

TAX ABATEMENT AGREEMENT

This Agreement by and between Air Liquide Large Industries, U.S., LP (hereinafter referred to as “the Company”), and Harrison County, Texas (hereinafter referred to as “Harrison County”);

WITNESSETH:

WHEREAS, the Company leases approximately 6 acres of land in Harrison County, Texas (the “Property”) described in Exhibit “A” on which a manufacturing facility is located; and

WHEREAS, the Property is located in an area that has been designated as a Reinvestment Zone under Chapter 312 of the Texas Tax Code; and

WHEREAS, the Company desires to make improvements on the Property by adding real and tangible personal property as part of the expansion/retention described in Exhibit “B” attached hereto and incorporated herein by reference (hereinafter the “Project”) and the Company is willing to undertake the Project provided it receives certain incentives as more particularly described in this Agreement and in incentive agreements related to the Project with any other governmental and non-governmental entities; and

WHEREAS, in order to encourage the Company to carry out the Project, Harrison County is willing to enter into a tax abatement agreement upon the terms and conditions hereinafter provided with the intent being that all real and tangible personal property added as part of the Project and subject to ad valorem property tax will receive a property tax abatement;

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the Company and Harrison County agree as follows:

I. Company’s Obligations

The Company covenants and agrees that it will undertake and complete the Project in accordance with the description set forth in Exhibit “B”. The Company agrees as follows:

- A. To make capital expenditures for personal property improvements to the Property (hereafter referred to as “Improvements”) as well as tangible personal property additions with a total cost of at least \$157,600,000 to be substantially completed on or before December 31, 2021. (the “Completion Date”). For just cause the Completion Date may be extended up to six (6) months subject to the approval of the Harrison County Judge. Any extensions beyond six (6) months must be approved by the Harrison County Commissioners’ Court; provided however, that the Company shall have additional time to complete the Improvements as may be required in the event of force majeure, defined herein.
- B. Prior to commencement of the Project, the Company employed Twenty-five (25) full-time jobs at its Harrison County/Longview Facilities, Texas operations (“the Base

Number” for Job Retention Requirement). For purposes of this Agreement, a “full-time job” of the Company shall mean any position occupied by an employee of the Company which averages at a minimum of Thirty-five (35) hours during a calendar week at the Harrison County/Longview Facilities, Texas operation and at a minimum of Eighteen hundred and twenty hours (1,820) per year. At no time will a combination of employees be used to calculate FTE’s or Full Time Equivalent positions. Additionally, the Company shall use its best efforts to maintain the Job Retention Requirement throughout the Tax Abatement Period, hereinafter defined.

- C. To provide access to and authorize inspection of the Property by agents or representatives of Harrison County to ensure that the Improvements are made according to the terms, conditions, and specifications of this Agreement, subject to Company’s right to require reasonable measures to protect its confidential and proprietary information and trade secrets.
- D. Upon completion of the Project, the Company shall provide Harrison County with documentation of its capital investment for the Project, which shall be met by providing annual documentation to Harrison County Central Appraisal District (“CAD”) for real property tax and tangible personal property tax. The Company shall certify annually in writing during the abatement period that the Project is still in operation and that Company is in compliance with the Job Retention Requirement. The annual certification of compliance with the Agreement shall be provided to Harrison County through the Marshall Economic Development Corporation by June 30th of each year until the year following the expiration of the last property tax abatement.

II. Harrison County’s Obligations

Harrison County agrees as follows:

- A. To abate, starting in tax year 2022, the ad valorem taxes on (i) all increases in value of real property located on the Property described in Exhibit "A" resulting from construction activities that take place after the effective date of this Agreement and (ii) all abatable tangible personal property (i.e. tangible personal property added pursuant to the Project) located on the Property described in Exhibit "A" after the effective date of this Agreement (such property valuation being hereafter referred to as "abatable taxable value"). No abatement shall be extended for an increased valuation to the previously existing real property and/or moveable personal property after the base year.
- B. The real and tangible personal property tax abatements shall receive an abatement in accordance with the following schedule.

