

CLOSING ITEM NO.: A-1

AS LICENSOR

AND

GREENE COUNTY
INDUSTRIAL DEVELOPMENT AGENCY,
AS LICENSEE

LICENSE AGREEMENT

DATED AS OF _____, 2011

RELATING TO A LICENSE INTEREST IN CERTAIN PARCELS OF LAND
LICENSED BY THE LICENSOR TO THE LICENSEE AND LOCATED AT
THE FOLLOWING ADDRESSES IN GREENE COUNTY: **[INSERT
PROJECT ADDRESS]**.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT dated as of _____, 2011 (the "License to Agency") by and between _____ (the "Company"), _____ organized and existing under the laws of the State of New York having an office for the transaction of business located at _____, as licensor, and GREENE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the "Agency"), a public benefit corporation of the State of New York having an office for the transaction of business located at 270 Mansion St., Coxsackie, Greene County, New York, 12051, as licensee;

WITNESSETH:

WHEREAS, Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the "State") and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter _____ of the Laws of 1972 of the State of New York, as amended, codified as Section 903-a of the General Municipal Law of the State of New York (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") and is empowered under the Act to undertake the Project (as hereinafter defined) in order to so advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and improve their standard of living; and

WHEREAS, in _____, 2011, _____ submitted an application for financial assistance with respect to the following project: **[INSERT PROJECT DESCRIPTION]** (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on _____, 2011 (the "SEQR Resolution"), the Agency determined that the Project is a "Type II action" which requires no further review ; and

WHEREAS, by resolution adopted by the members of the Agency on _____, 2011 (the "Approving Resolution"), the Agency determined to (A) grant the Financial Assistance and to acquire and install the Equipment, or cause the Equipment to be acquired and installed and (B) sell the Equipment to the Company pursuant to a Lease Agreement dated as of _____, 2011 (the "Lease Agreement") between the Agency and the Company pursuant to which, among other things, the Company shall be obligated (1) to pay all costs incurred by the Agency with respect to the Project and/or the Project Facility, including all costs of operation and maintenance, all taxes and other governmental charges, any required payments in lieu of taxes, and the reasonable fees and expenses incurred by the Agency with respect to or in connection with the Project and/or the Equipment and (2) to comply with the provisions of the Act applicable to beneficiaries of financial assistance from the Agency; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the "Closing"), (A) the Company will execute and deliver to the Agency (1) a certain license agreement dated as of _____, 2011 (the "License Agreement") between the Company and the Agency, which grants to the Agency a license to enter upon the Land for the purpose of undertaking and completing the Project and (2) a bill- of sale dated as of _____, 2011 (the "Bill of Sale to Agency"), which conveys to the Agency all right, title and interest of the Company in the Equipment, (B) the Agency will execute and deliver to the Company a sales tax exemption letter (the "Sales Tax Exemption Letter") to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance, and (C) the Agency will file with the New York State Department of Taxation and Finance the form entitled "IDA Appointment of Project Operator or Agency for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report"); and

WHEREAS, since no real property tax exemption is intended to be granted by the Agency with respect to the Project at this time, no New York State Board of Real Property Services Form RP-412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project under Section 412-a of the Real Property Tax Law) (a "Real Property Tax Exemption Form") will be filed by the Agency with respect to the Project at this time; and

WHEREAS, in connection with the Project, the Agency proposes pursuant to this License to Agency to acquire from the Company the right to enter upon the Land for the purpose of undertaking and completing the Project and, in the event of any occurrence of an Event of Default under the Lease Agreement, for the purpose of pursuing its remedies under the Lease Agreement; and

WHEREAS, all things necessary to constitute this License to Agency a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done

and performed, and the creation, execution and delivery of this License to Agency have in all respects been duly authorized by the Company and the Agency;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY FORMALLY COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS, TO WIT:

SECTION 1. LICENSE TO CONSTRUCT. The Company hereby grants to the Agency a license to enter upon the Premises (as more particularly described in Exhibit A attached hereto) for the purpose of undertaking and completing the Project, to have and to hold the same unto the Agency and its assigns from the date of the execution and delivery hereof until the completion date of the Project, as more particularly described in the Lease Agreement.

SECTION 2. ADDITIONAL LICENSE. Pursuant to the Lease Agreement, the Company has granted the Agency a security interest in all of the right, title and interest of the Company in the Project Facility and in all additions and accessions thereto, all replacements and substitutions therefor and all proceeds thereof and all books, records and accounts of the Company pertaining to the Project Facility as security for payment of the rental payments and all other payments and obligations of the Company thereunder. In the event of an occurrence of an Event of Default under the Lease Agreement, the Company hereby grants the Agency an additional license to enter upon the Land for the purpose of pursuing its remedies under Article X of the Lease Agreement.

SECTION 3. NON-MERGER. Notwithstanding the lease of the Project Facility by the Agency to the Company pursuant to the Lease Agreement, during the term of this License to Agency, there shall be no merger of this License to Agency nor of the license interest created by this License to Agency with the fee estate in the Land or any part thereof by reason of the fact that the same person, firm, corporation or other entity may acquire or own or hold, directly or indirectly, (1) this License to Agency or the interest in the Project Facility created by this License to Agency or any interest in this License to Agency or in any such license interest in the Project Facility and (2) the fee estate in the Land or any other interest in the Land or any part thereof or any interest in such fee estate in the Land or other interest in the Land, and no such merger shall occur unless and until all corporations, firms and other entities, including any assignee having any interest in (a) this License to Agency or the license interest created by this License to Agency and (b) the fee estate in the Land or any other interest in the Land or any part thereof or any interest in such fee estate in the Land or other interest in the Land, shall join in a written instrument effecting such merger and shall duly record the same.

SECTION 4. LIMITED LIABILITY. (A) The obligations and agreements to the Agency contained herein and in any other instrument or document executed in connection herewith and any instrument or document supplemental hereto shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other than the Company) or employee of the Agency in his individual capacity, and the members, officers, agents (other than the Company) and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

(B) The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or Greene County, New York and neither the State of New York nor Greene County, New York shall be liable thereon, and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Project Facility.

(C) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless (1) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order of decree of specific performance, and ten days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request, (or if compliance therewith would reasonably be expected to take longer than ten days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (2) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses and (3) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than the Company) or employees shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify and hold harmless the Agency and its members, officers, agents (other than the Company) and employees against any liability incurred as a result of its compliance with such demand and (b) if requested by the Agency shall furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents (other than the Company) and employees against all liability expected to be incurred as a result of compliance with such request.

IN WITNESS WHEREOF, the Company and the Agency have caused this License to Agency to be executed in their respective names by their duly authorized officers, all as of the day and year first above written.

By: _____

Title: _____

GREENE COUNTY
INDUSTRIAL DEVELOPMENT AGENCY

BY: _____
(Vice) Chairman

