

INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE AGREEMENT  
BETWEEN THE CITY OF ANN ARBOR AND ARBOR NETWORKS, INC.

This Agreement, made this 22 day of September 2011, by and between the City of Ann Arbor, a Michigan municipal corporation, hereinafter referred to as "City", and Arbor Networks Inc., a Delaware Corporation, hereinafter referred to as "Arbor Networks and/or Certificate Holder".

Whereas, Pursuant to Michigan Public Act 198 of 1974, as amended ("Act"), Arbor Networks submitted on August 31, 2011 an Application for Industrial Facilities Exemption Certificate ("Application") for new real property improvements to be constructed in and new personal property to be acquired and installed in Ann Arbor Industrial Development District 2008-020, which was established on February 19, 2008 (the District);

Whereas, The City has elected to require as a condition for granting the Industrial Facilities Exemption Certificate to Arbor Networks, that this Agreement be entered into pursuant to Section 22 of the Act prior to the approval and issuance to Arbor Networks of the Industrial Facilities Exemption Certificate ("Certificates") by the Michigan State Tax Commission.

The parties agree that the City approval of tax abatement pursuant to its Application is subject to the terms and conditions of this Agreement as follows:

1. The length of time for which the abatement is approved is five (5) years after the effective date of the Industrial Facilities Exemption Certificate. The abatement is for new personal property equipment to be purchased in 2011 and 2012 (the "New Personal Property"). The abatement will terminate December 31, 2016.
2. Arbor Networks abatement is only for the items listed in Exhibit A which is attached and incorporated by this reference in the Agreement. Exhibit A supersedes the listing on its Application filed with the City Clerk on August 31, 2011.
3. Arbor Networks will provide the City Assessor with a detailed list of all taxable personal property at its location, the date of acquisition of the property and the original acquisition cost of the property prior to the issuance of the abatement.
4. Arbor Networks guarantees to the City that during the term of the abatement:
  - a. The taxable value on real property in the District will not be less than the taxable value for tax year 2011.
  - b. The taxable value on personal property of Arbor Networks in the District will not be less than the taxable value of the personal property assessed

for the tax year 2011, plus the value of the New Personal Property, both adjusted for depreciation in accordance with State Tax Commission multipliers.

5. On or before January 20, 2013, Arbor Networks shall provide the City Assessor with the actual costs of the New Personal Property identified in Exhibit A. If those costs are less than the estimated cost on the Application by more than ten percent (10%), Arbor Networks shall have materially breached the terms of this Agreement and the City shall have the right to recommend revocation of the Certificate subject to provision 10 of this agreement to the State Tax Commission or taking other appropriate legal action in connection with the default.
6. By December 31, 2013, Arbor Networks will add not less than twenty (20) jobs at the facility named on the Application as compared to its number of employees as of the effective date of the Certificate. If Arbor Networks adds less than twenty (20) additional jobs by December 31, 2013, Arbor Networks shall have materially breached the terms of this Agreement and the City shall have the right to recommend revocation of the Certificate subject to provision 10 of this agreement to the State Tax Commission or taking other appropriate legal action in connection with the default.
7. Arbor Networks shall comply with all of the requirements of the City's Living Wage Ordinance.
8. Arbor Networks shall maintain operations within the City of Ann Arbor during the period of time for which the abatement is in effect. If Arbor Networks relocates, whether within or outside of the State of Michigan, Arbor Networks shall pay to the affected taxing units an amount equal to those taxes it would have paid during the abatement term had the abatement not been in effect.
9. By February 1st of each year during the term of this Agreement, Arbor Networks shall provide the City Assessor a detail list of all personal property assets at its location within the District and the number of employees for each of the following categories: at prior year-end, new hires, attrition, and at present year-end together with any other information necessary or reasonably required for the City Assessor to determine annually as of December 31 the value and taxable value of each facility separately for both real and personal property having the benefit of the Certificate.
10. The parties agree that if one party believes the other has breached a part of this Agreement, no legal or administrative action shall be taken with respect to the alleged breach unless the party allegedly in default is given written notice of the alleged breach and thirty (30) days thereafter to remedy the alleged breach. Written notice of an alleged breach by the City shall be sent to the City Chief Financial Officer and the City Attorney at the City, 301 E.

Huron, Ann Arbor, Michigan 48107-8647. Written notice of an alleged breach by Arbor Networks shall be sent to 6 Omni Way, Chelmsford, MA 01824, Attention: General Counsel.

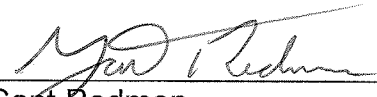
11. Arbor Networks acknowledges and agrees that no payment of any kind in excess of the fee allowed by Act has been made or promised in exchange for favorable consideration of this Application.
12. Arbor Networks agrees to pay the City a nonrefundable application fee, which is equal to the lesser of the maximum statutory amount, the City's actual cost or two percent (2%) of the total property taxes abated for the term that the industrial facilities exemption certificate is in effect, within thirty (30) days of receipt of an invoice from the City.
13. Arbor Networks acknowledges and agrees that, pursuant to provisions of Act, that issuance of the industrial facilities exemption certificate is determined by the Michigan State Tax Commission on receipt of an approved application by the City Council and agrees to hold the City of Ann Arbor harmless in the event the Commission denies its Application for an Industrial Facilities Exemption Certificate.
14. This Agreement was entered into and was drafted pursuant to and is to be interpreted according to the laws of the State of Michigan. Both parties have had the opportunity to have this Agreement reviewed by legal counsel. This Agreement contains all of the understandings of the parties concerning the subject matter of the agreement and supersedes any prior or contemporaneous agreements or understandings, whether written or oral, between the parties. This Agreement can be amended or modified only in writing executed by the parties. The Certificate may not be transferred or assigned to any other party without the prior consent of the Ann Arbor City Council pursuant to Section 21 of the Act.
15. In any civil action brought pursuant to or to enforce any portions of this Agreement, if the City prevails, the City shall in addition to any other damages, costs or remedies, be entitled to recover its actual expenses incurred to bring, maintain or defend such action including without limitation, its actual, reasonable attorney's fee, without regard to whether such legal services are provided by in-house counsel or outside counsel, from the date the dispute first arises through all appellate proceedings as ordered by the court.
16. If the Certificate Holder institutes or becomes involved in litigation of any kind against the City, including but not limited to actions in the Michigan Tax Tribunal and actions initiated under section 211.154 of the General Property Tax Act, after the certificate date, the Certificate Holder agrees to consent to termination of the Certificate if requested by the City and to take all necessary

actions to authorize and execute any and all documentation required by the City or the State Tax Commission in connection with the termination of the Certificate.

17. Subject to the abatement herein granted, Arbor Networks agrees to timely pay all property taxes assessed during the term of the Certificate.
18. In the event that a court of competent jurisdiction should find a part of this Agreement invalid, such holding shall not affect or invalidate the remaining portions of this Agreement, which shall remain in full force and effect.
19. This Agreement shall be binding on the parties hereto, their successor and assigns. No person except those who are parties to this Agreement and their successors shall have any rights under this Agreement.

The individuals signing below acknowledge that they have read this Agreement, that they understand it, and that they have the legal authority to execute it in the capacity shown below.

September 22, 2011

By   
Gant Redmon  
Its General Counsel

CITY OF ANN ARBOR

By \_\_\_\_\_  
John Hieftje, Mayor

By \_\_\_\_\_  
Jacqueline Beaudry, Clerk

Approved as to substance

\_\_\_\_\_  
Steven D. Powers, City Administrator

Approved as to form

\_\_\_\_\_  
Stephen K. Postema, City Attorney