

AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT

THIS AGENT AND FINANCIAL ASSISTANCE PROJECT AGREEMENT (hereinafter, the “Agent Agreement”), made as of December 1, 2025, by and between the **ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, with offices at 95 Perry Street, Suite 403, Buffalo, New York 14203 (the “Agency”), and **1016 EAST DELAVAN, LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with offices at c/o McGuire Development Company, 455 Cayuga Road, Suite 100, Buffalo, New York 14225 (the “Company”).

WITNESSETH:

WHEREAS, the Agency was created by Chapter 293 of the Laws of 1970 of the State of New York pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York (collectively, the “Act”) as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company has submitted an application to the Agency (the “Application”), as amended from time to time, a copy of which is on file at the office of the Agency, requesting the Agency to undertake a certain project (the “Project”) consisting of: (i) the acquisition by the Agency of a leasehold interest in certain property located on 1016-1044 East Delavan Avenue, City of Buffalo, Erie County, New York, and all other lands in the City of Buffalo where, by license or easement or other agreement, the Company or its designees are making improvements that benefit the Project (the “Land”); (ii) the construction of an approximately 61,000+/- square-foot light industrial single-story building to serve as the new commissary kitchen for the sole use of the Buffalo Public Schools to prepare and distribute school meals to all schools in the district (the “Improvements”); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the “Equipment”; and, together with the Land and the Improvements, the “Facility”); and

WHEREAS, by Resolutions adopted on August 27, 2025 (the “Resolution”), the Agency authorized the Company to act as its agent for the purposes of undertaking the Project subject to the Company entering into this Agent Agreement; and

WHEREAS, by its Resolution, the Agency has conferred on the Company in connection with the Project certain benefits, exemptions and other financial assistance consisting of: (a) an exemption benefit from all New York State and local sales and use tax exemption benefits for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction or equipping of the Facility, (b) an exemption benefit from mortgage recording tax, and (c) a partial abatement from real property taxes benefit through a 10-Year EIP Tier 2 “payment in lieu of tax agreement” (the “PILOT Agreement”) consistent with the Agency’s Economic Inclusion PILOT Policy dated as of April 23, 2023 (the “EIP Policy” and the 10-Year EIP Tier 2 PILOT hereinafter referred to as the “EIP Enhancement”) with the Company for the benefit of each municipality and school district having taxing jurisdiction over the Project, (collectively, the sales and use tax exemption

benefit, the mortgage recording tax benefit, and the partial abatement from real property taxes benefit, are hereinafter collectively referred to as the “Financial Assistance”); and

WHEREAS, the Agency requires, as a condition and as an inducement for it to provide said Financial Assistance, that the Company provides assurances with respect to the recapture of said Financial Assistance on the terms herein set forth; and

WHEREAS, this Agent Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no agent status in favor of the Company or any subagent thereof, nor any amount of Financial Assistance shall be provided to the Company by the Agency prior to the effective date of this Agent Agreement.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Purpose of Project and Scope of Agency. The purpose of the Agency’s provision of Financial Assistance with respect to the Project is to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the Project to advance job opportunities, health, general prosperity and economic welfare of the people of Erie County, and to specifically promote the investment commitment, employment commitment, local labor commitment, equal pay commitment, and the unpaid real property tax policy commitment all as contained herein and within the Company’s Application.

Pursuant to the Resolution, the Agency has appointed the Company as agent to undertake the Project, as defined herein and within the Resolution. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution to acts reasonably related to the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation thereof in and around the Facility. Pursuant to the Resolution and this Agent Agreement, the Company has the power to delegate such agency, in whole or in part, to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Company chooses including but not limited to the individuals and entities described on Schedule A attached hereto (collectively, the “Subagents”). The Company shall have the right to amend Schedule A from time to time and shall be responsible for maintaining an accurate list of all parties acting as agent for the Agency. The Company’s right to appoint Subagents is expressly conditioned upon updating of Schedule A, hereto, along with the prompt filing of Form ST-60 (non-primary) within 30 days of each Subagent’s appointment date (see Exhibit A). The right of the Company and all duly appointed Subagents to act as agent of the Agency shall expire on **July 31, 2027**, unless extended as contemplated by the Resolution. The aggregate amount of work performed by the Company and all Subagents as agents for the Agency shall not exceed the amounts identified in the Resolution and Section 2(h) of this Agent Agreement.

