.**

In the event the terms and conditions of this **AGREEMENT** are rendered ineffective or their effect changed by an amendment to the Constitution, any State or Federal legislative changes, or any interpretation of the Texas Property Tax Code by a commission or board in the executive branch of state government having statewide jurisdiction, both parties mutually agree that upon the request of either party, this **AGREEMENT** shall be renegotiated to accomplish the intent of this **AGREEMENT**. For the avoidance of doubt, both parties acknowledge and agree that changes in the appraised value (as defined in the Texas Property Tax Code) of land, improvements or personal property owned by **COMPANY** or its affiliates shall not constitute a change with respect to which a party hereto may request under this Section XIII, that this **AGREEMENT** be renegotiated.

### **XIV.**

**CITY** and **COMPANY** mutually recognize that the health and welfare of Deer Park residents require adherence to high standards of quality in the air emissions, water effluents and solid waste management of those industries located in the Industrial District. In the event **COMPANY's** facility which is subject to this **AGREEMENT** is deemed to be in alleged violation of certain environmental regulations, **COMPANY** may

be assessed a monetary penalty or fine by the governmental agency entitled to enforce such regulations. An enforcement action pursuant to such alleged violation may be brought by the Environmental Protection Agency (EPA) or the Texas Commission on Environmental Quality (TCEQ). **CITY** and **COMPANY** agree that if these instances occur, it is desirable to identify a Supplemental Environmental Project (SEP) to allow at least a portion of the fine to work closer to home to help improve the environmental quality of the Deer Park area. SEPs are typically defined as environmentally beneficial projects which a defendant/respondent agrees to undertake in settlement of an enforcement action, but which the defendant/respondent is not otherwise legally required to perform. It is recognized that the EPA and TCEQ may have separate and distinct SEP policies and criteria.

**CITY** and **COMPANY** mutually agree that:

1. **COMPANY** will contact **CITY** in advance of entering into any formal settlement with the EPA involving **COMPANY's** facility in the **DISTRICT**.
2. **COMPANY** will contact **CITY** at the time of entering into any formal Agreed Order with TCEQ involving **COMPANY's** facility in the **DISTRICT**.
3. If **CITY** has a SEP that is pre-approved by TCEQ and **CITY's** SEP meets the criteria for approval by **COMPANY**, **COMPANY** will propose the SEP sponsored by **CITY** be included in the stated Agreed Order.
4. **CITY** may propose a SEP to **COMPANY** for inclusion in a federal settlement. If the **CITY** sponsored SEP meets the criteria for approval by the EPA and **COMPANY**, and the selection of the **CITY** sponsored SEP

will not delay finalization of the settlement, **COMPANY** will propose **CITY's** SEP be included in the federal settlement.

**CITY** and **COMPANY** mutually recognize that should **COMPANY** pursue the SEP submitted by **CITY**, that the final decision to approve or disapprove a SEP rests with the federal or state environmental regulatory agency.

#### **XV.**

**CITY** and **COMPANY** hereby affirm and agree that any inventory located within a Foreign Trade Zone or Freeport exemptions within **COMPANY's** property shall not be excluded from the total value of property, in regards to the in-lieu of tax payments calculation referenced in this **AGREEMENT** for the full term of said **AGREEMENT**. **CITY** and **COMPANY** further agree that the Foreign Trade Zone exemption shall not be excluded from **COMPANY's** valuation for any ad valorem taxes during the term of said **AGREEMENT**.

#### **XVI.**

If at some time during this **AGREEMENT** **CITY** grants a Freeport exemption or an exemption of value of inventory within a Foreign Trade Zone to any company within **CITY** or the **DISTRICT**, the same value exemption shall extend to **COMPANY** herein.

#### **XVII.**

The parties agree that this **AGREEMENT** complies with existing laws pertaining to the subject and that all terms, considerations and conditions set forth herein are lawful, reasonable, appropriate, and not unduly restrictive of **COMPANY's** business activities. Without such agreement neither party hereto would enter into this **AGREEMENT**. In the event any one or more words, phrases, clauses, sentences,

paragraphs, sections, articles or other parts of this **AGREEMENT** or the application thereof to any person, firm, corporation or circumstances shall be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of such words, phrases, clauses, sentences, paragraphs, sections, articles or other parts of the **AGREEMENT** shall be deemed to be independent of and severable from the remainder of this **AGREEMENT** and shall not affect the validity of the parts of the **AGREEMENT** not declared invalid or unconstitutional.

**XVIII.**

Any notice or other communication required or permitted to be given pursuant to this **AGREEMENT** shall be in writing and shall be directed to the applicable party as follows:

If directed to **CITY**:

The City of Deer Park  
710 E. San Augustine  
Deer Park, Texas 77536  
Facsimile: (281) 478-7218  
Attn: City Manager

If directed to **COMPANY**:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Facsimile: \_\_\_\_\_

Attn: \_\_\_\_\_

Each party shall have the right to change the place to which notice shall be sent or delivered by sending a similar notice to the other party in like manner. Notices, demands, offers or other written instruments shall be deemed to have been duly given on the date a copy is actually received by the intended recipient.

**XIX.**

Upon the commencement of the term of this **AGREEMENT**, all other previously existing Industrial District Agreements with respect to said Land, shall terminate.

**ENTERED INTO EFFECTIVE** the 1<sup>st</sup> day of January, 2015.

\_\_\_\_\_  
(Company)

\_\_\_\_\_  
By:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Address:

**CITY OF DEER PARK**

\_\_\_\_\_  
**MAYOR**, City of Deer Park, Texas

**ATTEST:**

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City Secretary

**APPROVED:**

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City Attorney