

**MADISON COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

**Interim Uniform Project Benefits Agreement
Project Agreement No. 2501-18-02**

This Interim Uniform Project Benefits Agreement numbered as stated above (the "*Interim Project Benefits Agreement*") is dated as of the Agreement Dated Date set forth below and has been written in plain English. As used herein, the term "*Interim Agreement*" shall refer to this Interim Project Benefits Agreement and all exhibits to this Interim Project Benefits Agreement. The terms of each such exhibit are hereby incorporated in this Interim Project Benefits Agreement with the same effect as if fully set forth herein. When we use the words "you" and "your" in this Interim Agreement, we mean you, the "Project Beneficiary" listed below (hereinafter, the "*Project Beneficiary*"). When we use the words "we", "us" and "our" in this Interim Agreement, we mean the Madison County Industrial Development Agency (hereinafter, the "*Agency*"), and its successors and assigns.

**AGENCY
INFORMATION:**

Agency Name:
MADISON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Agency Address (Street, City, State and Zip):
**3215 Seneca Turnpike
Canastota, New York 13032**

Agency Tax ID #:
52-1325841

Agency Phone #:
(315) 697-9817

**PROJECT
BENEFICIARY
INFORMATION:**

Project Beneficiary Name:
Green Empire Farms, Inc.

Project Beneficiary Tax ID #:
32-0518395

Project Beneficiary Address (Street, City, State and Zip):
28700 Plymouth Road, Plymouth, Michigan 48150

Project Beneficiary Phone #:
(734) 943-0410

**AGREEMENT
DATED DATE:**

As of November 1, 2018

**AGREEMENT
TERM:**

Agreement Commencement Date:
As of November 1, 2018

Agreement Termination Date:
March 1, 2019

**PROJECT
DESCRIPTION:**

The project which is the subject of this Interim Agreement (the "*Project*") is described on Exhibit A attached hereto. The physical assets to be acquired, constructed, reconstructed, improved or installed by the Agency and/or the Project Beneficiary as part of the Project are hereinafter referred to as the "*Project Facility*".

PROJECT SITE:

The real property included in the Project Facility (the "*Land*") is generally described as follows (Street, City, State and Zip):
Street Address: 1876 West Elm Street, Oneida, New York; 1944 West Elm Street, Oneida, New York; 1900 West Elm Street, Oneida, New York, West Elm Street, Oneida, New York, and Court Street North, Wampsville, New York.

Real Property Tax Map ID #: 37.-1-1.11, 37.-1-1.12, 37.-1-2, 37.-1-4.1, 37.9-1-16.1 and 37.5-1-5.

BY SIGNING THIS AGREEMENT, YOU: (1) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS ON THE FRONT AND SUCCEEDING PAGES HEREOF, INCLUDING, WITHOUT LIMITATION, THE CHOICE OF NEW YORK LAW AND WAIVER OF TRIAL BY JURY TERMS, (2) AGREE THAT (A) ONCE YOU EXECUTE THIS AGREEMENT, YOU CANNOT TERMINATE OR CANCEL THIS AGREEMENT, (B) YOU HAVE AN UNCONDITIONAL OBLIGATION TO MAKE ALL RECAPTURE PAYMENTS REQUIRED DUE HEREUNDER, AND (C) YOU CANNOT WITHHOLD, SET OFF OR REDUCE SUCH RECAPTURE PAYMENTS FOR ANY REASON WHATSOEVER; (3) WARRANT THAT (A) THE PERSON SIGNING THIS AGREEMENT ON YOUR BEHALF HAS THE AUTHORITY TO DO SO AND TO GRANT THE POWER OF ATTORNEY SET FORTH IN SECTION 20 HEREOF, AND (B) ALL INFORMATION YOU HAVE DELIVERED TO US OR OTHERWISE CONTAINED HEREIN, INCLUDING THE INFORMATION CONTAINED IN THE EXHIBITS ATTACHED HERETO, IS TRUE, ACCURATE AND COMPLETE AND YOU ACKNOWLEDGE WE ARE RELYING UPON ALL SUCH INFORMATION TO ENTER INTO THIS AGREEMENT WITH YOU AND TO GRANT THE FINANCIAL ASSISTANCE TO YOU.

GREEN EMPIRE FARMS, INC.

X

Authorized Signature

Kevin Safrance, Chief Operating Officer

Print Name and Title

**MADISON COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

X

Authorized Signature

Print Name and Title

ORIGINAL COUNTERPART NO. ___ OF ___ MANUALLY EXECUTED COUNTERPARTS

Page 1 of 5

**MADISON COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

**Interim Uniform Project Benefits Agreement
Project Agreement No. 2501-18-02**

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**AGENCY
INFORMATION:**

Agency Name:

MADISON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Agency Tax ID #:

52-1325841

Agency Address (Street, City, State and Zip):

3215 Seneca Turnpike

Agency Phone #:

(315) 697-9817

Canastota, New York 13032

**PROJECT
BENEFICIARY
INFORMATION:**

Project Beneficiary Name:

Green Empire Farms, Inc.

Project Beneficiary Tax ID #:

32-0518395

Project Beneficiary Address (Street, City, State and Zip):

28700 Plymouth Road, Plymouth, Michigan 48150

Project Beneficiary Phone #:

(734) 943-0410

**AGREEMENT
DATED DATE:**

As of November 1, 2018

**AGREEMENT
TERM:**

Agreement Commencement Date:

As of November 1, 2018

Agreement Termination Date:

March 1, 2019

**PROJECT
DESCRIPTION:**

The project which is the subject of this Interim Agreement (the "*Project*") is described on Exhibit A attached hereto. The physical assets to be acquired, constructed, reconstructed, improved or installed by the Agency and/or the Project Beneficiary as part of the Project are hereinafter referred to as the "*Project Facility*".

PROJECT SITE:

The real property included in the Project Facility (the "*Land*") is generally described as follows (Street, City, State and Zip):

Street Address: 1876 West Elm Street, Oneida, New York; 1944 West Elm Street, Oneida, New York; 1900 West Elm Street, Oneida, New York, West Elm Street, Oneida, New York, and Court Street North, Wampsville, New York.

Real Property Tax Map ID #: 37.-1-1.11, 37.-1-1.12, 37.-1-2, 37.-1-4.1, 37.9-1-16.1 and 37.5-1-5.

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GREEN EMPIRE FARMS, INC.

**MADISON COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

X
Authorized Signature

Print Name and Title

X
Authorized Signature

Richard O. Bargabos, Chairman

Print Name and Title

ORIGINAL COUNTERPART NO. ___ OF ___ MANUALLY EXECUTED COUNTERPARTS

Page 1 of 5

TERMS AND CONDITIONS

1. **PUBLIC BENEFITS SOUGHT TO BE OBTAINED; FINANCIAL ASSISTANCE EXPECTED TO BE GRANTED.** In consideration of the undertaking and completion by the Project Beneficiary of the Project, and in anticipation of and in reliance on the public benefits expected to occur as a result of the Project, as described on **Exhibit B** attached hereto (the "**Public Benefits**"), the Agency expects to provide the Project Beneficiary with the benefits related to the Project described on **Exhibit C** attached hereto (the "**Financial Assistance**"). The parties understand and agree that the Public Benefits are a material inducement to the Agency's provision of the Financial Assistance. The Project Beneficiary agrees to use its best efforts to achieve the Public Benefits during the term of this Interim Agreement set forth above (the "**Term**").