All contracts entered into by the Company and all Subagents thereof as agent for the Agency shall include the language contained within Schedule B, hereto. Failure by the Company

and/or any Subagent to include such language shall disqualify the agent status and sales tax exemptions derived by virtue of this Agent Agreement. The Company, for itself and on behalf of all duly appointed Subagents, hereby agrees that all contracts entered into by the Company and any Subagents thereof shall be available to the Agency for inspection and confirmation of the foregoing mandatory language.

2. Representations and Covenants of the Company. The Company makes the following representations and covenants in order to induce the Agency to proceed with the Project/Facility:

(a) The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, has the authority to enter into this Agent Agreement, and has duly authorized the execution and delivery of this Agent Agreement.

(b) Neither the execution and delivery of this Agent Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agent Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a material 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 Company under the terms of any such instrument or agreement.

(c) The Facility and the operation thereof will conform, in all material respects, with all applicable zoning, planning, and building laws and regulations of governmental authorities having jurisdiction over the Facility, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection (c).

(d) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way materially diminish or have a material adverse impact on the Company's ability to fulfill its obligations under this Agent Agreement.

(e) The Company covenants that the Facility will comply in respect with all applicable environmental laws and regulations, and, except in compliance with environmental laws and regulations, (i) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist on the Facility except in compliance with all material applicable laws, (ii) that the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances at or from the Facility or onto any other property, (iii) that no asbestos will be incorporated into or disposed of on the Facility, (iv) that no underground storage tanks will be located on the Facility, and (v) that to the Company's knowledge, no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company upon receiving any information or notice contrary to the representations contained in this Section shall promptly notify the Agency in writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend,

indemnify, and hold harmless the Agency, its executive director, directors, members, officers, employees, agents (except the Company), representatives, successors, and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorneys' fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this Section. In the event the Agency in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Facility, the Company agrees to pay the reasonable expenses of same to the Agency upon demand.

(f) Any personal property acquired by the Company in the name of the Agency shall be located in the City of Buffalo, except for temporary periods during ordinary use.

(g) In accordance with Section 874 and 875 of the New York General Municipal Law, the policies of the Agency, and the Resolution, the Company covenants and agrees that it may be subject to a Recapture Event Determination (as hereinafter defined) resulting in the potential modification, recapture and/or termination of any and all Financial Assistance, as described herein, if the Company receives, or any duly appointed Subagents receives any Financial Assistance from the Agency in connection with the Project, and it is reasonably determined by the Agency or Agency staff, as appropriate, that:

(1) the Company or its Subagents, if any, authorized to make purchases for the benefit of the Project is not entitled to the sales and use tax exemption benefits; or

(2) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its Subagents, if any; or

(3) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or

(4) the Company has made a material false or misleading statement, or omitted any information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, on its application for Financial Assistance; or

(5) the Company fails to meet and maintain the thresholds and requirements representing certain material terms and conditions required by the Agency to be complied with and adhered to, as evidenced by submission, as so required by the Agency, of a written certification submitted on an annual basis beginning in the first year in which Financial Assistance is so claimed, through the termination of the PILOT Agreement (said time period so referenced being hereinafter defined as the "Material Terms and Conditions Monitoring Period") confirming:

(a) Investment Commitment – that the total investment actually made with respect to the Project at the Project's construction completion date equals or exceeds \$29,014,821 (which represents the product of 85% multiplied by \$34,135,084 being the total project cost as stated in the Company's application for Financial Assistance); and

(b) Employment Commitment – that there are at least 16 existing full time equivalent employees (“FTE”) and at least 35 existing part time equivalent employees (“PTE”) located at, or to be located at, the Facility as stated in the Company’s application for Financial Assistance (the “Baseline FTE”); and specifically confirming:

- the number of current FTE employees in the then current year at the Facility; and
- that within two (2) years of Project completion, the Company has maintained and created FTE employment at the Facility equal to 16 FTE and 47 PTE employees [the 47 PTE employees being calculated by taking the sum of the Baseline PTE of 35 plus the product of 85% and 15 PTE (being the total number of new PTE employee positions proposed to be created by the Company)]. To confirm and verify the Company’s employment numbers, the Agency requires that, at a minimum, the Company provide employment data to the Agency on a quarterly basis, said information to be provided on the Agency’s “Quarterly Employment Survey” form to be made available to the Company by the Agency.

