AGREEMENT

THIS AGREEMENT is made and entered into by and between the CITY AND COUNTY OF DENVER, a home rule city organized and existing pursuant to Article XX of the Colorado Constitution (the "City"), and COMPANY, a Delaware Corporation, whose address is ADDRESS ("Taxpayer") (together, the "Parties").

RECIPIENTS

A. Pursuant to sections 30-11-123 and 31-15-903, C.R.S., and Chapter 53, Article XVI, D.R.M.C., the City is authorized to enter into agreements with qualifying taxpayers for an incentive tax credit in the amount of the general fund portion of the taxes upon the taxpayer’s new taxable personal property assessed by the City upon the new taxable personal property located at or within a new business facility, or directly attributable to an expanded business facility and located at or within the expanded facility, and used in connection with the operation of the new or expanded facility.

B. Taxpayer has decided to expand its current business facility within the City. One factor in Taxpayer’s decision to expand within the City was the availability of certain incentive tax credits as further described in this Agreement.

C. This Agreement, and the expansion of Taxpayer’s facility within the City, will advance valid and valuable public purposes, by generating significant levels of new taxes. In addition, the City anticipates that job opportunities will exist for Denver residents, as a result of the incentives described herein.

For these reasons, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

1. CONDITIONS. This Agreement and the City’s obligations hereunder are conditioned upon Taxpayer’s expansion of a facility in the city and county, as defined in section 39-30-105(7)(c), C.R.S., the expansion of which constitutes a new business facility, as defined in section 39-30-105(7)(e), C.R.S., housing Taxpayer's facility located at ADDRESS (the
2. **INCENTIVE TAX CREDIT MECHANISM.**

A. Subject to the terms hereof, the City agrees to grant to Taxpayer incentive tax credits in the amount of the general fund portion of the taxes upon the Taxpayer’s new taxable personal property assessed by the City upon the new taxable personal property located at or within the Facility and used in connection with the operation of the Facility.

B. To receive its incentive tax credits hereunder, Taxpayer shall, on or before submittal deadlines established by the City pursuant to section 53-544, D.R.M.C. for each year during the Term of this Agreement, certify and demonstrate to the satisfaction of City’s Office of Economic Development in its sole discretion that Taxpayer met all requirements of sections 30-11-123 and 31-15-903, C.R.S., Chapter 53, Article XVI, D.R.M.C. and other incentive tax credit requirements of the City under section 53-544, D.R.M.C. for the preceding tax year.

C. Subject to the terms hereof, Taxpayer may be eligible to receive incentive tax credits hereunder on account of the 2018 through 2021 tax years.

D. Incentive tax credits hereunder shall be subject to limitations on such credits imposed by the Colorado Revised Statutes, as may be amended during the Term of this Agreement.

E. If at any time after the City grants an incentive tax credit the City in its sole discretion determines that Taxpayer did not meet all requirements of sections 30-11-123 and 31-15-903, C.R.S., Chapter 53, Article XVI, D.R.M.C. or other incentive tax credit requirements of the City under section 53-544, D.R.M.C. in the tax year for which a credit was granted, Taxpayer agrees that City may issue to Taxpayer a Special Notice of Valuation, and assess and collect from Taxpayer, in the manner provided for in the Colorado Revised Statutes, taxes in the amount of the incentive tax credit for the subject tax year. Taxpayer hereby agrees to pay said taxes and waives its right to protest or appeal the issuance of such a Special Notice of Valuation, the assessment or collection of such taxes on the basis that Taxpayer did not meet all requirements of sections 30-11-123 and 31-15-903, C.R.S., Chapter 53, Article XVI, D.R.M.C. or other incentive tax credit
requirements of the City under section 53-544, D.R.M.C. in the tax year for which a credit was granted.

3. **SUBMITTAL AND EXAMINATION OF RECORDS.** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine any pertinent books, documents, papers and records of the Taxpayer, involving transactions related to the Agreement until the latter of three (3) years after the termination of the Agreement or expiration of the applicable statute of limitations. Taxpayer hereby waives any confidentiality of any and all such books, documents, papers and records of Taxpayer provided for by the Colorado Revised Statutes or the Denver Revised Municipal Code.

4. **TERM.** The term of this Agreement shall be from the date it is executed by the City to December 31, 2022.

5. **ASSIGNMENT AND SUBCONTRACTING.** The City is not obligated or liable under this Agreement to any party other than Taxpayer. Taxpayer shall not assign or subcontract with respect to any of its rights, benefits, obligations or duties under this Agreement except upon prior written consent and approval of the City.

6. **WHEN RIGHTS AND REMEDIES NOT WAIVED.** In no event shall any action by the City or Taxpayer hereunder constitute or be construed to be a waiver by the City or Taxpayer of any breach of covenant or default which may then exist, and the non-breaching party’s action or inaction when any such breach or default shall exist shall not impair or prejudice any right or remedy available with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of the Agreement shall be deemed or taken to be a waiver of any other breach.

7. **NO DISCRIMINATION IN EMPLOYMENT.** In connection with the performance of work under this Agreement, Taxpayer agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability; and Taxpayer further agrees to insert the foregoing provision in all subcontracts hereunder.

8. **AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS.** This Agreement is intended as the complete integration of all understandings between the parties. No prior, contemporaneous or subsequent addition, deletion, or other amendment hereto shall have
any force or effect, unless embodied herein in writing, and executed in the same manner as this Agreement.

9. **CONFLICT OF INTEREST.** The parties agree that no employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein and Taxpayer further agrees not to hire or contract for services any employee or officer of the City which would be in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics, or Denver City Charter provisions C5.13 and C5.14.

10. **CONSTRUCTION.** This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, and the Charter and Revised Municipal Code of the City and County of Denver, and the ordinances, regulations and Executive Orders enacted and/or promulgated pursuant thereto. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver, Colorado.

11. **LEGAL AUTHORITY.**

   A. Taxpayer assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

   B. The person or persons signing and executing this Agreement on behalf of Taxpayer, do hereby warrant and guarantee that he/she or they have been fully authorized by Taxpayer to execute this Agreement on behalf of Taxpayer and to validly and legally bind Taxpayer, to all the terms, performances and provisions herein set forth.

   C. The City shall have the right, at its option to either temporarily suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of either Taxpayer or the person signing the Agreement to enter into this Agreement. The City shall not be obligated to Taxpayer for any performance of the provisions of this Agreement in the event that the City has suspended or terminated this Agreement as provided in this Section.

12. **NO THIRD PARTY BENEFICIARY.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and Taxpayer, and nothing contained in this
Agreement shall give or allow any such claim or right of action by any other or third person on such Agreements. It is the express intention of the City and Taxpayer that any person other than the City or Taxpayer receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

13. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** Taxpayer consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

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