

**AN INTERGOVERNMENTAL AGREEMENT  
TO  
COORDINATE AND FUND AMBIENT AIR SAMPLING FOR ETHYLENE OXIDE  
BETWEEN  
THE COUNTY OF LAKE, ILLINOIS, THE CITY OF WAUKEGAN AND  
THE VILLAGE OF GURNEE**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made as of the date below the signature of the last entity to sign it ("effective date"), by and between Lake County, Illinois, a municipal corporation (hereinafter referred to as the "COUNTY"); the City of Waukegan, Illinois, a municipal corporation (hereinafter referred as "CITY"); and the Village of Gurnee, Illinois, a municipal corporation (hereinafter referred as "VILLAGE"). The foregoing entities will hereafter be noted as "the partner agencies."

**WITNESSETH:**

WHEREAS, the COUNTY, CITY and VILLAGE are public agencies within the meaning of the Illinois "Intergovernmental Cooperation Act" and as authorized by Article 7 of the Constitution of the State of Illinois; and

WHEREAS, the purposes of the "Intergovernmental Cooperation Act" and Article 7 of the Constitution of the State of Illinois include fostering cooperation among government bodies; and

WHEREAS, Medline Industries, Inc. operates a facility located at 1160 S. Northpoint Blvd., Waukegan, IL (hereinafter referred to as the "Medline facility") and Vantage Specialty Chemicals operates a facility located at 3938 Porett Drive, Gurnee, IL (hereinafter referred to as the "Vantage facility") and both facilities emit ethylene oxide (EtO), a chemical which the Federal Clean Air Act lists as a Hazardous Air Pollutant; and

WHEREAS, the County has formally petitioned the National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (ATSDR) to perform a Health Risk Assessment as to the impact of EtO emissions from the Medline and Vantage facilities; and

WHEREAS, for ATSDR to perform a Health Risk Assessment as to the impact of EtO emissions from the Medline and Vantage facilities, ambient air sampling results need to be furnished to the ATSDR; and

WHEREAS, the United States Environmental Protection Agency (US EPA) and the Illinois Environmental Protection Agency (IEPA) have declined to perform ambient air sampling as to EtO emissions from the Medline and Vantage facilities at this time; and

WHEREAS, the County has prepared a protocol (that conforms to the US EPA Quality Assurance Project Plan) for performing ambient air testing as to EtO emissions from the Medline and Vantage facilities to obtain sample results which can be provided to the ATSDR; and

WHEREAS, GHD Services Inc. has submitted separate contracts to perform ambient air testing for the Medline and Vantage facilities in accordance with the protocol developed by the County; and

WHEREAS, the City is willing to or has entered into a contract with GHD Services, Inc. to conduct ambient air testing related to the Medline facility; and

WHEREAS, the Village is willing to or has entered into a contract with GHD Services, Inc. to conduct ambient air testing related to the Vantage facility; and

WHEREAS, the County, through the Lake County Health Department per 55ILCS 5/5-25013, has the personnel and resources to serve as an “Implementing Agency” to supervise and oversee the ambient air testing to be conducted by GHD Services, Inc. at both the Medline and Vantage facilities; and

WHEREAS, the County has agreed to act as the Implementing Agency at no cost to the City or Village to assist efforts to secure ambient air testing results to furnish to ATSDR, so that a Health Risk Assessment can be completed; and

WHEREAS, the County further agrees to reimburse the City for 33.33% of the contract cost submitted by GHD Services, Inc. to provide ambient air testing related to the Medline facility and to reimburse the Village for 33.33% of the contract cost submitted by GHD Services, Inc. to provide ambient air testing related to the Vantage facility; and

WHEREAS, the corporate authorities for the County, City and Village believe it is in the best interest of their respective residents to enter into an Intergovernmental Agreement to establish the procedure for the administration and funding of ambient air testing related to the Medline and Vantage facilities.

**NOW, THEREFORE**, in consideration of the foregoing premises and the other undertakings contained in this Agreement, the Parties agree as follows:

- 1. Incorporation of Recitals.** All recitals set forth above are incorporated herein and made a part thereof, the same constituting the factual basis for this Agreement.
- 2. Scope of Work.** To supervise and fund ambient air testing for EtO emissions from the Medline and Vantage facilities and to furnish the results to the ATSDR to perform a Health Risk Assessment as to the impact of EtO emissions from the Medline and Vantage facilities.
- 3. Designation of Implementing Agency.** The Implementing Agency shall be Lake County, Illinois.
- 4. Implementing Agency Duties.** The Implementing Agency shall be responsible for and hereby empowered to take all actions to supervise the ambient air testing by GHD, Services, Inc. pursuant to the contracts with the City and the Village. These duties shall

include, but are not limited to:

- a. Supervising and verifying the work performed by GHD Services, Inc.
  - b. Review and verify quality assurance provisions prescribed in the City and Village contracts with GHD Services, Inc.
  - c. Receive and collect ambient air results to submit to the ATSDR and other appropriate regulatory agencies.
  - d. Review all invoices and vouchers submitted by GHD Services, Inc. related to the Medline facility to the City.
  - e. Review all invoices and vouchers submitted by GHD Services, Inc. related to the Vantage facility to the Village.
  - f. Prepare a draft acceptance letter of the work performed by GHD Services, Inc. related to the Medline facility to the City.
  - g. Prepare a draft acceptance letter of the work performed by GHD Services, Inc. related to the Vantage facility to the Village.
  - h. Submit payment to reimburse the City for services rendered by GHD Services, Inc. related to the Medline facility in an amount equal to 33.33% of the total cost charged by GHD Services, Inc. within 45 days of the City's request for reimbursement after City payment made to GHD based on contract terms.
  - i. Submit payment to reimburse the Village for services rendered by GHD Services, Inc. related to the Vantage facility in an amount equal to 33.33% of the total cost charged by GHD Services, Inc. within 45 days of the Village's request for reimbursement after Village payment made to GHD based on contract terms.
  - j. Provide a copy of all reports, data and documents to the City which the County submits to ATSDR and other regulatory agencies related to the Medline facility.
  - k. Provide a copy of all reports, data and documents to the Village which the County submits to ATSDR and other regulatory agencies related to the Vantage facility.
- 5. City Duties.** The City shall be required to cooperate under the supervisory authority granted to the County as the implementing agency. These duties shall include but are not limited to:
- a. Enter into the ambient air sampling contract related to the Medline facility with GHD Services, Inc. and provide a copy of the fully executed contract to the Lake County Health Department.

- b. Comply with all the terms and conditions required under the City's contract with GHD Services, Inc.
- c. Cooperate and assist the County in securing and establishing test locations within the City.

**6. Village Duties.** The Village shall be required to cooperate under the supervisory authority granted to the County as the implementing agency. These duties shall include but are not limited to:

- a. Enter into the ambient air sampling contract related to the Vantage facility with GHD Services, Inc. and provide a copy of the fully executed contract to the Lake County Health Department.
- b. Comply with all the terms and conditions required under the Village's contract with GHD Services, Inc.
- c. Cooperate and assist the County in securing and establishing test locations within the Village.

**7. Enforcement.**

- a. Breach. For any breach of this Agreement, the Parties may, in law or in equity, by suit, action, or any other proceeding, enforce or compel the performance of this Agreement and seek any appropriate remedy, including, without limitation, specific performance or mandamus.
- b. Venue. Venue for any judicial action filed by a Party related to this Agreement will be in the Circuit Court of Lake County, Illinois.

**8. Notice.** Any notices, invoices, reports or any other type of documentation required by this Agreement shall be deemed delivered when deposited in the United States mail, with sufficient postage, addressed as follows:

**County's Administrative Agent:**

Lake County Health Department  
Attn: Mark A. Pfister  
Executive Director  
3010 Grand Avenue  
Waukegan, IL 60085

**City's Administrative Agent:**

City of Waukegan  
Mayor Sam Cunningham  
100 N. Martin Luther King Jr. Drive  
Waukegan, IL 60085

**Village's Administrative Agent:**

Village of Gurnee  
Attn: Patrick Muetz  
Village Administrator  
Village Hall  
325 N. O'Plaine  
Gurnee, IL 60031

- 9. Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- 10. Amendments and Modifications.** This Agreement may not be modified, changed or deleted unless in writing and executed by the County, City and Village. Any amendment to this Agreement must be approved by the Parties' governing Boards.
- 11. Severability.** It is hereby expressed to be the intent of the Parties to this Agreement that should any provision, covenant, agreement, or portion of this Agreement or its application to any person, entity, or property be held invalid by a court of competent jurisdiction, the remaining provisions of this Agreement and the validity, enforceability, and application to any person, entity, or property shall not be impaired thereby, but the remaining provisions shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Agreement to the greatest extent permitted by applicable law.
- 12. No Third-Party Beneficiary.** This Agreement is entered into solely for the benefit of the Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entity that is not a Party or to acknowledge, establish or impose any legal duty to any third party. Nothing herein shall be construed as an express or implied waiver of any common law or statutory immunities or privileges of the County, City and the Village, or any of their respective officials, officers or employees.
- 13. Effective Date.** This Agreement becomes effective on the Effective Date, which shall be the date upon which the last signature is affixed hereto.
- 14. No Assignment.** No Party may assign any rights or duties under this Agreement without the prior express written consent of the other Parties.
- 15. Entire Agreement.** This Agreement and any exhibits represent the entire agreement among the Parties regarding the subject matter hereof. All negotiations between the Parties are merged in this Agreement, and there are no understandings or agreements, verbal or written, other than those incorporated in this Agreement.

IN WITNESS THEREOF, the PARTIES have executed this AGREEMENT on the dates indicated.

**COUNTY OF LAKE THROUGH THE LAKE COUNTY HEALTH DEPARTMENT**

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

Date: \_\_\_\_\_

**CITY OF WAUKEGAN**

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

Date: \_\_\_\_\_

**VILLAGE OF GURNEE**

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

Date: \_\_\_\_\_