2. **CONTINGENT NATURE OF THE FINANCIAL ASSISTANCE.** Notwithstanding the provisions of Section 1 of this Interim Agreement, the Agency and the Project Beneficiary agree that the amount of Financial Assistance to be received by the Company with respect to the Project shall be contingent upon, and shall bear a direct relationship to, the success or lack of success of the Project in delivering the promised Public Benefits. The Project Beneficiary agrees that the Agency's performance and accountability provisions (the "**Performance and Accountability Provisions**") shall serve to further memorialize the Project Beneficiary's commitment to attain the Public Benefits or, upon the conditions, and as and to the extent provided therein, return all or a portion of the Financial Assistance to the Agency based on the clawback provisions set forth in the Performance and Accountability Provisions. The Project Beneficiary has no reason to believe that the Public Benefits will not be attained as contemplated in this Interim Agreement.

3. **ANNUAL COMPLIANCE REPORTS.** The Project Beneficiary hereby agrees to provide to the Agency, at a minimum, an annual compliance report (each, a "**Compliance Report**") on the Public Benefits outlined herein and in the Performance and Accountability Provisions during the Term of this Interim Agreement. The annual compliance report must be provided by no later than January 31 of each year, commencing with the first January 31 following the Agreement Dated Date set forth above and annually thereafter during the Term of this Interim Agreement. The Compliance Report will include, at a minimum, the items set forth on **Exhibit D** attached hereto (the "**Minimum Required Annual Report Items**").

4. **DEFINITIONS.** The following words and terms used in this Agreement shall have the respective meanings set forth below, or the definitions set forth in the Project Facility Agreements, unless the context or use indicates another or different meaning or intent.

"Act" means collectively (1) Title 1 of Article 18-A of the General Municipal Law of the State enacted into law as Chapter 1030 of the Laws of 1969 of the State and (2) Chapter 305 of the Laws of 1975 of the State, as amended, constituting Section 893 of said General Municipal Law.

"Application" means the application submitted by the Project Beneficiary to the Agency in with respect to the Project, in which the Project Beneficiary (1) described the Project, (2) requested that the Agency grant certain Financial Assistance with respect to the Project, and (C) indicated the Public Benefits that would result from approval of the Project by the Agency.

"Contract Employee" means (1) a full-time, private-sector employee (or self-employed individual) that is not on the Project Beneficiary's payroll but who has worked for the Project Beneficiary at the Project Facility for a minimum of 35 hours per week for not less than 4 consecutive weeks providing services that are similar to services that would otherwise be performed by a Full Time Equivalent Employee, or (2) 2 part-time, private-sector employees (or self-employed individuals) that are not on the Project Beneficiary's payroll but who have worked for the Project Beneficiary at the Project Facility for a combined minimum of 35 hours per week for not less than 4 consecutive weeks providing services that are similar to services that would otherwise be performed by a Full Time Equivalent Employee.

"Economic Development Region" means the economic development region in which the Agency is located, as defined by Section 230 of the State Economic Development Law.

"Full Time Equivalent Employee" means (1) a full-time, permanent, private-sector employee on the Project Beneficiary's payroll, who has worked at the Project Facility for a minimum of 35 hours per week for not less than 4 consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by the Project Beneficiary to other employees with comparable rank and duties; or (2) two part-time, permanent, private-sector employees on Project Beneficiary's payroll, who have worked at the Project Facility for a combined minimum of 35 hours per week for not less than 4 consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by the Project Beneficiary to other employees with comparable rank and duties; or (3) a Contract Employee.

"Project Facility Agreements" means, collectively, the various documents listed on **Exhibit E** attached hereto, as said documents may be amended or supplemented from time to time.

"Payment in Lieu of Tax Agreement" means, if the Project Facility Agreements include a payment in lieu of tax agreement, the payment in lieu of tax agreement described on **Exhibit E** attached hereto, as said document may be amended or supplemented from time to time.

"Payments in Lieu of Taxes" means, if the Project Facility Agreements include a payment in lieu of tax agreement, the payments in lieu of taxes payable under the Payment in Lieu of Tax Agreement, as summarized on **Exhibit J** attached hereto.

"Interim Project Benefits Agreement" means this agreement as may be amended or supplemented from time to time.

"Recapture Events" shall mean any of the events listed on **Exhibit F** attached hereto.

"Recapture Period" means a period ending on the Project Benefits Agreement Termination Date.

"State" means the State of New York.

5. **REPRESENTATIONS OF AND WARRANTIES BY THE AGENCY.** The Agency does hereby represent, warrant and covenant as follows:

(A) **Power.** The Agency is a public benefit corporation of the State, has been duly established under the provisions of the Act, is validly existing under the provisions of the Act and has the power under the laws of the State to enter into this Interim Project Benefits Agreement and the other Project Facility Agreements and to carry out the transactions contemplated hereby and thereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Interim Project Benefits Agreement and the other Project Facility Agreements.

(B) **Authorization.** The Agency is authorized and has the corporate power under the Act, its by-laws and the laws of the State to enter into this Interim Project Benefits Agreement and the other Project Facility Agreements and the transactions contemplated hereby and thereby and to perform and carry out all the covenants and obligations on its part to be performed under and pursuant to this Interim Project Benefits Agreement and the other Project Facility Agreements. By proper corporate action on the part of its members, the Agency has duly authorized the execution, delivery and performance of this Interim Project Benefits Agreement and the other Project Facility Agreements and the consummation of the transactions herein and therein contemplated.

(C) **Conflicts.** The Agency is not prohibited from entering into this Interim Project Benefits Agreement and the other Project Facility Agreements and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Interim Project Benefits Agreement and the other Project Facility Agreements by the terms, conditions or provisions of any order, judgment, decree, law, ordinance, rule or regulation of any court or other agency or authority of government, or any agreement or instrument to which the Agency is a party or by which the Agency is bound.

6. **REPRESENTATIONS OF AND WARRANTIES BY THE PROJECT BENEFICIARY.** The Project Beneficiary does hereby represent, warrant and covenant as follows:

(A) **Power.** The Project Beneficiary is duly authorized to do business in the State and has the power to enter into this Interim Project Benefits Agreement and the other Project Facility Agreements and to perform and carry out the transactions contemplated hereby and thereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Interim Project Benefits Agreement and the other Project Facility Agreements, and by proper action of its governing body has been duly authorized to execute, deliver and perform this Interim Project Benefits Agreement and the other Project Facility Agreements.

(B) **Authorization.** The Project Beneficiary is authorized and has the power to enter into this Interim Project Benefits Agreement and the other Project Facility Agreements and the transactions contemplated hereby and thereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Interim Project Benefits Agreement and the other Project Facility Agreements. The Project Beneficiary has duly authorized the execution, delivery and performance of this Interim Project Benefits Agreement and the other Project Facility Agreements and the consummation of the transactions herein and therein contemplated.

