

STATE OF TEXAS

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CITY OF SAN ANTONIO

TAX ABATEMENT AGREEMENT

COUNTY OF BEXAR

FOR REAL AND PERSONAL PROPERTY

1. PARTIES

THIS AGREEMENT (the “Agreement”) is entered into on this ___ day of _____ 2019, by and between NAVISTAR, INC. (“Navistar”), NAVISTAR MANUFACTURING SAN ANTONIO LLC (“NMSA”, collectively with Navistar, hereinafter referred to as “Manufacturer”), holding a fee simple interest in the real property described herein and as owner of personal property to be located on said real property, and the City of San Antonio, a municipal corporation, (hereinafter referred to as the “City”), acting by and through its City Manager under the authority of its City Council.

2. AUTHORIZATION AND FINDINGS

A. This Agreement is entered into pursuant to the following authorities:

1. The Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312, as amended;
2. CITY COUNCIL RESOLUTION No. 89-07-12, dated the 15th day of February 1989, and most recently revised by Ordinance No. 2018-12-13-1020 on December 13, 2018, together which established the City of San Antonio Guidelines and Criteria for tax abatements, (hereinafter referred to as the “Guidelines and Criteria”);
3. The State of Texas designation of the NAVISTAR REINVESTMENT ZONE (the “Zone”) for the purposes of the Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312; and
4. CITY COUNCIL ORDINANCE NO. 2019-__-__-__ dated _____, 2019, which specifically approves this Agreement and authorizes execution hereof.

The City Council, by its approval of this Agreement, hereby finds that the terms of this Agreement are within the Guidelines and Criteria and the approval of this Agreement will not have any substantial long-term adverse effect on the provision of City services or the City’s tax base. The City Council also finds that the planned use of the Property (defined below) inside the Zone by Manufacturer does not constitute a hazard to public safety, health or morals.

3. **PROPERTY**

A. Manufacturer is fee simple owner of real property located at _____, a portion of which is identical to the legal description provided for the Zone described in Exhibit A, attached hereto and incorporated herein (the "Property"). The Property is within the Zone for the purposes of the Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312.

B. Manufacturer is a manufacturer of commercial trucks, school and commercial buses, chassis for motor homes and step vans, and is a private label designer and manufacturer of diesel engines for the truck market, and is also a provider of truck and diesel engine parts and service (the "Business Activities"). For purposes of any undeveloped portion of the Property which is not intended to be used for development of the Real Property Improvements, the Manufacturer may also enter into cattle leases, wind-farm leases or any other type of land lease until such time as such leased Property is otherwise developed by the Manufacturer so long as such leasing activity is ancillary to the Business Activities and no abatement of leasehold taxes are provided to third-parties. Manufacturer will conduct, on the Property, its Business Activities or the normal business activities of a Related Organization, as defined in Article 5, Paragraph H, for the Term of this Agreement. Manufacturer may also allow the leasing activity on the Property as described in this Section 3(B) so long as such leasing activity is ancillary to the Business Activities and no abatement of leasehold taxes are provided to third-parties.

C. Manufacturer is investing a cumulative TWO HUNDRED THIRTY FIVE MILLION DOLLARS (\$235,000,000.00) by December 31, 2023 for the purpose of establishing a production facility within the city limits of the City of San Antonio. Of the TWO HUNDRED THIRTY FIVE MILLION DOLLARS (\$235,000,000.00), ONE HUNDRED EIGHT MILLION SEVEN HUNDRED NINETY TWO THOUSAND THREE HUNDRED SIXTY THREE AND 00/100 DOLLARS (\$108,792,363.00) will be expended on real property improvements (the "Real Property Improvements") and ONE HUNDRED TWENTY SIX MILLION TWO HUNDRED SEVEN THOUSAND SIX HUNDRED THIRTY SEVEN AND 00/100 DOLLARS (\$126,207,637.00) will be expended on personal property improvements (the "Personal Property Improvements") to be located on the Property and used for Manufacturer's Business Activities. The Personal Property Improvements shall not be placed on the Property sooner than the Effective Date of this Agreement. The Property, Real Property Improvements, the Personal Property Improvements and the Manufacturer's conducting the Business Activities thereon, the "Project."

D. Manufacturer shall establish a separate tax account for the Real Property Improvements and for the Personal Property Improvements related to this new investment, with the Bexar Appraisal District, and shall provide these tax account numbers to the City. Manufacturer is responsible for filing all necessary documents required by the Bexar Appraisal District or state statute to receive the abatement authorized under this Agreement.

