

REASONABLE ARRANGEMENT FOR ELECTRIC DISTRIBUTION SERVICE

THIS REASONABLE ARRANGEMENT ("Arrangement") is entered into on this ^{5th} day of March 2014, by and between The Cleveland Electric Illuminating Company, its successors and assigns ("Company"), and ASHTA Chemicals Inc., its permitted successors and assigns ("Customer"), (referred together as the "Parties") and is effective as set forth below ("Effective Date"). *per email authorization*

WITNESSETH:

WHEREAS, the Company currently provides electric distribution service to the Customer at certain of its facilities; and

WHEREAS, Customer is evaluating a major capital expenditure to significantly change the manufacturing process at its Ashtabula, Ohio location, which includes as a significant factor and a prerequisite for a successful expansion, the securing of a reliable supply of distribution electricity under terms and conditions that provide it with a reasonable and predictable price over a term sufficient to justify a significant capital expenditure; and

WHEREAS, in order to obtain such a supply of electricity, the Customer submitted to the Public Utilities Commission of Ohio ("Commission") an application for a reasonable arrangement in Commission Case No. 12-1494-EL-AEC, which was, pursuant to a Stipulation and Recommendation, approved by the Commission on January 8, 2014; and

WHEREAS, in accordance with the Commission's approval of the Stipulation and Recommendation as set forth in its January 8, 2014 Opinion and Order ("Order"), the Company and the Customer enter into this Arrangement.

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth herein, and for other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

- 1. Electric Distribution Service.** This Arrangement shall be applicable to the electric distribution service furnished by the Company and any successors or assigns approved by the Commission to the facilities, plant and equipment associated with the Customer's manufacturing operations located in or around Ashtabula, Ohio ("Customer's Facility"). Pursuant to this Arrangement, the Company shall provide, and the Customer shall receive, all of the Customer's distribution electric service needs at the Customer's Facility with a current billing address of 3509 Middle Road Ashtabula, OH 44004. The Company shall bill the Customer monthly distribution related charges in accordance with the following schedule.

The Company shall first compute what the Customer's distribution-related bill would be under the otherwise applicable rate schedule provided that such computation shall exclude the cost recovery mechanism associated with the requirements of Section 4928.66, Revised Code, which is presently known as the Demand Side Management and Energy Efficiency Rider ("Rider DSE2") and shall also exclude the State kWh Tax Rider ("Rider SKT").¹ If the actual amount of such computed distribution-related bill is less than [REDACTED] per kVa of monthly billing demand, the Customer shall be billed the lesser actual amount. If the amount of such computed distribution-related bill is greater than [REDACTED] per kVa of monthly billing demand, then the Customer shall be billed [REDACTED] per kVa of monthly billing demand. The difference between the otherwise applicable tariff schedules and the billed charges for distribution related charges is the discount under this reasonable arrangement and shall be recovered as delta revenues by the Company. The discount that the Customer may receive in any one billing month for distribution-related charges shall not exceed \$25,000 and the Company shall be entitled to recover, through its Delta Revenue Recovery Rider ("Rider DRR") or successor rider, one hundred percent (100%) of any delta revenue that may arise from this limitation on the amount that Company may bill the Customer for distribution-related charges.

2. **Customer-Sited Capabilities.** In exchange for committing its existing customer-sited peak demand reduction ("PDR") capabilities to the Company at no additional cost to the Company, the Customer shall receive an exemption from Rider DSE2 or its successor. The exemption from Rider DSE2 shall be effective with the first billing month subsequent to the Commission's approval of the Stipulation and shall continue thereafter for thirty-six (36) months. The Rider DSE2 exemption shall continue thereafter subject to verification and Commission Staff recommendation described in the Stipulation and Recommendation, attached hereto and incorporated herein.
3. **Effective Date and Term.** The term of this Arrangement shall commence upon execution and continue thereafter for five (5) years following the date Customer's new manufacturing process begins commercial operation. Customer will provide written notification to the Company and the Commission Staff upon commercial operation of the new manufacturing process that its new manufacturing process has commenced commercial operations.
4. **Assignment.** The Customer may assign this Arrangement with the written approval of the Commission and the prior written consent of the Company. Such approval and consent shall be deemed to have been received in the event that

¹ Rider DSE2 and Rider SKT, if otherwise applicable to ASHTA, will be billed to ASHTA according to their terms and conditions.

neither the Commission nor the Company objects to Customer's proposed assignment within thirty (30) days of receipt of Customer's written request to do so.