(C) **Conflicts.** The Project Beneficiary is not prohibited from entering into this Interim Project Benefits Agreement and the other Project Facility Agreements and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Interim Project Benefits Agreement and the other Project Facility Agreements by (and the execution, delivery and performance of this Interim Project Benefits Agreement and the other Project Facility Agreements, the consummation of the transactions contemplated hereby and thereby and the fulfillment of and compliance with the provisions of this Interim Project Benefits Agreement and the other Project Facility Agreements will not conflict with or violate or constitute a breach of (or a default under) the terms, conditions or provisions of its organization and operation documents or any other restriction, law, rule, regulation or order of any court or other agency or authority of government, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which the Project Beneficiary is a party or by which it or any of its property is bound, and neither the Project Beneficiary's entering into this Interim

Project Benefits Agreement and the other Project Facility Agreements nor the Project Beneficiary's discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Interim Project Benefits Agreement and the other Project Facility Agreements will be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Project Beneficiary under the terms of any of the foregoing, and this Interim Project Benefits Agreement and the other Project Facility Agreements are legal, valid and binding obligations of the Project Beneficiary enforceable in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(D) Governmental Consent. No consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Project Beneficiary is required as a condition to the execution, delivery or performance of this Interim Project Benefits Agreement and the other Project Facility Agreements by the Project Beneficiary or as a condition to the validity of this Interim s Agreement and the other Project Facility Agreements.

4. CONTINGENT NATURE OF THE FINANCIAL ASSISTANCE. The Agency and the Project Beneficiary agree that the purpose of the Project is to create or retain permanent private sector jobs in Madison County, New York in the form of direct employees at the Project Facility. Accordingly, the Agency and the Project Beneficiary agree that the amount of Financial Assistance to be received by the Project Beneficiary with respect to the Project shall be contingent upon, and shall bear a direct relationship to the success or lack of success of the Project in achieving this goal.

7. AGREEMENTS ON THE PART OF THE PROJECT BENEFICIARY. The Project Beneficiary hereby agrees as follows:

(A) Filing – Closing Date. If Exhibit B attached hereto contains any employment projections, to file with the Agency, on or prior to the dated date of this Interim Project Agreement, an employment plan, based on the employment projections contained in Exhibit B attached hereto, containing the information described on Exhibit D attached hereto and any additional information described in the Project facility Agreements.

(B) Filing – Annual. To file with the Agency, on an annual basis, within sixty (60) days after the end of each calendar year, an annual report containing the information described on Exhibit D attached hereto and any additional information described in the Project facility Agreements.

(C) Employment Level. If Exhibit B attached hereto contains any employment projections, to submit to the Agency the following reports for the purpose of verifying that the Project Beneficiary is achieving the Employment Level: (a) by the 15th day of the first calendar month of each new quarter, a form NYS-45 (the "Quarterly Report," a copy of the current form of which is attached hereto on Exhibit G) or some other form of reporting that is explicitly approved by the Agency, and (b) by February 1 of each year during the term of this Interim Project Benefits Agreement, a project and employment plan status report (the "Status Report," a copy of which is attached hereto on Exhibit H) and, together with the Annual Report described in Section 5(B) above, being collectively referred to as the "Employment Affidavits" or some other form that is explicitly approved by the Agency. Full Time Equivalent Employees for each calendar year during the term of this Interim Project Benefits Agreement shall be determined by calculating the average number of Full Time Equivalent Employees for the prior calendar year, computed by adding the number of Full Time Equivalent Employees as of the Project Beneficiary's last payroll date in the months of March, June, September and December and dividing that sum by 4.

(D) Non-Discrimination. (1) To not discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. The Project Beneficiary shall use its best efforts to ensure that employees and applicants for employment with the Project Beneficiary or any subtenant of the Project Facility are treated without regard to their race, color, creed, age, sex, or national origin. As used herein, the term "treated" shall mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

(2) To state in substance, in all solicitations or advertisements for employees placed by or on behalf of the Project Beneficiary during the term of this Interim Project Benefit Agreement, that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex.

8. RECAPTURE OF FINANCIAL ASSISTANCE. (A) General. Upon the occurrence of a Recapture Event that occurs during the Recapture Period, the Agency may require that the Project Beneficiary pay to the Agency all or a portion of the Financial Assistance, in an amount determined by the Agency (the "Recapture Amount"), all in accordance with the terms of this Section 8 and Exhibit I attached hereto. Upon the occurrence of a Recapture Event that occurs during the Recapture Period, you hereby agree, if requested by the Agency, to pay to the Agency the Recapture Amount.

(B) Project Financial Assistance. The Recapture Amount to be paid by you to the Agency upon the occurrence of a Recapture Event during a Recapture Period shall be an amount equal to a percentage (as provided on Exhibit I attached hereto) multiplied by the sum of the following:

(1) if Exhibit C attached hereto indicates that the Financial Assistance includes sales and use tax abatements, the portion of the amount of State sales and use taxes determined by the Agency to be the amount of such taxes that the Project Beneficiary would have paid in connection with the undertaking of the Project if the Project Facility was privately owned by the Project Beneficiary and not deemed owned or under the jurisdiction, supervision or control of the Agency;

(2) if Exhibit C attached hereto indicates that the Financial Assistance includes mortgage recording tax abatements, the amount determined by the Agency to be the amount of any mortgage recording tax exemption provided by the Agency to the Project Beneficiary in connection with the undertaking of the Project; and

(3) if Exhibit C attached hereto indicates that the Financial Assistance includes real property tax abatements, the amount determined by the Agency to be the difference between the amount of the payment in lieu of tax payments paid by the Project Beneficiary under the Payment in Lieu of Tax Agreement and the amount of the general real property ad valorem taxes that would have been payable by the Project Beneficiary to the Taxing Entities if the Project Facility was privately owned by the Project Beneficiary and not deemed owned or under the jurisdiction and control of the Agency.

(C) Amount of Project Financial Assistance to be Recaptured. Upon the occurrence of a Recapture Event, the Project Beneficiary shall pay to the Agency the Recapture Amount determined by the Agency pursuant to this Agreement.

(D) Redistribution of Project Financial Assistance to be Recaptured. Upon the receipt by the Agency of any Recapture Amount, the Agency shall redistribute such amount within thirty (30) days of such receipt to the respective taxing entity or entities that would have received such amount but for the granting by the Agency of the Financial Assistance.

(E) Survival of Obligations. The Project Beneficiary acknowledges that the obligations of the Project Beneficiary in this Section 8 shall survive any conveyance of the Project Facility to the Project Beneficiary and/or the termination of any Project Facility Agreement.

(F) Agency Review of Recapture Determination. If the Agency determines that a Recapture Event has occurred, it shall give notice of such determination to the Project Beneficiary. The Project Beneficiary shall have fourteen (14) days from the date the notice is deemed given to submit a written response to the Agency's determination and to request a written and/or oral presentation to the Agency why the proposed recapture amount should not be paid to the Agency. The Project Beneficiary may make its presentation at a meeting of the Agency. The Agency shall then vote on a resolution recommending (1) a termination of Financial Assistance, (2) a recapture of Financial Assistance, (3) both a termination and a recapture of Finance Assistance, (4) a modification of Financial Assistance or (5) no action.

9. LATE PAYMENTS. (A) One Month. If you shall fail to make any payment required by this Agreement within thirty days of the date that written notice of such payment is sent from the Agency to the Project Beneficiary at the address provided above, the Project Beneficiary shall pay the amount specified in such notice together with a late payment penalty equal to five percent (5%) of the amount due.