<u>Year</u>	<u>Tax Abatement Percentage</u>
2022	80%
2023	80%
2024	80%
2025	80%

2026	80%
2027	80%
2028	80%
2029	80%
2030	80%
2031	80%

III. Recapture of Tax Abatement

If the Company fails or refuses to comply with a material aspect of the requirements, terms, and conditions of this Agreement (such failure being hereafter referred to as “the Deficiency”), then Harrison County may recapture property tax revenue lost as a result of this Agreement for the year of the Deficiency; provided, however, should the Company fail to meet the employment requirements of Article I hereof in any year of this Agreement and Harrison County exercises its right to recapture property taxes, Harrison County’s recapture of property tax revenue shall be limited to taxes due for such year or years that Company fails to meet said employment requirements and shall be prorated based upon the number of employees that the Company is below the employment requirement. For example, if on December 31, 2026 the Company has not retained the full base amount of jobs, then Harrison County may recapture the percentage of property tax abatement that falls below the base amount. (25 base jobs and only 20 were retained, then the Harrison County may recapture 20% of the abated amount for that year).

IV. Tax Abatement to Comply with State Law

The Company and Harrison County additionally agree that the tax abatement described in this agreement shall at all times comply with the requirements of Texas law as set forth in Chapter 312 of the Texas Tax Code or other applicable law. The parties at all times agree to cooperate with each other assuring compliance with such laws. Harrison County hereby represents to the Company that it has all necessary authority and it has complied in all respects with requirement of state law necessary to enter into this Agreement, including, but not limited to §312.002, §312.401, §312.4011 and §312.402 of the Texas Tax Code. This Agreement may not be renewed. In the event that for any reason this Agreement, or any part thereof, is determined to be invalid or otherwise ineffective to grant the tax abatement described herein, the parties agree to take such curative action as may be necessary to bring the Agreement into compliance with the applicable provisions of state law to the extent possible, and to achieve the intended tax abatement for the Company.

V. Termination

This Agreement may be terminated by Harrison County, in whole, or from time to time, in part if the Company has a Deficiency. Harrison County shall give the Company sixty days (60) prior written notice of the Deficiency by delivering to the Company a written Notice of Proposed Termination informing the Company of the Deficiency. Notice of Proposed Termination or of Termination shall be considered given three days after it is placed into the

custody of the United States Postal service, correctly addressed to Company at the address designated herein for Company. In the event the Company fails to cure the Deficiency within the sixty (60) days period, this Agreement may be terminated by Harrison County upon receipt by the Company of written notice of termination received by Company after such sixty (60) days period in which to rectify the Deficiency lapses. Subject to the limitation in Article III, in the event that this Agreement is terminated, the taxes that would have been paid by the Company to Harrison County in the year of Deficiency had not those taxes been reduced by this Agreement will be due within thirty (30) days of termination of this Agreement. The taxes due as a result of termination become delinquent and incur penalties and interest as provided by law for delinquent ad valorem property if not paid by the 90th day following receipt by the Company of Notice of Termination of this Agreement. Termination by Harrison County shall be in accordance with the established Harrison County Tax Abatement Policy.

VI. Status of the Company as Independent Contractor

Nothing herein shall be construed as creating a partnership or joint enterprise between Harrison County and the Company. It is expressly agreed that no officer, director, member, agent, employee, contractor, subcontractor, program participant, licensee or invitee of the Company is in the paid service of Harrison County. The Company shall have exclusive control of, and the exclusive right to control, the details of the tasks performed pursuant to this agreement by the Company, its officers, directors, members, agents, employees, contractors, sub-contractors, program participants, licensees or invitees by virtue of this agreement. In no event shall any officer, agent, servant or employee of Harrison County participate in the direct capital investment and job retention program of the Company provided for in this agreement. Accordingly, the parties hereto acknowledge and agree that the doctrine of respondeat superior shall not apply between Harrison County and the Company, nor between Harrison County and any officer, director, member, agent, employee, contractor, sub-contractor, program participants, licensees or invitees of the Company.

Harrison County shall not be responsible or liable for the acts or omissions of the Company's officers, directors, agents, or employees nor vice-versa. The doctrine of respondeat superior shall not apply between Harrison County and the Company, nor between Harrison County and any sub-contractors. The doctrine of respondeat superior shall not apply between the contractor and its sub-contractors, program participants, licensees or invitees.