4. MANUFACTURER’S REPRESENTATIONS

A. Manufacturer represents that it has no knowledge that any interest in the Property is presently owned, held or leased by a member of the San Antonio City Council, Zoning Commission, Planning Commission, the City’s Economic Development Department, or any other City officer or employee. Manufacturer further represents that it shall not knowingly sell, lease or otherwise convey such an interest to a member of the San Antonio City Council, the Zoning Commission, the Planning Commission, the City’s Economic Development Department or any other City officer or employee, as long as this Agreement remains in effect.

B. Manufacturer represents that it intends to fully comply with the Occupational Safety and Health Act (“OSHA”) throughout the term of this Agreement with respect to the Project and that upon notification that it is non-compliant, Manufacturer shall take all necessary steps to rectify any violations.

5. OBLIGATIONS OF MANUFACTURER

A. In addition to the obligations and duties imposed on Manufacturer by agreements it has entered into with the State of Texas, Bexar County and City of San Antonio, Manufacturer shall:

1. Own, hold an interest in or otherwise control the Project that is the subject of this Agreement.

2. Invest, or cause to be invested, at least ONE HUNDRED EIGHT MILLION SEVEN HUNDRED NINETY TWO THOUSAND THREE HUNDRED SIXTY THREE AND 00/100 DOLLARS (\$108,792,363.00) in Real Property on or prior to December 31, 2023.

3. Invest, or cause to be invested, at least ONE HUNDRED TWENTY SIX MILLION TWO HUNDRED SEVEN THOUSAND SIX HUNDRED THIRTY SEVEN AND 00/100 DOLLARS (\$126,207,637.00) in Personal Property Improvements on or prior to December 31, 2023.

4. Create a cumulative FIVE HUNDRED NINETY-EIGHT (598) Full-Time Jobs (as defined in Article 5, Paragraph C) at the Project as follows;

(i) Prior to December 31, 2021, Manufacturer shall create THIRTY-EIGHT (38) Full-Time Jobs at the Project;

(ii) Prior to December 31, 2022, Manufacturer shall create an additional TWO HUNDRED FIFTY (250) Full-Time Jobs at the Project in addition to maintaining the previous 38 Full-Time Jobs for a cumulative total of 288 Full-Time Jobs;

(iii) Prior to December 31, 2023, Manufacturer shall create an additional TWO HUNDRED FIFTY (250) Full-Time Jobs at the Project in addition to maintaining the previous 288 Full-Time Jobs for a cumulative total of 538 Full-Time Jobs; and

(iv) Prior to December 31, 2024, Manufacturer shall create an additional SIXTY (60) Full-Time Jobs at the Project in addition to maintaining the previous 538 Full-Time Jobs for a cumulative total of 598 Full-Time Jobs.

5. Occupy and use the Project for its Business Activities.

6. Comply with all other applicable terms of this Agreement and all other State and local agreements applicable to the Project.

B. As part of the consideration for the tax abatement provided for in this Agreement, Manufacturer covenants and agrees that it shall pay one hundred percent (100%) of its new and existing employees the City's effective prevailing "living" wage as determined by the City Council in its Tax Abatement Guidelines, which is TWELVE DOLLARS AND THIRTY-EIGHT CENTS (\$12.38) per hour, and shall pay at least seventy percent (70%) of all new and existing employees the prevailing "all-industry" wage of at least SIXTEEN DOLLARS AND NINETY-FOUR CENTS (\$16.94) per hour.

C. For purposes of this Agreement, the term "Full-Time Job" means a non-temporary, full-time employment position of Manufacturer involving the equivalent of two thousand eighty (2,080) straight-time paid hours in a fiscal year.

Upon initial commencement of its Business Activities following completion of the Project, the Manufacturer may in its reasonable discretion relocate its existing employees and contractors to Bexar County to assist with its ramp up of operations at the Project. Such relocated employees or contractors may count towards satisfying the Full-Time Job requirement for so long as such employees or contractors remain within Bexar County. Once such relocated existing employees or contractors leave Bexar County, then Manufacturer shall seek to fill such vacant positions in accordance with Section 5(M) of this Agreement.

City acknowledges that Manufacturer may use contractors to perform duties at the Property and such contractors may be counted toward the Full-time job requirement of Section (5)(A)(4) so long as the contract employees meet the definition of Full-Time Job in accordance with this Section 5(C) and Section 5(D) below.

D. Manufacturer covenants and agrees that it shall offer all of its non-temporary, full-time employees employed on the Property and their eligible dependents the opportunity to participate in a healthcare benefits package that is substantially similar to the healthcare benefits package offered to similarly situated employees of the Bexar County market. A copy of Manufacturer's intended benefits package shall be attached to this Agreement as Exhibit ___. The parties acknowledge and agree that the intended

benefits package may change from time to time in accordance with the applicable benefits market and any applicable changes in law.