(B) Thereafter. If the Project Beneficiary shall fail to make any payment required by this Interim Project Benefits Agreement when due and such delinquency shall continue beyond the thirty days after such notice, the Project Beneficiary's obligation to make the payment so in default shall continue as an obligation of the Project Beneficiary to the Agency until such payment in default shall have been made in full, and the Project Beneficiary shall pay the same to the Agency together with (1) a late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due hereunder is delinquent beyond the first month, plus (2) interest thereon, to the extent permitted by law, at the greater of (a) one percent (1%) per month, or (b) the rate per annum which would be payable if such amount were delinquent taxes, until so paid in full.

10. EVENTS OF DEFAULT. The following shall be "Events of Default" under this Interim Project Benefits Agreement, and the terms "Event of Default" or "default" shall mean, whenever they are used in this Interim Project Benefits Agreement, any one or more of the following events:

(A) A default in the performance or observance of any of the covenants, conditions or agreements on the part of the Project Beneficiary in this Interim Project Benefits Agreement and the continuance thereof for a period of thirty (30) days after written notice thereof is given by the Agency to the Project Beneficiary, provided that, if such default is capable of cure but cannot be cured within such thirty (30) day period, the failure of the Project Beneficiary to commence to cure within such thirty (30) day period and to prosecute the same with due diligence.

(B) The occurrence of an "Event of Default" under any other Basic Document.

(C) Any representation or warranty made by the Project Beneficiary herein or in any other Basic Document proves to have been false at the time it was made.

11. REMEDIES ON DEFAULT. (A) Whenever any Event of Default hereunder shall have occurred, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

- (1) we may cancel or terminate this Agreement or any or all other agreements that we have entered into with you;
- (2) we may terminate the granting of any of the Financial Assistance that has not already been delivered to you;
- (3) we may, by written notice to you, declare to be immediately due and payable, whereupon the same shall become immediately due and payable, all amounts payable to us pursuant to this Agreement or any of the Project Facility Agreements;
- (4) terminate the Project Facility Agreements, and convey to you all our right, title and interest in and to the Project Facility. You hereby agree to pay all expenses and taxes, if any, applicable to or arising from any such transfer of title); or
- (5) take any other action at law or in equity which may appear necessary or desirable to collect any amounts then due or thereafter to become due hereunder and to enforce the obligations, agreements or covenants of the Project Beneficiary under this Interim Project Benefits Agreement.

(B) Interest will accrue on all amounts due under this Section 11 at the rate of one and one-half percent (1 ½%) per month or the maximum rate permitted by law, whichever is less. None of our rights or remedies under this Agreement are intended to be exclusive of, but each shall be cumulative and in addition to, any other right or remedy referred to hereunder or otherwise available to us under applicable law. If we delay or fail to enforce any of our rights under this Agreement, we will still be entitled to enforce those rights at a later time. If we take possession of the Premises or any portion thereof, we may sublease or otherwise dispose of it (including but not limited to selling the Equipment) with or without notice, at a public or private sale, and apply the net proceeds (after we have deducted all costs related to the subleasing of the Premises and/or the sale or disposition of the Equipment) to the amounts that you owe us. You agree that if notice of sale is required by law to be given, ten (10) days' notice shall constitute reasonable notice. You will remain responsible for any amounts that are due after we have applied such net proceeds.

(C) No action taken pursuant to this Section 11 shall relieve you from your obligations to make any payments required by this Agreement and the other Project Facility Agreements.

12. PAYMENT OF ATTORNEY'S FEES AND EXPENSES. (A) You agree to pay to us all costs and expenses, including reasonable attorneys' fees and legal expenses, incurred by us to enforce any terms or conditions of this Agreement or collect any amounts due hereunder, whether or not a lawsuit is filed, including reasonable attorneys' fees and costs incurred at trial, on appeal and in any arbitration or bankruptcy proceeding.

(B) If the Project Beneficiary should default in performing any of its obligations, covenants or agreements under this Interim Project Benefits Agreement and the Agency should employ attorneys or incur other expenses for the collection of any amounts payable hereunder or for the enforcement of performance or observance of any obligation, covenant or agreement on the part of the Project Beneficiary herein contained, the Project Beneficiary agrees that it will, on demand therefor, pay to the Agency not only the amounts adjudicated due hereunder, together with the late payment penalty and interest due thereon, but also the reasonable fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred, whether or not an action is commenced.

13. REMEDIES; WAIVER AND NOTICE. (A) No Remedy Exclusive. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Interim Project Benefits Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of a Recapture Event or an Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) Notice Not Required. In order to entitle the Agency to exercise any remedy reserved to it in this Interim Project Benefits Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Interim Project Benefits Agreement.

(D) No Waiver. In the event any provision contained in this Interim Project Benefits Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Interim Project Benefits Agreement shall be established by conduct, custom or course of dealing.

14. TERM. This Project Benefits Agreement shall become effective and the obligations of the Project Beneficiary shall arise absolutely and unconditionally upon the execution and delivery of this Interim Project Benefits Agreement by the Project Beneficiary and the Agency. Unless otherwise provided by amendment hereof, this Interim Project Benefits Agreement shall continue to remain in effect until Project Benefits Agreement Termination Date listed above.

15. FORM OF PAYMENTS. The amounts payable under this Interim Project Benefits Agreement shall be payable in such coin and currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

16. PROJECT BENEFICIARY ACTS. Where you are required to do or accomplish any act or thing hereunder, you may cause the same to be done or accomplished with the same force and effect as if done or accomplished by you.

17. AMENDMENTS. This Project Benefits Agreement may not be effectively amended, changed, modified, altered, or terminated except by an instrument in writing executed by the parties hereto.

18. NOTICES. (A) General. All notices, certificates or other communications hereunder shall be in writing and may be personally served, telecopied or sent by courier service or United States mail and shall be sufficiently given and shall be deemed given when (1) delivered in person or by courier to the applicable address stated above, (2) received by telecopy or (3) three business days after deposit in the United States, by United States mail (registered or certified mail, postage prepaid, return receipt requested, properly addressed), or (4) when delivered by such other means as shall provide the sender with documentary evidence of such delivery, or when delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) Addresses. The addresses to which notices, certificates and other communications hereunder shall be delivered are the addresses provided on the first page of this Agreement.

(C) Change of Address. The Agency and you may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

19. BINDING EFFECT. This Project Benefits Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Project Beneficiary and their respective successors and assigns. The provisions of this Interim Project Benefits Agreement are intended to be for the benefit of the Agency.