The Company shall not be responsible nor liable for the acts or omissions of Harrison County's officers, directors, agents, or employees. The doctrine of respondeat superior shall not apply between the Company and Harrison County nor between the Company and the sub-contractors.

VII. Force Majeure

The company will not be liable for delays caused by Acts of God, acts of war, civil unrest, strikes, unavailability of materials, or for any other situation or condition beyond its reasonable control ("force majeure") which directly impacts the Company's ability to perform its requirements hereunder. In any such event, the Company shall be granted a reasonable extension

of time within which to perform its obligations hereunder provided that it seeks to remove that inability to perform with all reasonable diligence. If a force majeure event should occur, the Company's employment obligations pursuant to this Agreement shall be suspended to the extent that such event affects the Company's ability to hire and/or retain employees. The calculation of the average number of employees for any period in which a force majeure event has occurred shall not include any reduction of employees resulting from such an event.

VIII. Notices

All notices required or contemplated by this Agreement shall be addressed as follows:

Harrison County
Attention: County Judge
Harrison County Court House
#1 Peter Whetstone Square
Marshall, Texas 75670
Phone: 903-935-8401

Air Liquide Large Industries U.S. LP
Air Liquide Large Industries U.S. LP
Attention: David M. Ngo
Tax Department
9811 Katy Freeway, Suite 100, Houston, Texas 77024
Phone: 713-402-2011

IX. Administration

- A. The Chief Appraiser of the Harrison County Appraisal District will annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving the abatement shall furnish the Appraiser with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser will notify the Commissioners Court of Harrison County of the amount of the assessment.
- B. The Agreement shall stipulate that employees and/or designated representatives of Harrison County will have access to the applicant's facilities within the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the Agreement are being met. All inspections will be made only after the giving of reasonable notice of at least twenty-four (24) hours and will only be conducted in a manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the applicant, and in accordance with its safety standards.
- C. Harrison County may execute a contract with any other jurisdictions to inspect the facility to determine if the terms and conditions of the abatement agreement are being

met. The abatement agreement shall stipulate that employees and/or designated representatives of Harrison County will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such a manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

- D. Upon completion of construction, the designated representative of Harrison County shall annually evaluate each facility receiving abatement to insure compliance with the agreement. A formal report shall be made to the Commissioners Court.
- E. Timely Filing. The County shall timely file, with the appropriate person, agency, departments, or board of the State of Texas, all information required by the Tax Code. The Company shall not withhold or prohibit information required in the report due to the State of Texas.

X. Assignment

- A. Abatement may be transferred and assigned by the holder to a new owner or lessee of the same facility only upon the approval by resolution of the Commissioners Court of Harrison County subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement are guaranteed by the execution of a new contractual agreement with Harrison County. No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee, are liable to any jurisdiction for outstanding taxes or other obligations.
- B. An assignment shall not serve to extend the termination date of the Abatement Agreement with the original Applicant, owner or lessee. An assignment may not alter venue provisions of the original agreement.

Approval of an assignment in conformity with this section shall not be unreasonably withheld.

XI. Venue

Any abatement agreement shall be conditioned upon venue for any disputes which may arise under the abatement agreement to be retained in courts of appropriate jurisdiction within Harrison County, Texas, or appeals to Texas courts of appellate jurisdiction, or the United States District Court for the Eastern District of Texas, Marshall Division, and the United States courts of appellate jurisdiction.

