

**TAX ABATEMENT AGREEMENT BETWEEN**

**THE CITY OF SEGUIN**

**AND**

**COFFEETECH INDUSTRIES, INC.**

**1. PARTIES**

This Tax Abatement Agreement ("Agreement") is made and entered into between the City of Seguin ("City") and CoffeeTech Industries, Inc. ("Owner" and/or "CTI").

**2. AUTHORIZATION AND FINDINGS**

- a. This Agreement is entered into pursuant to the following:
  - i. Texas Tax Code Chapter 312.
  - ii. City of Seguin Ordinance No. 2019-074, designating the Real and Personal Property as within Seguin Reinvestment Zone #5.
  - iii. City of Seguin Resolution No. 2018-397, establishing guidelines and criteria for tax abatements.
  - iv. This Agreement was approved by Resolution 2020- \_\_\_\_, passed on July 7, 2020, by the City Council of Seguin, Texas.
- b. The City, by approval of this Agreement, hereby finds the terms of this Agreement and the property subject to it, to meet the "Guidelines and Criteria" as adopted, and further finds that (a) there will be no long-term adverse effect on the provision of City services of tax base; and (b) the planned use of the property will not constitute a hazard to public safety, health, or morals.

**3. PROPERTY**

- a. The real and tangible personal property subject to this Agreement, described as follows: a 33.67 acre tract of land situated in the Humphries Branch Survey No. 17, Abstract 6, City of Seguin, Guadalupe County, Texas being a portion of a tract of land called 60.95 acres conveyed to Seguin Economic Development

Corporation, by deed recorded in Document Number 201999014434, Official Records, Guadalupe County, Texas, as depicted on Exhibit "A". That property shall include:

- i. The real property described above located on 8<sup>th</sup> Street.
  - ii. All manufacturing equipment that was brought onto the facility, and;
  - iii. Any real property improvements to the Property.
- b. Abatements approved will be based on the rolls of the Guadalupe County Appraisal District for each year of the abatement period.

#### **4. OWNER'S REPRESENTATIONS**

- a. Owner represents that, to the best of its knowledge, the property subject to this agreement will be located wholly within a duly designated reinvestment zone.
- b. CTI represents that it owns or will own the real property subject to this Agreement.
- c. CTI represents that it is or will be the owner of the personal properties listed in Section 3(a) as set forth above.
- d. Owner represents that they have complied with the required application procedures as adopted by the Seguin City Council.
- e. Owner represents that the real and personal property subject to this agreement constitutes an investment of approximately FIFTY-SIX MILLION DOLLARS (\$56,000,000.00) and that the reinvestment set forth herein constitutes a "capital intense" investment pursuant to the City of Seguin Tax Abatement Guidelines and Criteria.
- f. Owner represents that the investment set forth herein will serve to create at least NINETY-ONE (91) new full-time jobs within the City of Seguin.
- g. Owner represents that the reinvestment set forth herein, and consisting of the purchase and installation of the real and personal property set forth above will be completed in accordance with the following schedule:
  - i. **Phase 1:** By December 31, 2020, the Owner will commence construction of a 112,000 square foot headquarters and manufacturing facility ("Facility")

which must be evidenced by a letter of commencement from the general contractor for the Owner and issuance of building permits by the City of Seguin. Phase 1 will represent a total capital investment of at least **\$21,000,000** in the building plus **\$15,000,000** in machinery and equipment. CTI will commence operations at the Facility no later than **March 1, 2022**.

- ii. **Phase 2:** By December 31, 2023, the Owner will invest an addition **\$20,000,000** in new equipment and machinery at the Facility.