On an annual basis, the Company shall provide to the Agency, a certified statement and documentation: (i) 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, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and 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. Exhibit F contains the form of annual certification as so required; and

(c) Local Labor Commitment – that the Company adheres to and undertakes or has undertaken construction activities in compliance with the Agency’s Local Labor Workforce Certification Policy and Local Labor Reporting Requirements on a quarterly reporting basis during the construction period (Exhibit D); and

(d) Equal Pay Commitment – that the Company adheres to and undertakes or has undertaken activities in compliance with the Agency’s Pay Equity Policy; and

(e) Unpaid Real Property Tax Policy Commitment – that the Company is compliant with the Agency’s Unpaid Real Property Tax Policy.

(f) Construction Period Commitment – that the Company, in accordance with the EIP Policy, meets a 30% MWBE (25% MBE and 5% WBE) utilization rate, based upon total construction contract value, for construction activities.

(g) Post Construction Period Commitment – that the Company demonstrate that it has total workforce (jobs retained) consisting of 30% minorities and women (minimum 20% minority and at least 30% minorities or women), based upon total workforce commitments within two years after Project completion and maintain those percentages during the term of the applicable PILOT Agreement and on an annual basis complete/implement at least one (1) of the EIP Policy Best Practices as described therein during the term of the applicable PILOT Agreement.

The findings made by the Agency, or Agency staff, as appropriate, with respect to Section 2(g)(1), (2), (3) and/or (4) and/or failure to provide the written confirmation as required by Section 2(g)(5) with respect to the thresholds and requirements as identified in Section 2(g)(5), above, and/or failure to meet the thresholds and requirements as identified in Section 2(g)(5) above, may potentially be determined by the Agency, in accordance with the Agency’s “Policy for Termination and/or Modification of Agency Financial Assistance and Recapture of Agency Financial Assistance Previously Granted” as amended and restated on May 25, 2016 (the “Recapture Policy”), or by Agency Staff, as appropriate, to constitute a failure to comply with Section 875(3) of the New York General Municipal Law, and/or a failure to comply with a material term or condition to use property or services or Agency Financial Assistance in the manner approved by the Agency in connection with the Project, and/or a failure to comply with the Agency’s policies and Resolution (collectively, findings and determinations made as described herein with respect to Section 2(g)(1), (2), (3) and/or (4) and/or the failure under Section 2(g)(5) to submit the required certification and/or the failure to meet the required thresholds and requirements as specified in Section 2(g)(5) are hereby defined as a “Recapture Event Determination”). If the Agency makes a Recapture Event Determination, or notwithstanding anything contained herein to the contrary, Agency staff makes a finding with respect to Section 2(g)(1), (2), or (3) above, and/or Agency staff determines that the Company has closed the Project or has failed to operate the Project as contemplated by the Application and the Resolution, then the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any and all Financial Assistance obtained by the Company and (ii) promptly pay over any such amounts to the Agency that the Agency demands in connection therewith. The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner and/or Erie County Comptroller may assess and determine the Financial Assistance due from the Company, together with any relevant penalties and interest due on such amounts.

(6) At any time during the Material Terms and Conditions Monitoring Period, the Facility shall cease to be a “project” within the meaning of the Act, as in effect on the effective date as stated above, through the act or omission of the Company, or there is a sale of the Facility undertaken without the prior written consent of the Agency, or there is a closure of the Facility such that it no longer operates as a “project” as approved by the Agency within the Resolution.

(h) In accordance with the EIP Policy, the Company covenants and agrees that in the event it fails to meet and/or maintain the Construction Period Obligations and/or the Post-Construction Period Obligations as described within the EIP Policy and as applicable to the EIP Enhancement during the term of this Agent Agreement and the term of the PILOT Agreement, (each individually, and collectively, an “EIP Default”) then (i) it will be unable to claim and/or to continue to claim the EIP Enhancement for the remaining term of the PILOT Agreement, and (ii) the PILOT Agreement shall be amended to default to the terms of the otherwise applicable standard PILOT Schedule as also identified within the EIP Policy.

(i) ADHERENCE TO ALL APPLICABLE FEDERAL AND STATE DISCRIMINATION LAWS. The Company acknowledges and understands that it shall not engage in any unlawful discrimination against any employee or applicant by reason of race, creed, religion, color, age, disability, national origin, sex, gender, or any other characteristic protected by law, including, but not limited to, Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Genetic Information Nondiscrimination Act, the New York State Human Rights Law, and any other similar laws, rules, or regulations.

(j) In accordance with the Resolution, the Application, and the cost-benefit analysis, the Company further:

(i) covenants that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes shall be in an amount estimated up to \$14,437,113, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency, subject to Section 2(g) of this Agent Agreement, cannot exceed \$1,263,247;

(ii) covenants that the value of the mortgage recording tax exemption benefit shall not exceed \$216,750; and

(iii) confirms that real property tax abatement benefits to be provided are estimated to be approximately \$5,116,715 resulting in estimated total PILOT payments of \$1,314,090 over the term of the PILOT Agreement. Estimated dates when PILOT payments are to be made, and the PILOT payment formula, are provided in Exhibit G.

(k) The Company acknowledges and agrees that the foregoing Agency Financial Assistance constitutes “public funds” unless otherwise excluded under Section 224-a(3) of the New York Labor Law, and by executing this Agreement, (i) confirms and acknowledges that it has received notice from the Agency pursuant to Section 224-a(8)(d) of the New York Labor Law and (ii) acknowledges its obligations pursuant to Section 224-a(8)(a) of the New York Labor Law. Other than the Agency Financial Assistance estimates provided herein and disclosed to the Company, the Agency makes no representations or covenants with respect to the total sources of “public funds” received by the Company in connection with the Project.

(l) The Company acknowledges and understands that a Recapture Event Determination based on the Company’s action or inaction made with respect to Section 2(g)(4)

of this Agent Agreement will, in addition, immediately result in the loss and forfeiture of the Company's right and ability to obtain any and all future Financial Assistance with respect to the Project.

(m) The Company further covenants and agrees to complete, or cause to be completed, "IDA Appointment of Project Operator or Agent For Sales Tax Purposes" (NYS Form ST-60), in the form attached hereto as Exhibit A, for each Subagent, if any, and such other parties as the Company chooses who provide materials, equipment, supplies or services and forward said form to the State Department of Taxation and Finance within thirty (30) days of appointment.

(n) The Company acknowledges and agrees that all purchases made in furtherance of the Project shall be made using "IDA Agent or Project Operator Exempt Purchase Certificate" (NYS Form ST-123, a copy of which is attached hereto as Exhibits B-1 and B-2), and it shall be the responsibility of the Company (and not the Agency) to complete NYS Form ST-123. The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the bill or invoice should state, "I, [NAME OF COMPANY OR SUBAGENT], certify that I am a duly appointed agent of the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY and that I am purchasing the tangible personal property or services for use in the 1016 EAST DELAVAN, LLC Project located at 1016-1044 East Delavan Avenue, Buffalo, New York 14215, IDA Project Number 1404-25-10A". For convenience purposes, in the instance where the vendor does not print on each invoice the acknowledgment as described in the prior sentence, an "Invoice Rider" (a copy of which is attached hereto as Exhibit B-3) can be utilized for record keeping purposes.

(o) The Company further covenants and agrees to file an annual statement with the State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (NYS Form ST-340, a copy of which is attached hereto as Exhibit C) regarding the value of sales and use tax exemptions the Company and its Subagents, if any, have claimed pursuant to the agency conferred on the Company with respect to the Project in accordance with General Municipal Law Section 874(8). The Company further covenants and agrees that it will, within thirty (30) days of each filing, provide a copy of same to the Agency; provided, however, in no event later than February 15th of each year. The Company understands and agrees that the failure to file such annual statement will result in the removal of the Company's authority to act as agent for the Agency.

(p) The Company further covenants and agrees to submit to the Agency a Local Labor Utilization Report, which is attached hereto as Exhibit D, on a quarterly basis within ten (10) business days of each quarter end during the construction period. This report represents verification that the Company and its Subagents, if any, adheres to and undertakes or has undertaken construction activities in compliance with the Agency's Local Labor Workforce Certification Policy and Local Labor Reporting Requirements.

(q) The Company acknowledges and agrees that, with respect to the Project, except to the extent of bond proceeds (to the extent bonds are issued by the Agency with respect to the Project), the Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder.

(r) The Company covenants and agrees that at all times during the Material Terms and Conditions Monitoring Period, it will (i) maintain its existence, continue to operate the Project as contemplated by the Application and the Resolution and not dissolve, (ii) continue to be a limited liability company subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not liquidate, wind-up or dissolve or otherwise sell, assign, or dispose of all or substantially all of its property, business or assets except this Agent Agreement may be assigned to a Related Person of the Company (as that term is defined in subparagraph (C) of paragraph three of subsection (b) of section four hundred sixty-five of the Internal Revenue Code of 1986, as amended, hereinafter "Related Person") without the receipt of the Agency's prior written consent and provided such assignee/successor entity shall reaffirm the Company's obligation's hereunder, and (iv) not consolidate with or merge into another entity or permit one or more entities to consolidate with or merge into it except upon receipt of the Agency's prior written consent and unless such merged or combined entity shall reaffirm the Company's obligation's hereunder. Granting or withholding of the Agency's consent shall be in the sole discretion of the Agency. A transfer in excess of 50% of the equity voting interests of the Company, other than to a Related Person of the Company, shall be deemed an assignment and require the prior written consent of the Agency.

(s) The Company confirms and acknowledges under the penalty of perjury that as of the date hereof, the Company, as owner, occupant, or operator of the Project receiving Financial Assistance from the Agency in connection with the Project, is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations. The Company further agrees that it will, throughout the term of this Agent Agreement, promptly comply in all material respects with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of all federal, state, county, municipal and other governments, departments, commissions, boards, companies or associations insuring the premises, courts, authorities, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof, or to any use, manner of use or condition of the Facility or any part thereof. Notwithstanding the foregoing, the Company may in good faith contest the validity of the applicability of any requirement of the nature referred to in this Section 2(s). In such event, the Company, with the prior written consent of the Agency (which shall not be unreasonably conditioned, delayed or withheld) may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom unless the Agency shall notify the Company that it must comply with such requirement or requirements.

3. Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its directors, members, officers, employees, agents (except the Company), representatives, successors and assigns harmless from and against, any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Facility or breach by the Company of this Agent Agreement or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, constructing, rehabilitating, renovating, equipping, owning and leasing of the Equipment or of the Facility, including without limiting the generality of the foregoing, all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective directors, members, officers, employees, agents (except the Company), representatives, successors and assigns and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to gross negligence or willful misconduct on the part of the Agency or any other person or entity to be indemnified. In the event of any claim against the Agency or its directors, members, officers, employees, agents (except the Company), representatives, successors and assigns by any employee of the Company or any contractor of the Company or anyone directly or indirectly employed by any of them or any one for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Company or such contractor under Worker's Compensation acts, disability benefits or other employee benefit acts. Any other provisions of this Agent Agreement to the contrary notwithstanding, the obligations of the Company shall remain in full force and effect after the termination of this Agent Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses and charges incurred by the Agency, or its directors, members, officers, employees, agents (except the Company), representatives, successors and assigns, relating thereto.

4. Insurance Required. During the term of an Agent Agreement and/or a Lease Agreement entered into with the Erie County Industrial Development Agency an **ACORD 25-Certificate of Liability Insurance** and **ACORD 855 NY-New York Construction Certificate of Liability Addendum** shall be provided evidencing the following insurance is currently maintained and in force with an insurance carrier approved to do business in the State of New York and maintaining an A.M. Best Rating of A- or better showing Erie County Industrial Development Agency as Certificate Holder. See Schedule C for further insurance requirements.

5. Additional Provisions Respecting Insurance. (a) Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for payment of the losses of the Company and the Agency as their respective interests may appear. The Company

shall cause all contractors and agents of the Company undertaking the Project to carry and provide evidence of Commercial General Liability Insurance and Umbrella/Excess Liability Insurance consistent with the minimal coverages and limits of insurance requirements as specified within Section 4 of this Agent Agreement, with the Agency named as an additional insured.

(b) All such certificates of insurance of the insurers indicating that such insurance is in force and effect, and all policies (if applicable), shall be deposited with the Agency on the date hereof. At least thirty (30) days prior to expiration of the policy evidenced by said certificates, the Company shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

6. This Agent Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument. The signatures of the Company and the Agency to this Agent Agreement may be in the form of an image of its manually executed signature transmitted by facsimile or other electronic format (including, without limitation, "pdf", "tif" or "jpg") or an electronic signature executed through DocuSign.

7. All notices, certificates and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective party at the following address (or at such other address for a party as shall be specified in a notice given in accordance with this Section:

To the Agency: Erie County Industrial Development Agency
95 Perry Street, Suite 403
Buffalo, New York 14203
Attn: Chief Executive Officer
Email: jcappell@ecidany.com

With a copy to: Harris Beach Murtha Cullina PLLC
726 Exchange Street, Suite 900
Buffalo, New York 14210
Attn: Robert G. Murray, Esq.
Email: bmurray@harrisbeachmurtha.com

To the Company: 1016 East Delavan, LLC
c/o McGuire Development Company
455 Cayuga Road, Suite 100
Buffalo, New York 14225
Attn: Eric Ekman, Vice President,
Development & Acquisitions
Email: eric@mcg-dev.com

With a copy to: Blinkoff & Blinkoff, P.C.
501 John James Audubon Parkway, Suite 400
Amherst, New York 14228
Attn: Michael M. Blinkoff, Esq.
Email: mblinkoff@blinkoff.com

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

8. This Agent Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Erie County, New York.

9. The warranties, representations, obligations and covenants of the Company under this Agent Agreement shall be absolute and unconditional and shall remain in full force and effect during the term of this Agent Agreement, shall be deemed to have been relied upon by the Agency, and shall survive the delivery and termination of this Agent Agreement to the Agency, regardless of any investigation made by the Agency. The warranties, representations, obligations and covenants of the Company under this Agent Agreement shall survive any termination or expiration of the Leaseback Agreement and/or the PILOT Agreement, as described below. The obligations of the Company to provide the indemnity and hold the Agency harmless as required by this Agent Agreement shall survive the termination of this Agent Agreement, and all such payments after such termination shall be made upon demand of the party to whom such payment is due.

10. The parties are contemplating that, after any applicable public hearing(s), if required, the Agency will negotiate and enter into a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), and a PILOT Agreement with the Company. The Company agrees not to take title to any real property as agent for the Agency. The Agency will provide the Company with a bill of sale (a form of which is attached hereto as Exhibit E) which sells, transfers and delivers unto the Company and its successors and assigns, all Equipment which were acquired and installed and/or are to be acquired and installed by the Company as agent for the Agency pursuant to this Agent Agreement which Equipment is located or intended to be located at 1016-1044 East Delavan Avenue and all other lands in the City of

Buffalo where, by license or easement or other agreement, the Company or its designees are making improvements that benefit the Project.

11. By executing this Agent Agreement, the Company covenants and agrees to pay all fees, costs and expenses incurred by the Agency: (a) for legal services in connection with the project, including but not limited to those provided by the Agency's general counsel or bond/transaction counsel, (b) for consulting services, if any, in connection with the Project or any aspect of the Project including matters related to, but not limited to, consultants retained to assist the Agency in consideration of a potential Recapture Event Determination (whether or not such a Recapture Event Determination is made or can be made), and (c) for any and all costs, including reasonable attorney fees and reasonable consultant fees, with respect to enforcing this Agent Agreement. The Agency counsel fees, excluding such fees related to enforcing this Agent Agreement or those associated with Section 3 of this Agent Agreement, are based upon the Company's representations made in its application for Agency assistance and as established in accordance with the Agency counsel fee schedule. The Company further covenants and agrees to make a non-refundable payment upon execution of this Agent Agreement in accordance with the terms of the Agency Counsel Fee Agreement. The Company further covenants and agrees that the Company is liable for payment to the Agency of all charges referred to above, as well as all other actual costs and expenses incurred by the Agency in undertaking the Project notwithstanding the occurrence of any of (i) the Company's withdrawal, abandonment, cancellation or failure to pursue the Project; (ii) the inability of the Agency or the Company to procure the services of one or more financial institutions to provide financing for the Project; or (iii) the Company's failure, for whatever reason, to undertake and/or successfully complete the Project.

(Remainder of page intentionally left blank)

[Signature Page to Agent and Financial Assistance Project Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this Agent Agreement as of the day and year first above written.


**ERIE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

Dated: December 2, 2025

By: 
Name: Elizabeth A. O'Keefe
Title: Vice President of Operations

1016 EAST DELAVAN, LLC

Dated: December 5, 2025

By: 
Name: F. James McGuire
Title: Manager

SCHEDULE A

LIST OF APPOINTED AGENTS¹

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

¹ FOR EACH AGENT APPOINTED BY THE COMPANY, A NYS FORM ST-60 MUST BE COMPLETED AND FILED BY THE COMPANY WITH THE NYS DEPARTMENT OF TAXATION AND FINANCE IDA UNIT INDICATING THE APPOINTMENT OF SUCH AGENT OF THE COMPANY.

SCHEDULE B

MANDATORY AGENT AND SUBAGENT CONTRACT LANGUAGE

“This contract is being entered into by **[NAME OF COMPANY OR NAME OF SUBAGENT]** (the “Agent”), as agent for and on behalf of the **ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the “Agency”), in connection with a certain project of the Agency for the benefit of **1016 EAST DELAVAN, LLC**, consisting in part of the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation in certain premises located at 1016-1044 East Delavan Avenue, Buffalo, New York 14215 (the “Premises”). The acquisition of the machinery, equipment and building materials to be incorporated and installed in the Premises and all services and rentals of equipment related to the acquisition, construction and equipping of the Project shall be exempt from all New York State and local sales and use taxes if the acquisition thereof is effected in accordance with the terms and conditions set forth in the attached sales tax exemption information letter of the Agency; and the Agent hereby represents that this contract is in compliance with the terms of the Agent and Financial Assistance Project Agreement by and between 1016 EAST DELAVAN, LLC and the Agency dated as of December 1, 2025. This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor hereby acknowledges and agrees to the terms and conditions set forth in this paragraph.”

SCHEDULE C

Agency Insurance Requirements

Acceptable Certificates of Insurance shall indicate the following minimal coverage, limits of insurance, policy numbers and policy effective and expiration dates.

Commercial General Liability: Agent and subcontractors shall provide such coverage on an occurrence basis for the named insured's premises & operations and products-completed operations. Blanket Contractual Liability provided within the "insured contract" definition may not be excluded or restricted in any way. Property damage to work performed by subcontractors may not be excluded or restricted nor shall the Additional Insured's coverage for claims involving injury to employees of the Named Insured or their subcontractors be excluded or restricted. The "insured contract" exception to the Employers Liability exclusion also may not be removed or restricted in any way.

These coverages are to be properly evidenced by checking the appropriate box(es) on the **ACORD 855-NY Construction Certificate of Liability Addendum's** Information Section, Items G, H, I and L. Policy shall have attached **Designated Location(s) General Aggregate Limit CG 25 04** endorsement.

Limits expressed shall be no less than:

Each Occurrence	\$1,000,000
Damages to Rented Premises (each occurrence)	\$100,000
Med Exp (any one person)	\$5,000
Personal & Adv Injury	\$1,000,000
General Aggregate	\$2,000,000
Products – Comp/OP Agg	\$2,000,000

Erie County Industrial Development Agency shall be named as Additional Insured per **ISO Form CG 20 26-Additional Insured Designated Person or Organization, CG 20 37-Additional Insured-Owners, Lessees or Contractors-Completed Operations** to provide coverage for the Additional Insured. Coverage shall apply on a Primary & Non-Contributory basis. All insurance required of the Company shall waive any right of subrogation of the insurer against any person insured under such policy, and waive any right of the insurer to any off-set or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any person insured under such policy.

Blanket Additional Insured endorsement to include - Owner, Lessees or Contractors - Automatic Status For Other Parties When Required in Written Construction Agreement - Wording should include any other person or organization you are required to add as an additional insured under the contract or agreement (Paragraph 2 of CG 20 38 04 13 or equivalent)

Any scheduled person or organization section of the additional insured endorsement containing wording other than designated names shall not be accepted.

ACORD 855 NY-New York Construction Certificate of Liability Insurance: It is not uncommon for insurers to modify the standard ISO policy language with endorsements that result in modifications to language preferred by the insurer. This addendum is required to supplement the **ACORD 25-Certificate of Liability Insurance** with additional information that provides a more detailed expression of the types of coverage required. Specifically required coverages may be excluded or limited by the attachment of exclusionary or limitation endorsements. This addendum provides the insurer the ability to certify coverage provided by the absence of such exclusionary or limiting modifications.

Umbrella/Excess Liability: Commercial Umbrella or excess liability for a limit of at least \$5,000,000 per occurrence with a \$5,000,000 Aggregate. Coverage should respond on a follow-form basis and excess over the aforementioned underlying policy limits. Erie County Industrial Development Agency shall be named as Additional Insured. Coverage shall apply on a Primary & Non-Contributory basis.

Workers Compensation/Disability Insurance:

- i) The Company and/or Project Owner shall provide evidence of insurance and maintain Workers Compensation/Disability insurance as required by statute.

ii) **Accepted Forms:**

<u>Workers Compensation Forms</u>		<u>DBL (Disability Benefits Law) Forms</u>	
CE-200	Exemption	CE-200	Exemption
C-105.2	Commercial Insurer	DB-120.1	Insurers
SI-12	Self-Insurer	DB-155	Self-Insured
GSI-105.2	Group Self-Insured		
U-26.3	New York State Insurance Fund		

If the Company and/or Project owner have no employees, the Company and/or Project owner shall provide a completed and signed Form CE-200 or later revision, which is found on the New York State Workers Compensation Board website: www.wcb.ny.gov/ This form is to be completed on-line, printed, and signed.

ECIDA Address: All evidence of insurance shall be sent to:

Erie County Industrial Development Agency
 95 Perry St, Suite 403
 Buffalo, NY 14203

EXHIBIT A

**FORM OF NYS FORM ST-60 TO BE COMPLETED BY COMPANY AND FILED WITH
THE NYS TAX DEPARTMENT IDA UNIT FOR EACH OF ITS SUBAGENTS WITHIN
THIRTY (30) DAYS OF APPOINTMENT**

[Attached Next Page]

EXHIBIT B-1

**NYS FORM ST-123
FOR
COMPANY**

[Attached Next Page]

EXHIBIT B-2

**NYS FORM ST-123
FOR
SUBAGENTS OF COMPANY**

[Attached Next Page]

EXHIBIT B-3

INVOICE RIDER FORM

[Attached Next Page]

INVOICE RIDER

(Complete and Attach to Invoice)

I, _____, the
_____ of _____

certify that I am a duly appointed agent of the Erie County Industrial Development Agency (“Agency”) and that I am purchasing the tangible personal property or services for use in the following Agency Project and that such purchases qualify as exempt from sales and use taxes under the Agent and Financial Assistance Project Agreement, dated as of December 1, 2025, by and between the Agency and 1016 East Delavan, LLC.

Name of the Project: 1016 East Delavan, LLC Project

Street address of the Project Site: 1016-1044 East Delavan Avenue
City of Buffalo,
Erie County, New York

IDA OSC project number: 1404-25-10A

EXHIBIT C

**NYS FORM ST-340 TO BE COMPLETED BY THE COMPANY AND FILED
ANNUALLY WITH THE NYS TAX DEPARTMENT IDA UNIT NO LATER THAN
FEBRUARY 15TH OF EACH YEAR**

[Attached Next Page]

EXHIBIT D

**AGENCY LOCAL LABOR UTILIZATION REPORT
TO BE SENT TO THE AGENCY ON A QUARTERLY BASIS**

[Attached Next Page]

EXHIBIT E

BILL OF SALE

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York with offices at 95 Perry Street, