



**MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN  
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA)  
AND  
HARTZ MOUNTAIN INDUSTRIES, INC.**

Purpose

The purpose of this MOU is to memorialize the commitment of Hartz Mountain Industries, Inc. ("Hartz") to sustainable practices across its extensive real estate portfolio, with the encouragement and assistance of USEPA.

Hartz is New Jersey's largest real estate developer, with over 38 million square feet of office, retail, and warehouse/industrial buildings in New York and New Jersey, as well as several hotel properties on both sides of the Hudson River.

Hartz has a history of environmental commitment. Over the last 20 years, Hartz has removed over 120 underground storage tanks from its properties, and remediated numerous industrial sites in accordance with EPA and State regulations. Hartz has also recovered more degraded wetlands than any other private developer in New Jersey. The wetland near the Mill Creek Power Center in Secaucus is comprised of a 120-acre tract that was remediated and donated by Hartz as parkland. With walking trails and wildlife exhibits, Mill Creek has become a popular location for birders, especially during the fall and spring when migrating species are travelling the Eastern Seaboard flyway.

Beginning in 2007, Hartz, at the direction and urging of its President and Chief Operating Officer, Emanuel Stern, launched its Green Building and Sustainability Initiative. Bringing together executives from all of its major operating departments, the Hartz Sustainability Committee began a systemic analysis of operations and construction practices across its real estate portfolio. With the help of EPA data, Hartz quickly recognized that buildings account for 39% of energy use, 12% of total water consumption, 68% of total electricity consumption and 38% of carbon dioxide emissions. By implementing sustainable processes, along with comprehensive evaluation and measurement of its operating practices, Hartz has and will continue to reduce its energy consumption, waste production, water usage, environmental impacts, and overall carbon footprint across its operations.

## Hartz Sustainable Design Guidelines

Following Hartz's Sustainability Initiative, Hartz established Sustainable Design Guidelines for all new construction and renovations within its portfolio. These Guidelines promote the use of sustainable practices, and require confirmatory documentation, across various categories of construction and operations:

**Energy Use** – Require that HVAC equipment meet EPA Energy Star or similar performance guidelines; ban the use of chloroflourocarbons and hydroflourocarbons for newly purchased air conditioning units, which add to global warming; promote the use of energy management systems, such as Utilivisor, to maximize the operating efficiencies of heating and cooling systems; promote the use of energy-saving lighting, including motion-sensitive switches, and fluorescent lighting. In furtherance of this MOU, Hartz will agree to become an Energy Star partner with EPA.

**Building Material Selection** – Promote the use of eco-friendly paints and products; promote the use of locally sourced building materials; promote recyclable and biodegradable building products; require that new carpeting meet the requirements of the Carpet and Rug Institute's "Green Label Plus" program. For any future construction projects, Hartz will look to incorporate the use of coal combustion products (CCP) in place of portland cement for concrete, where feasible, and to the extent permitted by State regulations. The amount of CCP will be reported under this MOU.

**Building Supplies** – Require that janitorial and building supplies meet EPA Guidelines; mandate that office paper products be recyclable, or produced from recycled material.

**Minimize Water Use** – Utilize low flow plumbing fixtures, including low flow toilets, waterless urinals, automatic faucet controls, and low flow showerheads in new construction. In furtherance of this MOU, Hartz will agree to promote WaterSense certified products, and follow EPA's GreenScapes guidelines for its landscaping.

**Waste Management** – Maximize recycling and reuse of municipal solid waste, construction waste and debris; insure proper disposal of materials; minimize use and increase recycling of office paper. Hartz will also consider the feasibility of composting food waste either on-site or through an off-site location. In furtherance of this MOU, Hartz will agree to become a WasteWise partner.