20. ASSIGNMENT. **YOU WILL NOT ASSIGN, TRANSFER, PLEDGE OR OTHERWISE DISPOSE OF THIS AGREEMENT, WITHOUT OUR PRIOR WRITTEN CONSENT. EXCEPT AS OTHERWISE PROVIDED IN THE PROJECT FACILITY AGREEMENTS, YOU WILL NOT ASSIGN, TRANSFER, PLEDGE OR OTHERWISE DISPOSE OF THE PROJECT FACILITY OR ANY INTEREST THEREIN, OR SUBLET OR LEND THE PROJECT FACILITY OR ANY INTEREST THEREIN TO, OR PERMIT THE PREMISES TO BE USED BY, ANYONE OTHER THAN YOU, IN EACH CASE WITHOUT OUR PRIOR WRITTEN CONSENT.** Upon the occurrence of a Default under the Project Facility Agreements, we may, without notifying you, sell, assign, or transfer this Agreement or our rights in the Project Facility and the Project Facility Agreements. You hereby consent to such assignment and further acknowledge and agree (a) that any such assignee is entitled to enforce all rights so assigned but does not assume any of our obligations hereunder and thereunder, (b) if so directed by us, to pay all assigned payments due under this Agreement directly to such assignee, and (c) **THAT YOU HEREBY WAIVE, AND AGREE NOT TO ASSERT AGAINST ANY SUCH ASSIGNEE, ANY DEFENSE, COUNTERCLAIM OR OFFSET THAT YOU MAY HAVE AGAINST US.** You acknowledge that no such sale, transfer, assignment and/or grant will materially change your duties hereunder or under the Project Facility Agreements or materially increase your burdens or risks hereunder or under the Project Facility Agreements. You agree that upon written notice to you of any such sale, transfer, assignment and/or grant, you shall acknowledge receipt thereof in writing and shall provide reasonable assistance to us and any such assignee in whatever manner necessary to complete any sale, transfer, assignment and/or grant contemplated by this Section 20. Upon any sale, transfer, assignment and/or grant contemplated by this Section 20, and except as may be otherwise provided in connection therewith, all references in this Agreement to "Agency" shall include the related assignee.

21. SEVERABILITY. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Interim Project Benefits Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged

invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Interim Project Benefits Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

22. COUNTERPARTS. This Project Benefits Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

23. APPLICABLE LAW. GOVERNING LAW; FORUM SELECTION. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES OF SUCH STATE), INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE. ANY JUDICIAL PROCEEDING BROUGHT BY OR AGAINST YOU OR US WITH RESPECT TO THIS AGREEMENT SHALL, AT OUR OPTION, BE BROUGHT IN ANY COURT OF COMPETENT JURISDICTION IN THE STATE OF NEW YORK, WITH VENUE IN MADISON COUNTY, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH OF YOU AND WE ACCEPT, GENERALLY AND UNCONDITIONALLY CONSENT TO THE JURISDICTION OF THE AFORESAID COURTS, AND IRREVOCABLY AGREE TO BE BOUND BY ANY FINAL JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS AGREEMENT. YOU WAIVE ANY OBJECTION TO JURISDICTION AND VENUE OF ANY ACTION INSTITUTED HEREUNDER AND SHALL NOT ASSERT ANY DEFENSE BASED ON LACK OF JURISDICTION OR VENUE OR BASED UPON *FORUM NON CONVENIENS*.

24. INDEMNIFICATION. You are responsible for any and all losses, damages, penalties, claims, suits, actions, costs, expenses and disbursements, including legal expenses (collectively "*Claims*"), whether based on a theory of strict liability or otherwise caused by or related to (a) the manufacture, installation, ownership, use, lease, possession or delivery of the Project Facility, (b) any defects in the Project Facility, including, any latent and other defects whether or not discoverable by you, and (c) patent, trademark, design or copyright infringement. You agree to reimburse us for, and indemnify us against, any and all Claims. Your obligations under this Section 24 include Claims against our agents, employees, officers and directors. You agree to give us prompt notice of any claim or liability hereby indemnified against. The indemnities contained in this Section 24 shall continue in full force and effect notwithstanding the expiration or other termination of this Agreement and shall be payable on demand.

25. MISCELLANEOUS. Time shall be of the essence of this Agreement. You agree that the terms and conditions contained in this Agreement make up the entire agreement between you and us regarding the Premises. This Agreement is not binding on us until we sign it. Any change in any of the terms and conditions of this Agreement must be in writing and signed by us. If any part of this Agreement is contrary to, prohibited by, or deemed invalid under applicable law, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder of this Agreement shall not be invalidated thereby and shall be given effect. All notices shall be given in writing by the party sending the notice and shall be effective two (2) days after being deposited in the U.S. Mail, addressed to the party receiving the notice at its address shown on the front of this Agreement (or to any other address specified by that party in writing) with postage prepaid. All of our rights and indemnities will survive the termination of this Agreement. It is the express intent of the parties not to violate any applicable usury laws. If you do not perform any of your obligations under this Agreement, we have the right, but not the obligation, to take any action or pay any amounts that we believe are necessary to protect our interests. You agree to reimburse us immediately upon our demand for any such amounts that we pay. If more than one "Beneficiary" has signed this Agreement, each of you agree that your liability is joint and several.

26. AGENCY'S LIABILITY LIMITED. The obligations and agreements of the Agency contained in this Agreement and any other instrument or document executed in connection herewith or therewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent, servant or employee of the Agency in his individual capacity, and the members, officers, agents, servants 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. The obligations and agreements of the Agency contained herein and therein shall not constitute or give rise to an obligation of the State of New York or Madison County, New York, and neither the State of New York nor Madison County, New York shall be liable hereon or 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 Premises (except for revenues derived by the Agency with respect to the indemnification provisions contained in this Agreement. 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 (a) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) 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 within such ten day period) or failed to respond within such notice period, (b) 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 (c) 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 or employees shall be subject to potential liability, the party seeking such order or decree shall (x) agree to indemnify, defend and hold harmless the Agency and its members, officers, agents and employees against any liability incurred as a result of its compliance with such demand, and (y) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request.

[Remainder of page left blank intentionally]

EXHIBIT A

DESCRIPTION OF THE PROJECT

The Project which is the subject of the attached Agreement is described as follows: (A) (1) the acquisition of an interest in all or a portion of the following: (a) an approximately 232.77 acre parcel of land (a portion of the Tax Parcel No. 37.-1-1.11) located at 1876 West Elm Street in the City of Oneida, Madison County, New York, (b) an approximately 0.69 acre parcel of land (Tax Parcel No. 37.-1-1.12) located at 1944 West Elm Street in the City of Oneida, Madison County, New York, (c) an approximately 1.36 acre parcel of land (Tax Parcel No. 37.-1-2) located at 1900 West Elm Street in the City of Oneida, Madison County, New York, (d) an approximately 140.64 acre parcel of land (Tax Parcel No. 37.-1-4.1) located at West Elm Street in the City of Oneida, Madison County, New York, (e) an approximately 24.72 acre parcel of land (Tax Parcel No. 37.9-1-16.1) located on Court Street North in the Village of Wampsville, Madison County, New York, and (f) an approximately 0.55 acre parcel of land (Tax Parcel No. 37.5-1-5) located on Court Street North in the Village of Wampsville, Madison County, New York (all hereinafter being referred to as the "Land"), together with buildings located thereon (collectively, the "Existing Facility"); (2) the possible demolition or renovation of the Existing Facility; (3) the construction on the Land of the following: (a) three (3) approximately 32 acre each greenhouses, (b) one (1) approximately 14 acre greenhouse, (c) an approximately 100,000 square foot grading building, (d) farmworker housing and (e) approximately 16 acres of water retention basins (collectively, the "Facility"); (4) the making of the necessary infrastructure improvements and upgrades to the Land (collectively, the "Improvements"), and (5) the acquisition and installation therein and thereon of certain machinery and equipment (the "Equipment") (the Land, the Existing Facility, the Facility, the Equipment and the Improvements being collectively referred to as the "Potential Project Facility"), all of the foregoing to constitute a farm and other directly or indirectly related activities; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Potential Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

Project Beneficiary:	A-1	Agency:
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EXHIBIT B-1

DESCRIPTION OF THE EXPECTED PUBLIC BENEFITS

In the discussions had between the Project Beneficiary and the Agency with respect to the Project Beneficiary's request for Financial Assistance from the Agency with respect to the Project, the Project Beneficiary has represented to the Agency that Phases A and B of the Project (as described in the Application) are expected to provide the following benefits to the Agency and/or to the residents of Madison County, New York (the "Public Benefits"):

Description of Benefit		Applicable to Project (indicate Yes or NO)		Expected Benefit
1.	Creation of new permanent jobs	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	118 full time equivalent new jobs at the Project Facility within three (3) years of the date hereof.
2.	Creation of construction employment for local labor	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Average of 75 full-time equivalent construction jobs at the Project Facility for local labor during an estimated construction period of nine (9) months, commencing within nine (9) months of the date hereof.
3.	Private sector investment	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$71,875,000 at the Project Facility within three (3) years of the date hereof.