5. **Notices.** Any notice required or desired by either party to be given hereunder shall be made:

If to the Company at:

FirstEnergy
76 South Main Street
Akron, OH 44308

Attn: Director of Rates Ohio
Eileen M. Mikkelsen
Email: mikkelsene@firstenergycorp.com
Tel. (330) 384-5166
Fax (330) 781-4281

If to the Customer at:

ASHTA Chemicals Inc.
3509 Middle Road 44004
Ashtabula, Ohio 44004

Attn: Exec. Vice President Operations
Richard L. Jackson
Email: rjackson@ashtachemicals.com
Tel. (440) 997-6863
Fax (440) 998-0286

6. **Events of Default; Termination.** This Arrangement shall not be cancelled without the prior written consent of the Commission. Notwithstanding the foregoing, the Parties agree that each of the following events shall individually constitute a breach of this Arrangement that allows the Company the right to cancel without liability to the Company all or any part of this Arrangement and/or pursue any further remedies available at law or in equity: (1) Customer fails to comply with the Commission's Order; or (2) Customer assigns this Arrangement or any part hereof without obtaining the proper approval and consent of the Company; (3) the Customer becomes insolvent or makes a general assignment for the benefit of creditors or admits in writing its inability to pay debts as they mature or if a trustee or receiver of the Customer or of any substantial part of the Customer's assets is appointed by any court or proceedings instituted under any provisions of the Federal Bankruptcy Code, or any state insolvency law by or against the Customer are acquiesced in or are not dismissed within thirty (30) days or result in an adjudication in bankruptcy or insolvency, or, (4) the Company's authorization to timely and fully collect delta revenues arising from this Arrangement is terminated.
7. **Force Majeure.** Neither Party shall be liable to the other for any expenses, loss or damage resulting from delays or prevention of performance arising from a Force Majeure. "Force Majeure" shall mean acts of God, riots, strikes, labor disputes, labor or material shortages, act(s) by any government, governmental body or instrumentality, or regulatory agency (including delay or failure to act in the issuance of approvals, permits or licenses), fires, explosions, floods, breakdown of or damage to plants, equipment or facilities, or other causes of similar nature which are beyond the reasonable control of the Party and which wholly or partially prevent the supplying of electricity by the Company or the

receiving or utilization of such electricity by the Customer. The Party affected by Force Majeure shall give notice to the other Party as promptly as practical of the nature and probable duration of such Force Majeure, with the effect of such Force Majeure eliminated insofar as possible with all reasonable dispatch. The performance by the Parties hereunder shall be excused only to the extent made necessary by the Force Majeure condition, provided that neither Party shall be required to settle a labor dispute on terms unacceptable to the Party affected; and provided further, that neither Party shall be required pursuant to this Arrangement to rebuild all or a major portion of its facilities which are destroyed or substantially impaired by a Force Majeure Event.

8. **Confidentiality of Information and Reporting.** The Parties agree that except to the extent made public by the Commission, all information included in this Arrangement, as well as any underlying schedules or other documents related to the development of this Arrangement, shall be deemed and treated as confidential information by the Parties, their employees, agents, contractors and subcontractors. Neither Party shall use for any other purpose or disclose such information without the prior written consent of the non-disclosing Party, with such consent to be determined by the latter based on its sole discretion. Notwithstanding the foregoing, the restrictions set forth in this Section 8 shall not apply to any information (i) that is in the public domain at the time it was disclosed to the other Party; (ii) is required by law to be disclosed, provided that the non-disclosing Party be notified of any such request for disclosure within a reasonable period of time so as to allow it to take measures to prevent such disclosure; or (iii) that is made known to the disclosing Party from a non-Party to this Arrangement without breach of this or any other confidentiality agreement. Subject to such confidentiality requirements as may be appropriate, Customer shall, during the term of this Arrangement, provide the Company with: (1) reports regarding the status of the project described in Customer's application in Commission Case No. 12-1494-EL-AEC; (2) reports describing the effect of this Arrangement upon Customer's ability to successfully sustain its Ohio manufacturing operations; and, (3) such other information as the Company may request for purposes of monitoring compliance with this Arrangement. Upon request, the Customer shall make such reports available to the Commission Staff provided that the Commission Staff agrees to comply with confidentiality requirements that apply to the reports furnished by the Customer to the Company. The Parties understand that the Customer's periodic reports shall not be filed with the Commission unless otherwise directed by the Commission.
9. **Dispute Resolution.** If a dispute arises out of this Arrangement, if the dispute cannot be settled by the Parties through negotiation and if the dispute relates to a subject matter which is within the Commission's exclusive or primary jurisdiction, the Parties agree first to try in good faith to settle the dispute by mediation before the Commission or such alternative dispute resolution process which the Commission may designate before resorting to arbitration, litigation, or some other dispute resolution procedure. Nothing herein shall be construed or implied


