

THE STATE OF TEXAS

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COUNTY OF COLLIN

SECOND AMENDED TAX ABATEMENT AGREEMENT

This Second Amended Tax Abatement Agreement is entered into by and between the *City of McKinney, Texas*, a home rule municipality of Collin County, Texas, duly acting herein by and through its City Manager (hereinafter referred to as City) and *Traxxas, L.P.*, a Texas limited partnership (hereinafter referred to as “Traxxas”), duly acting herein by and through its General Partner, Traxxas Management, LLC.

W I T N E S S E T H:

WHEREAS, on June 14, 2010, the City and Traxxas entered into a tax abatement agreement (“Original Tax Abatement Agreement”) for real property containing approximately twelve (12) acres of land and located at the corner of Henneman Way and Stacy Road in McKinney, Texas, and

WHEREAS, on July 19, 2011, the City and Traxxas entered into that certain First Amended Tax Abatement Agreement (“First Amended Agreement”) to extend the deadline for completion of the improvements on the Real Property, and

WHEREAS, the parties desire to modify the terms of the Original Tax Abatement Agreement and the First Amended Agreement to conform to the project’s scope and construction timeline; and

NOW, THEREFORE, the Parties hereby mutually agree as follows:

Section 1. The Original Tax Abatement Agreement and First Amended Agreement as executed by the City and Traxxas, L.P. are attached hereto as Exhibits A and B. The amended area of Reinvestment Zone 25, also the Real Property under the Original Tax Abatement Agreement is attached hereto as Exhibit C.

Section 2. On Page 2 of the Original Tax Abatement Agreement, the fourth paragraph shall be amended to read:

“**WHEREAS**, Traxxas acknowledges and agrees that as a condition to receiving a tax abatement a minimum taxable value (whether actual or rendered; and including an equivalent method through the execution of a Payment in Lieu of Tax Agreement) of Ten Million Dollars (\$10,000,000.00) as of January 1, 2013, and a minimum of Twelve Million Dollars (\$12,000,000.00) in subsequent Tax Years, on new real estate improvements and business personal property located on the Real Property that was not located in the City previous to the Effective Date of this Agreement; and”

Section 3. Section 2(e), **Definitions., Real Property.**, shall be amended to read as follows:

“(e) **Real Property.** The words “Real Property” mean the approximately 13.03 acre tract of land generally located at the corner of Henneman Way and Stacy Road in McKinney, Texas, and as further described and or

depicted in **Exhibit B** of this Agreement, on which the Improvements will be constructed.”

Section 4. Section 3 of the Original Tax Abatement Agreement and the First Amended Agreement is amended to read as follows:

“Section 3. Property Subject to Tax Abatement.

The real property subject to this Agreement shall be a fee simple interest owned by Traxxas or Starfish Investments, LP, in certain real property located at the corner of Henneman Way and Stacy Road in McKinney, Texas, and as further described and or depicted in **Exhibit B** of this Agreement, which is attached hereto and incorporated herein for all purposes. The property is hereinafter referred to as the Real Property and is located within said Reinvestment Zone No. 25, City of McKinney, Texas. The Real Property is the situs of the Improvements. The Real Property shall be subject to a tax abatement to the extent the market value thereof, as reflected on the tax rolls of the Collin Central Appraisal District, in any eligible year, exceeds the value thereof, as reflected on the tax rolls, in the year immediately preceding the commencement of construction of the Improvements on the Real Property.

This Tax Abatement Agreement is conditioned upon Traxxas receiving a Certificate of Occupancy for the Distribution Building on or before February 3, 2013, and is further conditioned upon Traxxas receiving a Certificate of Occupancy for the Office Building on or before July 31, 2013.

Further, Traxxas agrees to locate on the Real Property certain business personal property which was not on the tax rolls of the City prior to the Effective Date of this Agreement; such business personal property shall be referred to hereinafter as Personalty and shall be subject to the terms of the tax abatement described in this Agreement.

Traxxas agrees that to be eligible for the abatement described herein, the City shall be in receipt of a final, non-appealable determination of the Collin County Central Appraisal District of the taxable value of the Improvements and the Personalty (excluding the value of the land) which equals or exceeds **Ten Million Dollars (\$10,000,000.00)** as of January 1, 2013. If the Improvements and Personalty (excluding the value of the land) do not equal or exceed a taxable value of **Ten Million Dollars (\$10,000,000.00)** as determined by the Collin County Central Appraisal District or a final, non-appealable determination of taxable value has not been obtained, eligibility may alternatively be met by the receipt of written confirmation that for any affected Tax Year, Traxxas has rendered the value of the Improvements and Personalty with the Central Appraisal District of Collin County (“CAD”) at not less than **Ten Million Dollars (\$10,000,000.00)**; or in the alternative, and in conjunction with any affected Tax Year, Traxxas has elected and has executed a Payment in Lieu of Taxes Agreement with City covering any gap in City ad valorem taxes which would have been payable had the Improvements and Personalty been taxable at \$10,000,000.00 for Tax Year 2013. For all subsequent Tax Years, Traxxas shall be eligible for tax abatement only if it maintains a final, non-appealable determination of taxable value of not less than **Twelve Million Dollars (\$12,000,000.00)**.”

Section 5. All of the other terms, conditions and consideration for the Original Tax Abatement Agreement and the First Amended Agreement are unmodified

by this Second Amended Tax Abatement Agreement and are continued in full force and effect.

- Section 6. This Second Amended Tax Abatement Agreement shall not be considered a default of the Original Tax Abatement Agreement; however, the default provisions in Section 6 of the Original Tax Abatement Agreement remain in full force and effect for the term of the Abatement.
- Section 7. This Second Amended Tax Abatement Agreement shall constitute a valid and binding Agreement between the *City* and *Traxxas* when executed.
- Section 8. This Agreement is performable in Collin County, Texas, to be effective as of the _____ day of _____, 2012 (“effective date”).

ATTEST: **CITY MCKINNEY, TEXAS**

_____ SANDY HART, TRMC, MMC City Secretary BLANCA I. GARCIA Assistant City Secretary	_____ JASON GRAY City Manager
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APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney for the
City of McKinney, Texas

TRAXXAS, L.P.,
a Texas limited partnership,

By TRAXXAS MGMT, LLC
Its General Partner
By: _____
Title: _____
Date: _____