E. Manufacturer covenants and agrees that it shall comply with all applicable federal and state laws governing the employment relationship between employers and employees, with respect to the Project.

F. Manufacturer also covenants and agrees that it shall conduct its Business Activities (as defined in Article 3, Paragraph B) on the Property in accordance with all applicable federal, state and local laws.

G. Manufacturer shall construct, or cause to be constructed, the Real Property Improvements on the Property in accordance with all applicable federal, state and local laws including, but not limited to, Texas Commission on Environmental Quality regulations, Bexar County and City of San Antonio laws, Building Codes and ordinances, Historic Preservation and Urban Design ordinances, flood, subdivision, building, electrical, plumbing, fire and life safety codes and regulations, current and as amended.

H. Except as provided herein, Manufacturer covenants and agrees that it shall use the Property only to conduct its Business Activities. Without additional consent or approval by the City Council, a parent, subsidiary or affiliate organization of Manufacturer or new entity created as a result of a merger, acquisition, or other corporate restructure or reorganization of Manufacturer, or any component thereof (hereinafter, a “Related Organization”) may occupy and use the Property for such Related Organization’s normal business activities, so long as such business activities are those of a manufacturer of commercial trucks, school and commercial buses, chassis for motor homes and step vans, and is a private label designer and manufacturer of diesel engines for truck market, and is also a provider of truck and diesel engine parts and service. To be eligible for tax abatements as provided in this Agreement, such Related Organization must agree in writing to fully comply with all applicable terms of this Agreement. Except as authorized above, Manufacturer covenants and agrees not to change the principal use of the Property without prior approval by the City Council, as evidenced in a duly approved ordinance.

I. Manufacturer covenants and agrees that it shall maintain the Property and any constructed improvements in good repair and condition during the Term of this Agreement, normal wear and tear and damage by fire or other casualty not caused as a result of the negligence, intentional act or misconduct of Manufacturer excepted. Compliance with the maintenance obligations imposed herein shall be presumed if Manufacturer follows its normal and customary maintenance procedures and schedules.

J. Upon five business days prior notice to Manufacturer by City, Manufacturer covenants and agrees that it shall allow designated representatives of the City access to the Property during normal business hours for inspection to determine if the terms and conditions of this Agreement are being met. This inspection is independent of City’s police powers to inspect for purposes of assuring compliance with applicable City Codes and Ordinances. The City’s access to Manufacturer’s books and records will be limited to information Manufacturer deems necessary to confirm the information provided by

Manufacturer in its most recently submitted Compliance Certificate. Any disclosed information that is not required by law to be made public shall be kept confidential by City. Should any good faith dispute or question arise as to the validity of the data provided on any Compliance Certificate, the City reserves the right to require Manufacturer to obtain at Manufacturer's cost an independent firm to verify the information, provided, that, such firm shall be subject to a confidentiality agreement. City representatives may be accompanied by Manufacturer representatives and such inspections shall be conducted in such a manner as to (i) not unreasonably interfere with the operation of the Property or the Business Activities; and (ii) comply with Manufacturer's reasonable safety and security requirements.

K. During the Term of this Agreement, Manufacturer covenants and agrees to furnish each year, as applicable, the Chief Appraiser of Bexar Appraisal District with information outlined in Chapter 22, V.A.T.S. Tax Code, as amended, as may be necessary for the tax abatement and for appraisal purposes.

L. Manufacturer covenants and agrees that it shall provide the City's Director of Economic Development Department with a semi-annual certification from an officer of Manufacturer (a "Compliance Certificate") on or before February 28th and August 31st of each year during the Term of this Agreement (including the Recapture Period), attesting to, as of the preceding February 28th and August 31st respectively (each a "Reporting Period"): (i) the amount invested as of such date by Manufacturer and/or a Related Organization in Real Property Improvements and Personal Property Improvements; (ii) the number of Full-Time Jobs maintained as of such date by Manufacturer, a Related Organization, and any third-party employee contractor, and (iii) the compliance with the requirements of this Agreement with respect to the wages and healthcare benefits offered to all Full-Time Jobs and their respective eligible dependents. Manufacturer shall also submit this information to the City upon request, as deemed necessary at the sole discretion of the City, during the Term of this Agreement; provided, that, any such request shall not exceed four (4) requests per calendar year (inclusive of the required bi-annual Compliance Certificates). The Compliance Certificates provided shall be on the form set forth in, or substantially similar to the form set forth in, Exhibit B (attached hereto and incorporated herein), as amended.