## **5. TERMS OF THE AGREEMENT**

- a. Owner agrees to purchase and install the real and personal property subject to the following schedule:

- i. **Phase 1:** By December 31, 2020, the Owner will commence construction of a 112,000 square foot headquarters and manufacturing facility ("Facility") which must be evidenced by a letter of commencement from the general contractor for the Owner and issuance of building permits by the City of Seguin. Phase 1 will represent a total capital investment of at least **\$21,000,000** in the building plus **\$15,600,000** in machinery and equipment. CTI will commence operations at the Facility no later than **March 1, 2022**.
- ii. **Phase 2:** By **December 31, 2023**, the Owner will invest an addition **\$20,000,000** in new equipment and machinery at the Facility.

- b. CTI agrees to create NINETY-ONE (91) new full-time jobs within the City of Seguin.

The jobs will be created in accordance with the following schedule:

- By December 31, 2022, create a minimum of 65 full-time jobs.
- By December 31, 2023, create a minimum of 10 additional full-time jobs for a total of 75 full-time jobs.
- By December 31, 2024, create a minimum of 10 additional full-time jobs for a total of 85 full-time jobs.
- By December 31, 2025, create a minimum of 6 additional full-time jobs for a total of 91 full-time jobs.
- Maintain full employment of at least 91 full-time jobs through the remaining term of the agreement.

- c. Owner agrees to remain current in ad valorem tax payments to all local taxing entities during the abatement period.
- d. Owner agrees to maintain the property in good repair during the abatement period.
- e. Owner agrees to furnish the Chief Appraiser of Guadalupe County Appraisal District with such information as may be necessary for the abatement and for appraisal purposes.
- f. Owner agrees to provide access to and inspection of the property and proposed improvements by City agents to ensure that improvements are made in accordance with the requirements and conditions of this Agreement. The City of Seguin is required to give the Owner reasonable notice of all inspections conducted pursuant to this Agreement and such inspections shall be conducted with a representative of the Owner so as not to interfere or interrupt the operation of the facility.
- g. Owner agrees to remain a City of Seguin utility customer (electric, water and sewer) and remain current in its City utility payments for the period of the abatement.
- h. Owner agrees that the use of the property subject to this Agreement shall be limited to those uses consistent with the general purpose of encouraging redevelopment of the facility during the period that this Agreement is in effect.
- i. Owner agrees to maintain processes in such a manner as to limit any obnoxious odor that might be a by-product of their plant process. Obnoxious odor shall mean any odor detected on a neighboring property that is sufficiently strong to raise complaints by a reasonable person.
- j. Owner agrees to annually certify in writing its compliance with the terms of this agreement, which certification shall be filed with the City of Seguin by February 1<sup>st</sup> of each year during the term of the abatement, and February 1<sup>st</sup> of the year following the term of the abatement.

- k. Failure to abide by the terms of this Agreement may result in the early termination of this Agreement and the abatement established herein.

## **6. TAX ABATEMENT**

- a. Provided that the Owner complies with the terms of this agreement throughout the ten-year abatement period, the percentage of the entire assessed value of real and tangible property listed in Section 3(a) of this Agreement (including additions made as part of phase 2) that is exempt from the City of Seguin ad valorem taxes is as follows:
- Year 1: 85%
  - Year 2: 85%
  - Year 3: 80%
  - Year 4: 80%
  - Year 5: 70%
  - Year 6: 60%
  - Year 7: 50%
  - Year 8: 40%
  - Year 9: 30%
  - Year 10: 25%
- b. The period of abatement will be ten (10) years, commencing on January 1, 2022 (the “Commencement Date”), and expiring after the tenth anniversary of the Commencement Date (January 1, 2032).

## **7. DEFAULT AND RECAPTURE**

- a. **Default, Termination, and Recapture of Tax Savings**
- i. If the Owner refuses or neglects to comply with any of the terms of this Agreement, or if any representation is made by the Owner in the tax abatement application is false or misleading in any material respect when made, this Agreement shall be in default.
  - ii. In the event that City determine that the Owner is in default of this Agreement, the City will notify the Owner in writing at the address stated in Section 8 of this Agreement.