XII. Miscellaneous

- A. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. The Company may assign this Agreement to any party who purchases all or substantially all of the Property and the Project from the Company at any time during the term of this Agreement, with the written approval of Harrison County, which permission shall not be unreasonably withheld. This Agreement sets forth the entire understanding between the parties, and may not be modified except by a written document referring to this Agreement which is signed by the parties hereto.
- B. The laws of the State of Texas shall govern the interpretation of this Agreement. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, shall first be submitted to mediation prior to any litigation being instituted, assuming litigation is not barred by the laws and constitution of the State of Texas. Submission to mediation shall not be interpreted as a waiver by County of whatever rights it may have, if any, under the law of governmental immunity in the State of Texas. Harrison County shall be the venue for the resolution of all matters of fact and law. This Agreement shall not be subject to binding arbitration.
- C. Time is of the essence of this Agreement.
- D. Company certifies that Company does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the term of this Agreement, Company is convicted of a violation under 8 U.S.C. § 1324a(f), Company shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of eight percent (8%), not later than the 120th day after the date the Harrison County notifies Company of the violation.
- E. In accordance with Section 2271.002 of the Texas Government Code, the Company verifies that it does not boycott Israel and will not boycott Israel during the term of this Agreement.
- F. In accordance with Section 2252.152 of the Texas Government Code, the parties covenant and agree that Company is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 806.051, 807.051, or 2252.153 of the Texas Government Code.
- G. In order to receive the tax abatement pursuant to this Agreement, Company understands it must file with the appraisal district an application for property tax abatement exemption, in a form similar to the form attached hereto as *Exhibit C*, between January 1st and April 30th of each year during the term of this Agreement.

[The Remainder of this Page Intentionally Left Blank]

SIGNED AND AGREED TO THIS THE 28th DAY OF FEBRUARY, 2020.

~~ATTEST:~~
~~EP~~

AIR LIQUIDE LARGE INDUSTRIES U.S.

James E Cook

Name/Title: JAMES E Cook
VP Tech

By: (Printed Name)

Title: _____

ATTEST:

HARRISON COUNTY, TEXAS

Chad L Sims
Chad L Sims, County Judge

By: County Clerk _____

By: County Judge Chad Sims

EXHIBIT B

Air Liquide is investing approximately \$157.6 million in Harrison County for new plants to increase the syngas, oxygen, and nitrogen capacity. The new Syngas-POX3 and Air Separation Unit-ASU5 assets will get integrated with the existing site in Harrison County. The new investment will retain the jobs in the local community between this site and the site in Gregg County; total headcount will sustain and save 25 positions. The startup of the new units is targeted for August 2021.

Exhibit C

Comptroller Form 50-116

Application for Property Tax Abatement Exemption

Appraisal District Name

Phone (area code and number)

Appraisal District, Address, City, State, ZIP Code

GENERAL INSTRUCTIONS: This application is for use in claiming property tax exemptions pursuant to Tax Code Section 11.28. A property owner who has established a tax abatement agreement under Tax Code Chapter 312, Property Redevelopment and Tax Abatement Act, is entitled to exemption from taxation by an incorporated city or town or other taxing unit of all or part of the value of the property as provided by the agreement.

FILING INSTRUCTIONS: This document and all supporting documentation must be filed with the appraisal district office in the county in which the property is taxable. Do not file this document with the Texas Comptroller of Public Accounts. A directory with contact information for appraisal district offices may be found on the Comptroller's website.

APPLICATION DEADLINES: The completed application and supporting documentation must be filed beginning Jan. 1 and no later than April 30 of the year for which an exemption is requested. For good cause shown, the chief appraiser may extend the deadline for filing the application by written order for a single period not to exceed 60 days.

ANNUAL APPLICATION REQUIRED: An application for this exemption must be filed each year. If information has not changed and/or agreement(s) were not modified, copies of the agreement(s) are not required to be attached.

OTHER IMPORTANT INFORMATION

Pursuant to Tax Code Sec. 11.45, the chief appraiser may request additional information. The additional information must be provided within 30 days of the request or the application is denied. For good cause shown, the chief appraiser may extend the deadline for furnishing the additional information by written order for a single period not to exceed 15 days.

State the tax year for which you are applying.

Tax Year

Did the applicant own the property that is the subject of this application on Jan. 1 of the tax year? Yes No**SECTION 1: Property Owner/Applicant**

The applicant is the following type of property owner: (check one):

 Individual Partnership Corporation Other (specify): _____

Name of Property Owner

Driver's License, Personal I.D. Certificate
Social Security Number or Federal Tax I.D. Number*

Physical Address, City, State, ZIP Code

Phone (area code and number)

Email Address**

Mailing Address of Property Owner (if different from the physical address provided above):

Mailing Address, City, State, ZIP Code

SECTION 2: Authorized Representative

If you are an individual property owner filing this application on your own behalf, skip to section 3; all other applicants are required to complete section 2.