M. Manufacturer covenants and agrees to make good-faith efforts, subject in all cases to the Manufacturer's then usual and customary hiring policies and applicable law, to hire a minimum of twenty-five percent (25%) of its employees from local residents. "Local" is defined, for the purposes of this Agreement, as an employee whose principal residence is located within the incorporated city limits of the City of San Antonio or within the county limits of Bexar County. Notwithstanding the foregoing, (1) for purposes of calculating the foregoing requirement: (i) the Manufacturer may deem as employed any local resident that declined an employment offer from the Manufacturer made during the applicable Reporting Period (but only for such Reporting Period), and (ii) any employee who at the time of their hiring was a local resident and subsequently moves outside of the county limits of Bexar County may, for reporting purposes, be deemed a local employee for the entire tenure of such employee's employment at the Project, and (2) during any Reporting Periods in which the Manufacturer fails to meet the local resident requirement,

it shall not be a default hereunder, provided, that, the Manufacturer provides in the applicable Compliance Certificate a detailed explanation regarding its good-faith efforts to satisfy such requirement.

N. Manufacturer covenants and agrees to notify City in writing at least 30 days prior to any sale, transfer, lease or sub-lease of the Property during the Term; provided, however, that Manufacturer shall not be required to provide such notice with respect to leases, sub-leases, or similar licenses or occupancy agreements to the extent such transactions do not result in a Relocation (as defined in Article 7, Paragraph F). City shall not unreasonably withhold approval of any requests for Assignment of this Agreement by Manufacturer under Article 11 and any new purchaser or transferee requesting Assignment shall be bound by same. Failure to provide the required notification under this Article 5, Paragraph N may render Manufacturer subject to the termination and recapture provisions under Article 7 without benefit of the Cure Period (as defined in Article 7, Paragraph F).

O. Manufacturer covenants and agrees to notify City in writing at least 30 days prior to Relocating (as defined in Article 7, Paragraph F) or Ceasing its Business Activities (as defined in Article 7, Paragraphs B and C). Failure to provide the required notification under this Article 5, Paragraph O may render Manufacturer subject to the termination and recapture provisions under Article 7 without benefit of the Cure Period (as defined in Article 7, Paragraph F).

P. If, Manufacturer fails to maintain, in the aggregate, the minimum number of Full-Time Jobs and satisfy the wage and health benefits required pursuant to this Agreement for two (2) or more consecutive bi-annual Reporting Periods, then the termination and recapture provisions of Article 7 of this Agreement may apply against Manufacturer in the reasonable discretion of the City. For the avoidance of doubt, a default for the failure of the Manufacturer to meet its Full-Time Jobs requirement (which shall remain subject to applicable Cure Periods) cannot be declared until after the second consecutive bi-annual Reporting Period (12 months) reveals Manufacturer has failed to meet its required benchmarks under this Agreement. In City's sole discretion, after Manufacturer fails to satisfy the required Full-Time Jobs requirement for two consecutive bi-annual Reporting Periods, City may provide Manufacturer with up to six (6) additional months, in one month increments, to satisfy such requirements prior to declaring a default for Manufacturer's failure to meet the minimum number of Full-Time Jobs required under this Agreement.

Q. Manufacturer covenants and agrees to obtain electricity exclusively from CPS Energy ("CPS"), or its successors or assigns, and water and wastewater service exclusively from San Antonio Water Systems ("SAWS"), or its successors or assigns, for the Term of the Agreement; provided, that, if CPS or SAWS ceased to be a municipally owned, controlled or operated utility company, then Manufacturer may seek services from alternate electricity and water providers; provided, further, that the foregoing shall not prohibit Manufacturer from implementing any sustainability efforts at the Project which would help produce savings with respect to any of its utility expense (including without limitation the installation of solar panels).

R. Manufacturer covenants and agrees to offer internships related to supply chain, manufacturing, engineering, human resources and facilities, finance and accounting which shall count towards satisfying its requirements under Section 5(S)(3) below.

S. Manufacturer shall only be eligible for a **100%** tax abatement if it meets the following Qualifying Priorities:

1. Targeted Industries: The company's primary business is in one of the City's Targeted Industries, including bioscience/healthcare, IT/cybersecurity, advanced manufacturing (e.g., aerospace/automotive), and new energy.