EXHIBIT B-2

DESCRIPTION OF THE EXPECTED PUBLIC BENEFITS FOR PHASE C OF THE PROJECT

In the discussions had between the Project Beneficiary and the Agency with respect to the Project Beneficiary's request for Financial Assistance from the Agency with respect to the Project, the Project Beneficiary has represented to the Agency that Phase C of the Project (as described in the Application) are expected to provide the following benefits to the Agency and/or to the residents of Madison County, New York (the "Public Benefits"):

Description of Benefit		Applicable to Project (indicate Yes or NO)		Expected Benefit
1.	Creation of new permanent jobs	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	42 full time equivalent new jobs at the Project Facility.
2.	Creation of construction employment for local labor	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Average of 50 full-time equivalent construction jobs at the Project Facility for local labor during an estimated construction period of six (6) months.
3.	Private sector investment	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$27,675,000 at the Project Facility.

EXHIBIT B-3

DESCRIPTION OF THE EXPECTED PUBLIC BENEFITS FOR PHASE D OF THE PROJECT

In the discussions had between the Project Beneficiary and the Agency with respect to the Project Beneficiary's request for Financial Assistance from the Agency with respect to the Project, the Project Beneficiary has represented to the Agency that Phase D of the Project (as described in the Application) are expected to provide the following benefits to the Agency and/or to the residents of Madison County, New York (the "Public Benefits"):

Description of Benefit		Applicable to Project (indicate Yes or NO)		Expected Benefit
1.	Creation of new permanent jobs	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	40 full time equivalent new jobs at the Project Facility.
2.	Creation of construction employment for local labor	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Average of 50 full-time equivalent construction jobs at the Project Facility for local labor during an estimated construction period of six (6) months.
3.	Private sector investment	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$20,175,000 at the Project Facility.

EXHIBIT C-1

DESCRIPTION OF THE EXPECTED FINANCIAL ASSISTANCE FOR PHASES A AND B OF THE PROJECT

In the discussions had between the Project Beneficiary and the Agency with respect to the Project Beneficiary's request for Financial Assistance from the Agency with respect to the Project, the Agency has determined that the Agency intends to grant the following types and amounts of tax abatements and other benefits listed below with respect to the Phases A and B of the Project (as described in the Application):

	Type of Financial Assistance	Applicable to Project (indicate Yes or No)		Amount
1.	Sales tax abatement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$500,000
2.	Mortgage tax abatement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$750,000
3.	Real estate tax abatement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$5,300,000
4.	Proceeds of revenue bonds	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	\$0
5.	Other (describe):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	\$0

EXHIBIT C-2

DESCRIPTION OF THE EXPECTED FINANCIAL ASSISTANCE FOR PHASE C OF THE PROJECT

In the discussions had between the Project Beneficiary and the Agency with respect to the Project Beneficiary's request for Financial Assistance from the Agency with respect to the Project, the Agency has determined that the Agency intends to grant the following types and amounts of tax abatements and other benefits listed below with respect to the Phase C of the Project (as described in the Application):

	Type of Financial Assistance	Applicable to Project (indicate Yes or No)		Amount
1.	Sales tax abatement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$0
2.	Mortgage tax abatement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$0
3.	Real estate tax abatement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$2,243,000
4.	Proceeds of revenue bonds	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	\$0
5.	Other (describe):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	\$0

EXHIBIT C-3

DESCRIPTION OF THE EXPECTED FINANCIAL ASSISTANCE FOR PHASE D OF THE PROJECT

In the discussions had between the Project Beneficiary and the Agency with respect to the Project Beneficiary's request for Financial Assistance from the Agency with respect to the Project, the Agency has determined that the Agency intends to grant the following types and amounts of tax abatements and other benefits listed below with respect to the Phase D of the Project (as described in the Application):

	Type of Financial Assistance	Applicable to Project (indicate Yes or No)		Amount
1.	Sales tax abatement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$0
2.	Mortgage tax abatement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$0
3.	Real estate tax abatement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	\$1,635,000
4.	Proceeds of revenue bonds	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	\$0
5.	Other (describe):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	\$0

EXHIBIT D

DESCRIPTION OF THE MINIMUM REQUIRED ANNUAL REPORT ITEMS

The Project Beneficiary shall annually provide to the Agency a certified statement and documentation meeting the following minimum requirements:

- (1) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Project location;
- (2) either (A) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the Application is still accurate, or (B) if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created; and
- (3) contain a certification under penalty of perjury from the Project Beneficiary (and each other owner, occupant or operator of the Project Facility receiving any portion of the Financial Assistance) that it is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations.

EXHIBIT E

DESCRIPTION OF THE PROJECT FACILITY AGREEMENTS

In connection with the Project and the granting of the Financial Assistance, the Agency and the Project Beneficiary intend to enter into the following documents, among others:

1.	An interim agent and indemnification agreement (the "Interim Agreement") by and between the Agency and the Company, pursuant to which the Agency has agreed to grant certain Financial Assistance to the Company, subject to certain conditions, as such agreement may be amended or supplemented from time to time.
2.	An interim uniform project benefits agreement (the "Interim Project Benefits Agreement") by and between the Agency and the Company, pursuant to which the Agency has agreed to grant certain Financial Assistance to the Company, subject to certain conditions, as such agreement may be amended or supplemented from time to time.
3.	An interim section 875 GML recapture agreement (the "Interim Recapture Agreement") by and between the Project Beneficiary and the Agency, as required by the Act, regarding the recovery or recapture of certain sales and use taxes constituting a part of the Financial Assistance.