Please indicate the basis for your authority to represent the property owner in filing this application:

- Officer of the company General Partner of the company Attorney for property owner
- Agent for tax matters appointed under Tax Code Section 1.111 with completed and signed Form 50-162
- Other and explain basis: _____

Provide the following information for the individual with the legal authority to act for the property owner in this matter:

Name of Authorized Representative _____ Driver's License, Personal I.D. Certificate or Social Security Number* _____

Title of Authorized Representative _____ Primary Phone Number (area code and number) _____ Email Address** _____

Mailing Address, City, State, ZIP Code _____

SECTION 3: Property Description

Provide the descriptive information requested below for the property that is the subject of this application. Provide the appraisal district account number (if known) or attach a tax bill or copy of appraisal or tax office correspondence concerning this account.

Physical Address (i.e. street address, not P.O. Box), City, State, ZIP Code _____

Appraisal district account number (if known) _____

Legal Description: _____

Was a wind-powered energy device installed or constructed

- on a parcel of real property under an abatement agreement;
- at a location within 25 nautical miles of the boundaries of a military aviation facility located in this state; and
- on or after Sept. 1, 2017? Yes No

If yes, was the wind-powered energy device installed or constructed as part of an expansion or repowering of an existing project? ... Yes No

SECTION 4: Taxing Units that have Agreed to Abate Taxes

For each taxing unit identified, attach copies of abatement agreements unless you previously applied for and were granted the abatement and no changes have occurred and/or the agreement(s) were not modified.

SECTION 5: Abatement(s) Questions

1. Is this a continuation of an existing abatement agreement? Yes No
2. Are the terms and duration of each taxing unit's agreement different or identical? Different Identical

If different, please copy this form for each taxing unit and complete section 5 for each unit. In the area where taxing units are listed, please circle the taxing unit being summarized.

If identical, please describe the nature of the abatement agreements for this year by completing the following:

- Lump sum exemption of \$ _____
- Percentage exemption of _____ %
- Other (Attach a statement describing the method of calculating abatement. Provide dollar value to be exempted this year.)

3. Does the agreement abate taxes on personal property? Yes No
4. Are you in compliance with the agreement? Yes No
- If no, attach a statement explaining the reason for noncompliance.

SECTION 6: Additional Required Documentation

The following documents must be included with this application.

- copies of abatement agreements, unless the abatement was previously granted and no changes have occurred and/or the agreement(s) were not modified;
- a statement describing the method of calculating the abatement if it is not a lump sum or percentage exemption (provide the dollar amount to be exempted this year); and
- a statement explaining the reason for noncompliance if applicant is not in compliance with an abatement agreement.

SECTION 7: Certification and Signature

NOTICE REGARDING PENALTIES FOR MAKING OR FILING AN APPLICATION CONTAINING A FALSE STATEMENT: If you make a false statement on this form, you could be found guilty of a Class A misdemeanor or a state jail felony under Penal Code Section 37.10.

I, _____, swear or affirm the following.

Printed Name of Property Owner or Authorized Representative

1. that each fact contained in this application is true and correct;
2. that the property described in this application meets the qualifications under Texas law for the exemption claimed; and
3. that I have read and understand the *Notice Regarding Penalties for Making or Filing an Application Containing a False Statement*.

**sign
here** ▶

Signature of Property Owner or Authorized Representative

Date

* If the property owner is a company or other legal entity (not an individual), the Federal Tax I.D. Number is to be provided. Disclosure of your social security number (SSN) may be required and is authorized by law for the purpose of tax administration and identification of any individual affected by applicable law. Authority: 42 U.S.C. § 405(c)(2)(C)(i); Tax Code Section 11.43(f). Except as authorized by Tax Code Section 11.48(b), a driver's license number, personal identification certificate number, or social security number provided in this application for an exemption filed with your county appraisal district is confidential and not open to public inspection under Tax Code Section 11.48(a).

** An email address of a member of the public could be confidential under Government Code Section 552.137; however, by including the email address on this form, you are affirmatively consenting to its release under the Public Information Act.