2. Partnership Options: The company spends at least 15% of the Estimated Abatement Value on the two Partnership Options below over 5 years:

Sustainability: Promoting City-supported sustainability initiatives, including obtaining LEED Certification, or using LID Practices, or obtaining a commercial custom rebate or an irrigation rebate from San Antonio Water System,⁴ or participating in the City's commercial recycling program or in a City Public Service program designed to reduce energy use;⁵ or

Health and Wellness: Promoting City-supported health and wellness initiatives, including participating in the City's Healthy Workplace Recognition Program, or offering free annual flu vaccinations, annual blood drives, or access to an Employee Assistance Program.

3. Internships/Continuing Education Support: The company spends at least 5% of the Estimated Abatement Value over 5 years on City-supported internship initiatives, including the City's Ambassador Summer Internship Program or SA Works, or Upgrade.

T. Manufacturer shall not allow its ad valorem taxes on the land, real and personal property or inventory and supplies to become delinquent.

6. **TAX ABATEMENT**

A. The tax abatement period (the "Abatement Term") for the Real Property Improvements and Personal Property Improvements shall be TEN (10) years beginning on January 1, 2021. The value of the Real Property Improvements and Personal Property Improvements existing and located upon the Property prior to the Effective Date of this Agreement shall be determined as of January 1, 2019 (the "Base Year"). The "Base Year Value" of the Property, real property and personal property not covered by this Agreement shall be its assessed value (determined by the Bexar Appraisal District) prior to the Manufacturer's acquisition of such and as of January 1, 2019 of the Base Year. This Agreement only provides for the abatement of taxes on the value above the Base Year Value on any real property constructed or installed after the Effective Date of this

Agreement and tangible personal property brought onto the site after the execution of this Agreement.

B. At the commencement of the Term, Manufacturer shall own, have an interest in or otherwise control the Property and after having obtained a certificate of occupancy for the Real Property Improvements shall commence conducting its Business Activities on a daily basis during the work week (excluding any local or federal holidays).

C. Provided that Manufacturer has invested in Real Property Improvements and Personal Property Improvements as described in Article 3, Paragraph A of this Agreement, Manufacturer uses the Property for its Business Activities, and Manufacturer is otherwise in compliance with the conditions of this Agreement, then ONE HUNDRED PERCENT (100%) of the ad valorem taxes for the Real Property Improvements and Personal Property Improvements, above the Base Year Value, shall be abated for the Abatement Term of this Agreement. There shall be no abatement of taxes for the Property.

D. Manufacturer acknowledges and agrees that the Base Year Value of the Property and the tax levy based on said Base Year Value of the Property in the Zone may increase and that the amount of property taxes paid by Manufacturer to the City attributable to the Property during the Term shall not be less than the amount of taxes attributable to the Property paid to the City for the base year tax year, if any, except in the event of casualty or condemnation of the Property in the Zone. The City acknowledges and agrees that with respect to the Project it will not exercise its powers of condemnation in bad faith with the intent of gaining an unfair advantage in any negotiations with the Manufacturer in connection with the Project or otherwise.

E. Manufacturer shall have the right to protest the appraised values of the Property, Real Property Improvements and Personal Property Improvements, or any portion thereof, during the Term of this Agreement and thereafter. Manufacturer will be responsible for paying non-abated taxes on the Property during the Term of this Agreement. The amount of payment required will be the amount assessed by the Bexar County Appraisal District following any successful protests by Manufacturer.

F. The Term of this Agreement includes the recapture period which shall be the period between the end of the Abatement Term and the sixth (6th) calendar year after the expiration of the Abatement Term (the "Recapture Term"). The term of this Agreement (the "Term") shall commence on the Effective Date and shall continue in force and effect, unless terminated pursuant to the provisions of Article 7, until the end of the sixth (6th) calendar year after the expiration of the Abatement Term.

7. DEFAULT/TERMINATION/RECAPTURE

A. For purposes of this section, "Relocation" or "Relocate" shall mean Manufacturer or a Related Organization which has taken the place of Manufacturer, transferring Business Activities to a location outside the Zone. Notwithstanding the foregoing, a Relocation of a portion or component of Manufacturer's Business Activities from inside

the Zone shall not be deemed to have occurred provided that Manufacturer is otherwise performing its obligations under this Agreement.

B. Should Manufacturer occupy and use the Property for its Business Activities and subsequently Relocate (as defined in this Article 7, Paragraph A) during the Term, unless such Relocation is caused by a Force Majeure, as defined in Article 8, then City shall have the right to terminate this Agreement. Said termination shall be effective for the calendar year during which the Relocation occurred. Unless Manufacturer presents credible evidence to clearly indicate a date of Relocation, the City reserves the right to require Manufacturer to obtain an independent firm to verify the date of Relocation. This certified statement by an independent firm shall be provided at the sole cost of Manufacturer.