EXHIBIT F-1

DESCRIPTION OF THE RECAPTURE EVENTS FOR PHASES A AND B OF THE PROJECT

In connection with the Project and the granting of the Financial Assistance, the Agency and the Project Beneficiary agree that the following shall constitute recapture events with respect to Phases A and B to the Project (as described in the Application) and the granting of the Financial Assistance for Phases A and B:

1.	Failure of the Project Beneficiary to document to the satisfaction of the Agency the commencement of the acquisition, construction, reconstruction, renovation, and/or installation of Phase A within 9 months of the date hereof.
2.	Failure of the Project Beneficiary to document to the satisfaction of the Agency the completion of the acquisition, construction, reconstruction, renovation, and/or installation of Phase A within 2 years of the date hereof.
3.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least 80% of the average full time equivalent local labor construction jobs for Phases A and B listed on <u>Exhibit B-1</u> attached hereto during the construction period described on <u>Exhibit B-1</u> attached hereto.
4.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least 80% of the full time equivalent new jobs during Phases A and B combined listed on <u>Exhibit B-1</u> attached hereto within 3 years of the date hereof.
5.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that at least 80% of the private sector investment for Phases A and B as described on <u>Exhibit B-1</u> attached hereto occurred with respect to the Project Facility within 3 years of the date hereof.
6.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that the Project provided the other Public Benefits described on <u>Exhibit B-1</u> attached hereto within the time frames assigned to such benefits.
7.	Liquidation of substantially all of the Project Beneficiary's operating assets at the Project Facility and/or cessation of substantially all of the Project Beneficiary's operations at the Project Facility.
8.	Relocation of all or substantially all of Project Beneficiary's operations at the Project Facility to another site, or the sale, lease or other disposition of all or substantially all of the Project Facility.
9.	Failure by the Project Beneficiary to comply with the annual reporting requirements or to provide the Agency with requested information.
10.	Sublease or assignment of all or part of the Project Facility in violation of any Project Facility Agreement.
11.	A change in the use of the Project Facility, other than as described on <u>Exhibit A</u> attached hereto and other directly and indirectly related uses, in violation of any Project Facility Agreement.

EXHIBIT F-2

DESCRIPTION OF THE RECAPTURE EVENTS FOR PHASE C OF THE PROJECT

In connection with the Project and the granting of the Financial Assistance, the Agency and the Project Beneficiary agree that the following shall constitute recapture events with respect to Phase C of the Project (as described in the Application), but only to the extent that the Project Beneficiary undertakes Phase C and receives Financial Assistance for Phase C:

1.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least 80% of the average full time equivalent local labor construction jobs for Phase C listed on <u>Exhibit B-2</u> attached hereto during the construction period described on <u>Exhibit B-2</u> attached hereto.
2.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least 80% of the full time equivalent new jobs for Phase C of the Project as set forth in the application for financial assistance within 3 years of commencing construction of Phase C.
3.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that at least 80% of the private sector investment for Phase C as described in the application for financial assistance has occurred within 2 years of commencing construction of Phase C.
4.	Liquidation of substantially all of the Project Beneficiary's operating assets at the Project Facility and/or cessation of substantially all of the Project Beneficiary's operations at the Project Facility after Phase C is placed in service.
5.	Relocation of all or substantially all of Project Beneficiary's operations at the Project Facility to another site, or the sale, lease or other disposition of all or substantially all of the Project Facility after Phase C is placed in service.
6.	Failure by the Project Beneficiary to comply with the annual reporting requirements or to provide the Agency with requested information.
7.	Sublease or assignment of all or part of the Project Facility in violation of any Project Facility Agreement.
8.	A change in the use of the Project Facility, other than as described on <u>Exhibit A</u> attached hereto and other directly and indirectly related uses, in violation of any Project Facility Agreement.

EXHIBIT F-3

DESCRIPTION OF THE RECAPTURE EVENTS FOR PHASE D OF THE PROJECT

In connection with the Project and the granting of the Financial Assistance, the Agency and the Project Beneficiary agree that the following shall constitute recapture events with respect to Phase D of the Project (as described in the Application), but only to the extent that the Project Beneficiary undertakes Phase D and receives Financial Assistance for Phase D:

1.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least 80% of the average full time equivalent local labor construction jobs at the Project Facility listed on <u>Exhibit B-3</u> attached hereto during the construction period described on <u>Exhibit B-3</u> attached hereto.
2.	Failure by the Project Beneficiary to document to the satisfaction of the Agency the creation of at least 80% of the full time equivalent new jobs for Phase D as set forth in the application for financial assistance within 3 years of commencing construction of Phase D.
3.	Failure by the Project Beneficiary to document to the satisfaction of the Agency that at least 80% of the private sector investment for Phase D as described in the application for financial assistance has occurred within 2 years of commencing construction of Phase D.
4.	Liquidation of substantially all of the Project Beneficiary's operating assets at the Project Facility and/or cessation of substantially all of the Project Beneficiary's operations at the Project Facility after Phase D is placed in service.
5.	Relocation of all or substantially all of Project Beneficiary's operations at the Project Facility to another site, or the sale, lease or other disposition of all or substantially all of the Project Facility after Phase D is placed in service.
6.	Failure by the Project Beneficiary to comply with the annual reporting requirements or to provide the Agency with requested information.
7.	Sublease or assignment of all or part of the Project Facility in violation of any Project Facility Agreement.
8.	A change in the use of the Project Facility, other than as described on <u>Exhibit A</u> and other directly and indirectly related uses, in violation of any Project Facility Agreement.

EXHIBIT G

- SEE ATTACHED -

41519417

Mark an X in only one box to indicate the quarter (a separate return must be completed for each quarter) and enter the year.

Jan 1 - ☐ Mar 31 - ☐ Apr 1 - ☐ Jun 30 - ☐ July 1 - ☐ Sep 30 - ☐ Oct 1 - ☐ Dec 31 - ☐ Year

Are dependent health insurance benefits available to any employee? Yes ☐ No ☐

If seasonal employer, mark an X in the box

a. First month	b. Second month	c. Third month

Received date

UI SK AI SI WS

Part B - Withholding tax (WT) information

- | | | |
|--|-----------------------------|--|
| 12. New York State
tax withheld | | |
| 13. New York City
tax withheld | | |
| 14. Yonkers tax
withheld | | |
| 15. Total tax withheld
(add lines 12, 13, and 14) | | |
| 16. WT credit from previous
quarter's return (see instr.) | | |
| 17. Form NYS-1 payments made
for quarter | | |
| 18. Total payments
(add lines 16 and 17) | | |
| 19. Total WT amount due (if line 15
is greater than line 18, enter difference) ... | | |
| 20. Total WT overpaid (if line 18
is greater than line 15, enter difference
here and mark an X in 20a or 20b)* ... | | |
| 20a. Apply to outstanding
liabilities and/or refund | <input type="checkbox"/> OR | 20b. Credit to next quarter
withholding tax |

- 21. Total payment due (add lines 9 and 19; make one remittance payable to NYS Employment Contributions and Taxes)**

* An overpayment of either UI contributions or withholding tax cannot be used to offset an amount due for the other.

Complete Parts D and E on back of form, if required.

Part C – Employee wage and withholding information

Annual wage and withholding totals

Annual wage and withholding totals
If this return is for the 4th quarter or the last return you will be filing for the calendar year, complete columns d and e.

a	b	c	d	e
Social security number	Last name, first name, middle initial	Total UI remuneration paid this quarter	Gross federal wages or distribution (<i>see instructions</i>)	Total NYS, NYC, and Yonkers tax withheld
Totals (<i>column c must equal remuneration on line 1; see instructions for exceptions</i>)				

Totals (column c must equal remuneration on line 1; see instructions for exceptions)

Sign your return: I certify that the information on this return and any attachments is to the best of my knowledge and belief true, correct, and complete.