to preclude either Party from initiating litigation on questions outside of the Commission's jurisdiction if they are unable to resolve such dispute through negotiations with the other Party.

10. **Mutual Cooperation.** The Parties agree to provide mutual and timely support for purposes of effectively administering or otherwise advancing the underlying purpose of this Arrangement. Such support shall include, without limitation, reasonable and timely access to documents and personnel of the other Party.
11. **Governing Law and Continuing Jurisdiction.** The validity, construction and performance of this Arrangement shall be determined in accordance with the laws of the State of Ohio not taking into account any conflict of law provisions. The Parties understand and agree that the Commission shall have continuing jurisdiction to, for good cause shown, modify, amend or terminate this Arrangement and that good cause will be presumed in the event that the Customer has not completed the transformation to its manufacturing process in its application in Case No. 12-1494-EL-AEC within four (4) years of the Effective Date.
12. **Interpretation.** This Arrangement, the Commission's Order and Stipulation and Recommendation in Case No. 12-1494-EL-AEC, and the Company's standard tariff, as applicable and as amended from time to time by the Commission, sets forth the entire Arrangement between the Parties. **THE PARTIES EXPRESSLY ACKNOWLEDGE THAT NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WRITTEN OR ORAL, HAVE BEEN MADE BY EITHER PARTY TO THE OTHER.** In the event of any conflict between the terms and conditions set forth in the Company's standard distribution electric service agreement or the Company's standard tariff and this Arrangement, the latter shall control. This Arrangement remains, where applicable, subject to the Company's Electric Service Regulations, as modified from time to time, unless and to the extent otherwise expressly modified herein. If any clause or provision of this Arrangement is deemed to be illegal, or unenforceable by a court or administrative agency of competent jurisdiction, that clause or provision shall be severed from this Arrangement, and the remaining terms and conditions shall remain in full force and effect. The section and clause headings appearing in this Arrangement have been inserted for the purpose of convenience and ready reference. They do not purport to and shall not be deemed to define, limit or extend the scope or intent of the clauses to which they pertain.


IN WITNESS WHEREOF, the Parties hereto have caused this Arrangement to be executed by their duly authorized officers or representatives as of the day and year first above written.

ASHTA Chemicals Inc. (Customer)

The Cleveland Electric Illuminating
Company (Company)

By: 
Richard L. Jackson

Title: Exec. Vice President - Operations

By: 
Title: Regional President,
THE ILLUMINATING
Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Redacted Version of the Reasonable Arrangement for Electric Distribution Service between ASHTA Chemicals Inc. and The Cleveland Electric Illuminating Company* was served upon the following parties of record this 5th day of March, 2014, via electronic transmission, hand-delivery, or ordinary U.S. mail, postage prepaid.

/s/ Scott E. Elisar

Scott E. Elisar

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FirstEnergy Service Company
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Akron, OH 44308
burkj@firstenergycorp.com

**ON BEHALF OF THE CLEVELAND ELECTRIC
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ATTORNEY EXAMINER

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 12-1494-EL-AEC

Summary: Contracts Public Version of executed Reasonable Arrangement between ASHTA Chemicals Inc. and The Cleveland Electric Illuminating Company electronically filed by Ms. Vicki L. Leach-Payne on behalf of Elisar, Scott E. Mr.