C. If, during the Term of this Agreement, Manufacturer occupies and uses the Property for its Business Activities and subsequently ceases conducting or substantially decreases its Business Activities for any reason other than Force Majeure as described in Article 8 or a recession as described at the end of this paragraph, and doing so causes Manufacturer to not be in compliance with the other conditions of this Agreement (i.e. maintaining Full Time Employees at the agreed upon wages set forth in this Agreement), then the City shall have the right to terminate this Agreement after the expiration of all notice, grace and cure periods hereunder. Said termination shall be effective for the calendar year during which the Manufacturer failed to cure its defaults and after all notice, grace and cure periods have expired. For purposes of this Agreement, “recession” shall mean a local, state, national or global economic downturn lasting longer than two (2) calendar quarters which adversely impacts either (i) the supply chain, labor force or other matters related to the Manufacturer’s ability to conduct its Business Activities, or (ii) Manufacturer’s sales and other profit activities in a manner that would affect its profitability and an ability to meet its obligations under this Agreement. Unless Manufacturer presents credible evidence to justify a cessation of or a substantial decrease in its Business Activities that resulted in noncompliance with the other terms of this Agreement, the City reserves the right to dispute such evidence in good faith and require Manufacturer to obtain an independent firm to verify such information. This certified statement by an independent firm shall be provided at the sole cost of Manufacturer. Any relief with respect to Force Majeure will be addressed as set forth in Article 8.

D. If Manufacturer, a Related Organization or City-approved assignee fails to hire at least ninety percent (90%) of the minimum Full Time Employees as required in Article 5, Paragraph A above, by the third Reporting Period after December 31, 2024, then at the option of City, this failure may be grounds for termination of this Agreement if the Manufacturer shall fail to cure such default within the required Cure Period.

E. If Manufacturer, a Related Organization or City-approved assignee fails to invest at least ninety percent (90%) of the minimum in Real Property Improvements and/or Personal Property Improvements at the Property as required in Article 5, Paragraph A above, by December 31, 2023, then at the option of City, this failure may be grounds for termination of this Agreement if the Manufacturer shall fail to cure such default within the required Cure Period.

F. During the Term, City may declare a default if Manufacturer fails to comply with any of the terms of this Agreement. Should City determine Manufacturer is in default under any of the terms of this Agreement, City will notify Manufacturer in writing at the address below in Article 9. If said default is not cured within twelve (12) months from the date of such notice (hereinafter the “Cure Period”), then City shall have the right to terminate this Agreement. After the first six (6) months of any Cure Period, if the default still exists, the Manufacturer shall provide the City a progress report with respect to its ongoing cure efforts and any actions it will take in the subsequent six (6) months of such Cure Period to ensure that the underlying default will be remedied at the conclusion of the Cure Period or earlier. The City shall, in its reasonable discretion, extend the Cure Period if Manufacturer commences the cure within the Cure Period and Manufacturer is diligently pursuing such cure. If the Agreement is terminated as a result of default after the expiration of all notice, grace and cure periods, all taxes abated shall be due for the tax year during which all notice, grace and cure periods shall have expired and shall accrue without further abatements for all tax years thereafter; in addition, City shall have the right to recapture from Manufacturer all previously abated property taxes under this Agreement and said taxes shall be paid by Manufacturer within sixty (60) calendar days of receiving City’s written notification of recapture. Notwithstanding the foregoing, if despite all good faith efforts and ongoing diligence the Manufacturer was unable to cure a default hereunder on or prior to the expiration of any Cure Period (as may be extended), the City may adjust its right to recapture or apply such right in an equitable manner so as to reduce any punitive impact to the Manufacturer or its ongoing Business Activities. The City agrees that any exercise of its recapture right will take into consideration any Reporting Periods for which Manufacturer was in compliance.

G. Other Remedies Available. City shall have the right to seek any remedy at law to which it may be entitled, in addition to termination and/or recapture, if Manufacturer defaults under the terms of this Agreement. However, such termination and/or recapture shall be subject to any and all lawful offsets, settlements, deductions or credits to which Manufacturer may be entitled. The termination and/or recapture of taxes provided in this Article 7 are not applicable to situations involving minor changes to the description of the Property, or changes in ownership or in management thereof, so long as Manufacturer, its parent, subsidiary, affiliate or its City-approved successor or assignee continues conducting Business Activities or other authorized activities thereon as provided hereinabove.