Clean Construction Equipment and Clean Fuel Use – Follow EPA’s Clean Construction USA Program to cooperatively promote and implement measures to effectively reduce emissions from vehicles and other internal combustion engines used in construction and operation of Hartz facilities, with a focus on diesel engine emission reductions. Clean construction equipment reduces pollution from conventional diesel fuel-powered construction vehicles and equipment by requiring the use of Ultra-Low Sulfur Diesel (ULSD) fuel and best available pollution control retrofit technologies. Hartz will strive to include the use of clean construction equipment and clean fuel use in its specifications for contractors working on future facility construction projects. Clean construction equipment includes retrofit technologies for construction vehicles such as Diesel Particulate Filters (DPFs). In combination with the use of cleaner ULSD fuel, this practice will greatly reduce construction vehicle emissions during construction.

Enhanced Idling Reduction - Enhanced idling reduction measures reduce fuel consumption and pollution by setting a reasonable time limit for idling and actively encouraging that this limit be followed. Hartz will implement idling reduction measures in its own fleet, and encourage its service vendors, contractors, and staff to do the same.

#### Tenant and Contractor Mandates

Hartz has amended the Rules and Regulations of all of its existing and new leases, as well as its purchase orders with its vendors, to promote energy efficiency and conformance with the Sustainable Design Guidelines.

#### Sustainable Brownfields Development

In the mid-1980s, Hartz constructed its Overpeck Center development in Ridgefield Park on a closed landfill. Hartz is currently developing its Edison Towne Square project on a former automobile manufacturing site which has undergone extensive environmental remediation by its former owners. To the maximum extent practicable, all construction undertaken by Hartz at Edison Towne Square will be to LEED standards.

As part of its solar development program discussed below, Hartz is currently evaluating opportunities for installation of solar arrays on underutilized brownfield sites and landfills.

#### LEED Buildings

Hartz will be seeking certification under the U.S. Green Building Council’s “Leadership in Energy and Environmental Design” (“LEED”) program, for its Sheraton Suites at Lincoln Harbor Hotel in Weehawken, New Jersey, its headquarters building at 400 Plaza Drive, in the Harmon Meadow Development in Secaucus, New Jersey, and its newest

development, Edison Towne Square, in Edison, New Jersey. Certification for the Sheraton Suites includes substantial “green” upgrades to the hotel rooms, which are expected to be completed in 2010. LEED related upgrades to 400 Plaza Drive are likely to include energy management enhancements, landscape redesign, water sub-metering, waterless urinals and low-flow toilets, and changes to interior lighting to enhance the use of natural light. Motion-sensitive switches and fluorescent lighting have already been installed in Hartz offices.

Hartz is also evaluating a number of additional buildings to determine their suitability for LEED Certification.

### Solar Development

Early in its Sustainability Program, Hartz realized that with 21 million square feet of warehouse buildings, all with flat roofs, Hartz was poised to take advantage of solar power opportunities once appropriate technology, financial, and regulatory hurdles were overcome. With the availability of Federal investment tax credits, and New Jersey’s Solar Renewal Energy Certificate (SREC) program designed to implement the Regional Greenhouse Gas Initiative (RGGI), of which New Jersey is a member, as well as innovative financing programs offered by PSE&G, Hartz has now gone full scale in the solar development of its roofs.

Beginning with the Meadowlands Convention Center, a building owned and operated by Hartz, in February 2009, Hartz and its development partners “flipped the switch” on a 412,000 kilowatt hour (kwh) solar array. Since then, Hartz has teamed up with its tenants TJX Corp. (Marshall’s and TJ Maxx), Sports Authority, and Staples, entering into Power Purchase Agreements to install an additional 3.1 megawatts (MW) of solar capacity on the roofs of these tenants, to offset their energy costs, and reduce their carbon footprints. The 3.1 MW solar array began operation in January 2010.

Hartz will continue to explore solar opportunities on both its buildings, and on brownfield sites, as they develop.

### Carbon Footprint Measurement

Hartz believes that it cannot simply claim success with its Sustainability Program; such success must be measured. Consequently, Hartz has hired a consultant to design a methodology for evaluating its carbon footprint across its portfolio. This undertaking has involved data aggregation not just of the buildings within Hartz’s direct control, but those of its 1500 tenants as well. With the assistance of PSE&G, Hartz’s largest energy supplier, Hartz has now collected data to measure energy consumption at its buildings, establishing a baseline against which future improvements will be measured. In Hartz-controlled buildings (which include its hotels, exposition center and space used by Hartz for its own operations), Hartz reduced its carbon footprint between 2007 and 2008 by 6%.