Signature (see instructions)

Signer's name (please print)

Title

Date _____

Telephone number

Withholding
identification number



41519424

Part D - Form NYS-1 corrections/additions

Use Part D **only** for corrections/additions for the quarter being reported in Part B of this return. To correct original withholding information reported on Form(s) NYS-1, complete columns a, b, c, and d. To report additional withholding information not previously submitted on Form(s) NYS-1, complete **only** columns c and d. Lines 12 through 15 on the front of this return **must** reflect these corrections/additions.

a Original last payroll date reported on Form NYS-1, line A (mmdd)	b Original total withheld reported on Form NYS-1, line 4	c Correct last payroll date (mmdd)	d Correct total withheld
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Part E - Change of business information

22. This line is not in use for this quarter.

23. If you **permanently ceased paying wages**, enter the date (mmddyy) of the final payroll (see Note below)

24. If you **sold or transferred all or part of your business**:

• Mark an X to indicate whether in **whole** ☐ or in **part** ☐

• Enter the date of transfer (mmddyy)

• Complete the information below about the acquiring entity

Legal name	EIN
Address	

Note: For questions about other changes to your withholding tax account, call the Tax Department at (518) 485-6654; for your unemployment insurance account, call the Department of Labor at (518) 485-8589 or 1 888 899-8810. If you are using a paid preparer or a payroll service, the section below must be completed.

Paid preparer's use	Preparer's signature	Date	Preparer's NYTPRIN	Preparer's SSN or PTIN	NYTPRIN excl. code
	Preparer's firm name (or yours, if self-employed)	Address		Firm's EIN	Telephone number ()
Payroll service's name				Payroll service's EIN	

Checklist for mailing:

- File original return and keep a copy for your records.
- Complete lines 9 and 19 to ensure proper credit of payment.
- Enter your withholding ID number on your remittance.
- Make remittance payable to **NYS Employment Contributions and Taxes**.
- Enter your telephone number in boxes below your signature.
- See *Need help?* on Form NYS-45-I if you need forms or assistance.

Mail to:

**NYS EMPLOYMENT
CONTRIBUTIONS AND TAXES
PO BOX 4119
BINGHAMTON NY 13902-4119**

NYS-45 (12/15) (back)

Project Beneficiary:	G-3	Agency:
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EXHIBIT H

ANNUAL REPORT AND DOCUMENTATION

ANNUAL STATUS REPORT

PROJECT BENEFICIARY NAME: _____

ADDRESS: _____

TYPE OF BUSINESS: _____

CONTACT PERSON: _____

TELEPHONE NUMBER: _____

RETAINED JOBS

	Professional	Skilled	Semi-Skilled	Un-Skilled	Total
Full Time					
Part Time					
Seasonal					
Independent Contractors					
Contract Employees					

CREATED JOBS

	Professional	Skilled	Semi-Skilled	Un-Skilled	Total
Full Time					
Part Time					
Seasonal					
Independent Contractors					
Contract Employees					

Officer's Certification

I, the Undersigned, duly elected and appointed _____ (Title) of _____ (Project Beneficiary Name), a _____ (State) _____ (Type of Entity) (the "Project Beneficiary") do hereby certify, pursuant to the requirements of a Uniform Project Benefit Agreement dated as of _____ by and between the Project Beneficiary and Madison County Industrial Development Agency, the following:

(A) That all information provided on this form is complete, true and accurate, and

(B) That the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created described in the Application are still complete, true and accurate.

_____ (Officer's Signature)

_____ (Printed)

Project Beneficiary:	H-1	Agency:
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EXHIBIT I-1

AMOUNT OF FINANCIAL ASSISTANCE TO BE RECAPTURED FOR PHASES A AND B OF THE PROJECT

Upon the occurrence of a Recapture Event for Phases A and B of the Project as set forth on Exhibit F-1, the Project Beneficiary shall pay to the Agency the following amounts as recapture:

Year	Amount of Recapture*
2018	100% of the Project Financial Assistance
2019	100% of the Project Financial Assistance
2020	95% of the Project Financial Assistance
2021	90% of the Project Financial Assistance
2022	85% of the Project Financial Assistance
2023	80% of the Project Financial Assistance
2024	75% of the Project Financial Assistance
2025	70% of the Project Financial Assistance
2026	65% of the Project Financial Assistance
2027	60% of the Project Financial Assistance
2028	55% of the Project Financial Assistance
2029	50% of the Project Financial Assistance
2030	45% of the Project Financial Assistance
2031	40% of the Project Financial Assistance
2032	35% of the Project Financial Assistance
2033	30% of the Project Financial Assistance
2034	25% of the Project Financial Assistance
2035	20% of the Project Financial Assistance
2036	15% of the Project Financial Assistance
2037	10% of the Project Financial Assistance
2038	5% of the Project Financial Assistance

*Represents percentage of the Project Financial Assistance as set forth on Exhibit C-1 hereto.

EXHIBIT I-2

AMOUNT OF FINANCIAL ASSISTANCE TO BE RECAPTURED FOR PHASE C OF THE PROJECT

Upon the occurrence of a Recapture Event for Phase C of the Project as set forth on Exhibit F-2, the Project Beneficiary shall pay to the Agency the following amounts as recapture:

Year	Amount of Recapture*
1 (placed in service)	100% of the Project Financial Assistance
2	100% of the Project Financial Assistance
3	95% of the Project Financial Assistance
4	90% of the Project Financial Assistance
5	85% of the Project Financial Assistance
6	80% of the Project Financial Assistance
7	75% of the Project Financial Assistance
8	70% of the Project Financial Assistance
9	65% of the Project Financial Assistance
10	60% of the Project Financial Assistance
11	55% of the Project Financial Assistance
12	50% of the Project Financial Assistance
13	45% of the Project Financial Assistance
14	40% of the Project Financial Assistance
15	35% of the Project Financial Assistance
16	30% of the Project Financial Assistance
17	25% of the Project Financial Assistance
18	20% of the Project Financial Assistance
19	15% of the Project Financial Assistance
20	10% of the Project Financial Assistance
21	5% of the Project Financial Assistance

*Represents percentage of the Project Financial Assistance as set forth on Exhibit C-2 hereto.

EXHIBIT I-3

AMOUNT OF FINANCIAL ASSISTANCE TO BE RECAPTURED FOR PHASE C OF THE PROJECT

Upon the occurrence of a Recapture Event for Phase D of the Project as set forth on Exhibit F-3, the Project Beneficiary shall pay to the Agency the following amounts as recapture:

Year	Amount of Recapture*
1 (placed in service)	100% of the Project Financial Assistance
2	100% of the Project Financial Assistance
3	95% of the Project Financial Assistance
4	90% of the Project Financial Assistance
5	85% of the Project Financial Assistance
6	80% of the Project Financial Assistance
7	75% of the Project Financial Assistance
8	70% of the Project Financial Assistance
9	65% of the Project Financial Assistance
10	60% of the Project Financial Assistance
11	55% of the Project Financial Assistance
12	50% of the Project Financial Assistance
13	45% of the Project Financial Assistance
14	40% of the Project Financial Assistance
15	35% of the Project Financial Assistance
16	30% of the Project Financial Assistance
17	25% of the Project Financial Assistance
18	20% of the Project Financial Assistance
19	15% of the Project Financial Assistance
20	10% of the Project Financial Assistance
21	5% of the Project Financial Assistance

*Represents percentage of the Project Financial Assistance as set forth on Exhibit C-3 hereto.

EXHIBIT J

**SUMMARY OF PAYMENT DATES AND ESTIMATED
AMOUNTS (OR FORMULA OR FORMULAS BY WHICH SUCH
AMOUNTS MAY BE CALCULATED)**

Not applicable.