H. Calculation of Taxes Subject to Recapture. If Manufacturer fails to comply with any of the terms of this Agreement including, but not limited to, those pertaining to this Article 7 then the City shall have the right to recapture from Manufacturer a percentage of the abated real and personal property taxes based on the following table:

TERM YEAR	TOTAL TAX PREVIOUSLY ABATED SHALL BE MULTIPLIED BY:
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1-10	100%
11	100%
12	80%
13	60%
14	40%
15	20%
16	10%

FORMULA: The recapture formula shall be:

Total Taxes Abated X Applicable percentage from above schedule = Amount to be recaptured

City shall recalculate the amount of recapture pertaining to each tax year utilizing the above formula. A bill for each year will then be sent to Manufacturer.

8. **AUTHORIZED RELIEF FROM PERFORMANCE (Force Majeure)**

For purposes of this Agreement, “Force Majeure” is defined as (i) an act of God or natural disaster, (ii) the outbreak of war, political unrest or a labor strikes (in jurisdictions and/or industries related to the supply chain or labor force required for Manufacturer to conduct its Business Activities), (iii) explosion or other casualty or accident which is not the result of negligence, intentional act or misconduct on the part of Manufacturer, or (iv) other non-natural events which are beyond the control of the Manufacturer and which have a direct adverse impact on its Business Activities. In addition to relief expressly granted in this Agreement, City shall grant a waiver from performance of the obligations of this Agreement if Manufacturer is prevented from compliance and performance by an event of Force Majeure. The burden of proof for the need for such relief shall rest upon Manufacturer. To obtain release based upon this Article 8, Manufacturer must file a written request with the City’s Economic Development Department for processing to City Council for a decision, authorized by a duly approved Ordinance.

9. **NOTICE**

Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if: (a) delivered in person to the address set forth herein below for the party to whom the notice is given; (b) placed in the United States mail with postage prepaid, return receipt requested, properly addressed to such party at the address hereinafter specified; or (c) deposited, with fees prepaid, into the custody of a nationally recognized overnight delivery service such as FedEx, addressed to such party at the address hereinafter specified. Any notice mailed in the above manner shall be effective upon its deposit into the custody of the United States Postal Service or such nationally recognized delivery service as applicable; all other notices shall be effective upon receipt. From time to time, either party may designate another address for all purposes under this Agreement by giving the other party no less than ten (10) calendar days advance written notice of such change of address in accordance with the provisions hereof.

TO MANUFACTURER:

- (Whether personally delivered or mailed):

Navistar Inc.
Attn: Steven Nash
2701 Navistar Dr.
Lisle, IL 60532-4234

With a copy to:

Jones Day
77 W. Wacker Drive
Chicago, IL 60601
Attention: Brian Sedlak

TO CITY:

- If mailed:

Economic Development Department
Attn: Director
P.O. Box 839966
San Antonio, Texas 78283-3966

- If by personal or overnight delivery:

Economic Development Department
Attn: Director
19th Floor
100 Houston St.
San Antonio, Texas 78205

10. **CONDITION**

This Agreement is conditioned entirely upon the approval of the San Antonio City Council, as evidenced by duly approved Ordinance Number 2019-__-__-__ dated _____, 2019.

11. **ASSIGNMENT**

Except as otherwise expressly provided herein, this Agreement may be assigned or otherwise transferred only with City Council's prior approval (which approval shall not be unreasonably withheld), as reflected in a duly adopted ordinance. Manufacturer must submit a written request to City for approval of the proposed assignment or other transfer at least thirty (30) days prior to the Effective Date of the assignment or transfer of any part of the Property; however, no City Council consent is required for an assignment or transfer to a parent of Manufacturer, a

subsidiary of Manufacturer, an affiliate entity of Manufacturer, or to any new entity created as a result of a merger, acquisition or other corporate restructure or reorganization of Manufacturer. However, Manufacturer shall give City prior written notice of all assignments or other transfers that do not require City Council consent, as required under Article 5, Paragraph O. All future assignees shall be bound by all terms and/or provisions and representations of this Agreement.

12. GENERAL PROVISIONS

A. None of the property improvements described in this Agreement are financed by tax increment bonds.

B. This Agreement is entered into subject to the rights of the holders of outstanding bonds of the City related to this project. No bonds for which the City is liable have been used to finance this project.

C. No amendment, modification, or alteration of the terms hereof shall be binding unless in writing dated subsequent to the date of this Agreement and duly authorized by the parties. Manufacturer acknowledges that City Council approval is required for any and all of these actions.

13. SEVERABILITY

In the event any section, subsection, paragraph, subparagraph, sentence, phrase or work herein is held invalid, illegal or unenforceable, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase or word. In such event there shall be substituted for such deleted provisions a provision as similar as possible in terms and in effect to such deleted provision that is valid, legal and enforceable. This Agreement constitutes the entire Agreement between the parties hereto relating to the subject matter contained herein and supersedes all prior, oral or written agreements, commitments or understandings with respect to the matters provided for herein.