- iii. If default occurs the Owner shall forgo any tax benefit under this Agreement during the year the default occurs. If Owner cures the default following notice by City, Owner shall not be liable to repay prior year tax savings, and shall be entitled to the benefits under this Agreement for any future year in which it is not in default.
- iv. If the default is not cured within sixty (60) days from the date of such notice, this Agreement may be terminated by the City of Seguin. The City of Seguin may recapture up to 100 percent of the tax savings received by the Owner prior to the date of termination.

**b. Recapture in Event of Closure, Relocation, or Discontinuation of Operations**

- i. If during the abatement period established by this Agreement CTI discontinues, closes, or relocates its operations in Seguin, Texas then this agreement shall immediately terminate and the City of Seguin may recapture up to 100 percent of the tax savings received by the Owner prior to the date of termination.
- ii. For purpose of this section, the following definitions shall apply”
  - “Business Activities” means the business operations of CTI, affiliates, and lessees at site, not limited to, the assembly, manufacturing, storage, distribution of products.
  - “Closure” means the permanent cessation of all Business Activities at the site, with no foreseeable or anticipated commencement of Business Activities.
  - “Discontinuation of Activities” means the temporary cessation of all Business Activities at the site for a continuous period of six (6) months or more during the term of this Agreement, subject to Force Majeure, as defined in Section 7(d) of this Agreement.
  - “Relocation” means the complete movement, transfer, or establishment of a new location for all of the Business Activities outside of current corporate city limits and reinvestment zone.

c. **Process for Recapture of Tax Savings.** A bill for recaptured taxes will be sent to the Owner, and the Owner agrees to pay the total amount within sixty (60) days of receipt. Interest at the rate of six percent (6%) per annum on unpaid amounts will begin to accrue on all amounts that remain unpaid following sixty (60) days after receipt of the bill.

d. **Force Majeure.** Owner shall not be deemed to be in default or otherwise responsible for delays or failures in performance resulting from acts of God; acts of war or civil disturbance; fires; earthquakes; unavailability of materials, power or communication; or other causes beyond Owner's reasonable control.

## 8. **NOTICES**

All notices shall be in writing, addressed to the Owner or City at the following addresses. If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail, certified mail, return receipt requested, postage prepaid and properly packaged for delivery. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To **Owner**, via mail or personal delivery:

Chad McNair  
CoffeeTech Industries, Inc.  
755 E. Mulberry Ave., Ste 200  
San Antonio, TX 78212

With a copy to:

To **City**, via mail or personal delivery:

City Manager  
City of Seguin  
205 N. River Street  
Seguin, Texas 78155

## 9. **AGREEMENT APPROVED BY CITY COUNCIL**

The City represents that this Agreement has been approved by affirmative vote of a majority of the members of the Seguin City Council at a regularly scheduled meeting.

**10. ASSIGNMENT**

This Agreement may be assignable to a new owner only with the approval of the Seguin City Council as reflected in a duly adopted City Resolution or Ordinance. However, this Agreement shall continue to apply to any successor of the Owner due to corporate restructuring, including but not limited to absorption into the corporate parent or a brother/sister corporation.

**11. SEVERABILITY**

In the event any section, subsection, paragraph, subparagraph, sentence, phrase or word herein is held invalid, illegal, or unenforceable, the balance of the Agreement shall stand, shall be enforceable, and shall be read as if the parties intended at all time to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase or word.

**12. COUNTERPARTS**

This Agreement may be signed in one or more counterparts, and each counterpart will be considered an original Agreement. All of the counterparts will be considered one document and become a binding agreement when one or more counterparts have been signed by each of the parties and delivered to the other.

**13. DATE**

This Agreement has been executed by the parties in multiple originals, each having full force and effect on the Commencement Date of the abatement period.



**CoffeeTech Industries, Inc.**

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

Printed Name:

Title

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

Printed Name:

Title:

**City of Seguin:**

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

Steve Parker

City Manager

Form Approved: \_\_\_\_\_

Andrew Quittner

City Attorney

# **Exhibit “A”**