## STATUS REPORTING

Hartz will submit a Status Report to EPA once per year starting six months after the official signing of this MOU. The report will include an update on the various activities identified in the agreement. EPA will use this data to determine the environmental benefits associated with Hartz's "green" activities.

## TERMS AND CONDITIONS

This MOU is not a contractual or a financial obligation instrument. Nothing in this MOU shall obligate EPA or Hartz to expend appropriations or to enter into any contract or other obligation or be cited as the basis for the promise or transfer of funds. Collaboration under this MOU shall be in accordance with applicable statutes and regulations.

This MOU does not restrict EPA or Hartz from participating in similar activities or arrangements with other entities or federal agencies.

Either party may unilaterally withdraw at any time from this MOU by issuing a signed written notice to that effect to the other party. By mutual agreement, which may be either formal or informal, the parties may modify the list of intended activities and/or determine the practical manner by which the goals, purposes and activities of this MOU will be accomplished. Modification to other written parts of this MOU must be made in writing and signed by both parties or their designees.

Nothing in this MOU shall be construed to authorize or permit any violation of any Federal, State or local law, including, but not limited to, any environmental law administered and/or enforced by EPA.

Access to all documents generated pursuant to the activities set forth in this MOU that constitute agency records for purposes of the Freedom of Information Act ("FOIA"), 5 U.C.S. 552, shall be governed by the provisions of the FOIA.

Hartz agrees that it does not expect, nor will it ever seek to compel from EPA in any judicial forum, the payment of money, services or other thing of value from EPA based upon the terms of this MOU. The foregoing provision does not in any way affect any legal rights accruing to Hartz by virtue of any other law, contract and/or assistance agreement.

Hartz understands and acknowledges that EPA's relationship with Hartz in no way affects, alters or otherwise constrains EPA's right to provide similar (or identical) services to, or establish similar (or identical) relationships with, any other entity.

Hartz understands that EPA's participation in this MOU does not constitute an endorsement, express or implied, of (a) any policy advocated by Hartz or (b) any goods or services purchased, offered or sold by Hartz.

The parties agree that any copyrightable subject matter, including but not limited to journal articles, training, education or informational material or software, created jointly by the parties from the activities conducted under the MOU may be copyrighted by Hartz. Hartz hereby grants to the government a royalty-free, nonexclusive, irrevocable right to reproduce, distribute, make derivative works, and publish or perform the work(s) publicly, or to authorize others to do the same on its behalf.

The EPA enters into this MOU under the authority of Section 103 of the Clean Air Act, 42 U.S.C. §7403, Section 104 of the Clean Water Act, 33 U.S.C. §1254, and Section 8001 of the Solid Waste Disposal Act, 42 U.S.C. §6981, Section 6604 of the Pollution Prevention Act, and Section 324A of the Energy Policy and Conservation Act, which provide EPA with authority to undertake cooperative efforts with other organizations to promote the coordination and acceleration of research, studies, training, and other efforts to prevent, reduce and eliminate pollution.

This MOU does not create any right or benefit, substantive or procedural, enforceable by law or equity against Hartz or EPA, their officers or employees, or any other person. This MOU does not direct or apply to any person outside of EPA and Hartz.

EFFECTIVE DATE AND ADMINISTRATION

This MOU will become effective upon signature by the Regional Administrator of EPA Region 2 and the President/Chief Operating Officer of Hartz, or their designees. It may be modified or amended by written agreement between both parties. This MOU will terminate at the end of five (5) years from the date of signature unless revised or extended at that time by written agreement of the parties. It may be terminated at any time by either party upon the issuance of a written notice to the other party. The parties will review annually the provisions of this MOU and its implementation.

Signed:

Judith A. Enck

Judith A. Enck  
Regional Administrator  
U.S. EPA Region 2

Date: 2/26/10

Emanuel T. Stern

Emanuel T. Stern  
Hartz Mountain Industries, Inc.  
President and COO

Date: 3/11/10