14. ESTOPPEL CERTIFICATE

Any party hereto may request an estoppel certificate related to this project (hereafter referred to as "Certificate") from another party hereto so long as the Certificate is requested in connection with a bona fide business purpose. The Certificate, which if requested, will be addressed to a subsequent purchaser or assignee of Manufacturer or other party designated by Manufacturer which shall include, but not necessarily be limited to, statements that this Agreement is in full force and effect without default, if such is the case, the remaining Term of this Agreement, the levels of tax abatement in effect, and such other matters reasonably requested by the party(ies) to receive the Certificate.

15. OWNER STANDING

Manufacturer, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying

ordinances, resolutions, or City Council actions authorizing same, and Manufacturer shall be entitled to intervene in said litigation.

16. APPLICABLE LAW

This Agreement shall be construed under the laws of the State of Texas and is performable in Bexar County, Texas, the location of the Zone.

17. TRIPLICATE ORIGINALS

This Agreement shall be executed in three triplicate originals, with an original going to each party and one to the City Clerk of the City of San Antonio.

[Signature pages follow]

EXECUTED and AGREED to as of _____, **2019 (the “Effective Date”):**

Accepted and executed in triplicate originals on behalf of the City of San Antonio pursuant to Ordinance Number 2019-__-__-____, dated _____, 2019, VISTAR MANUFACTURING SAN ANTONIO LLC pursuant to the authority of its Vice President of Tax, and NAVISTAR, INC. pursuant to the authority of its Vice President of Tax.

CITY OF SAN ANTONIO,
a Texas Municipal Corporation

Erik Walsh
CITY MANAGER

ATTEST:

Leticia Vacek
CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

NAVISTAR INC.,

Name: Timothy J. Tamer
Title: Vice President, Tax

ATTEST:

Printed Name: _____

**NAVISTAR MANUFACTURING SAN
ANTONIO LLC**

Name: Timothy J. Tamer
Title: Vice President, Tax

ATTEST (if necessary):

Printed Name: _____

[Exhibits follow]

EXHIBIT A
PROPERTY DESCRIPTION

EXHIBIT B

City of San Antonio Economic Development Department Incentive Reporting Form

Company Name: _____

Reporting Period: _____

Contact Information: _____

Real Property: expenditures associated with real property improvements during reporting period (Verification may include AIA forms, receipts, invoices, request for payment from contractor, etc.)	
1. Real Property improvements reported last reporting period	\$
2. Real Property improvements made since last reporting period	\$
3. Total cumulative Real Property improvements made <i>(Attach supporting documents.)</i>	\$
Personal Property: expenditures associated with personal property improvements during reporting period (Verification may include receipts, invoices, requests for payment, etc.)	
4. Personal Property improvements reported last reporting period	\$
5. Personal Property improvements made since last reporting period	\$
6. Total cumulative Personal Property improvements made <i>(Attach supporting documents.)</i>	\$
Inventory/Supplies: (Verification may include receipts, invoices, requests for payment, etc.)	
7. Inventory and Supplies improvements reported last reporting period	\$
8. Inventory and Supplies improvements made since last reporting period	\$
9. Total cumulative investment on Inventory and Supplies made <i>(Attach supporting documents.)</i>	\$
Jobs: full-time (2,080 straight-time paid hours) jobs created during reporting period (Verification: payroll registers with total number of employees, dates of hire, hourly wages, etc.)	
10. Total number of jobs reported at the facility last reporting period.	
11. Jobs created during reporting period <i>(For supporting documents, see above.)</i>	
12. Jobs retained during reporting period.	
13. Total number of jobs reported at the facility this reporting period <i>(For supporting documents, see above.)</i>	
14. What is the minimum hourly wage paid at the facility? <i>(For supporting documents, see above.)</i>	
15. What percentage of the total company workforce at the facility earns at least the All-Industry Wage? <i>(Minimum of 70%)</i>	
Additional Contractual Obligations (As applicable per your Agreement)	
16. Percent of workforce that is local.	%
17. Percent of workforce that is economically disadvantaged (attach information regarding company's good-faith efforts).	%
18. Are employee benefits offered to all full-time employees and eligible dependents? <i>(Please attach separate sheet demonstrating compliance with your agreement.)</i>	
Certification:	
<i>I certify, under penalty of perjury, that the information provided in this report and the attached documents is correct, and that the company has complied with all terms and conditions of its agreement with the City of San Antonio.</i>	

Signature: _____

Date: _____

Printed Name: _____

Title: _____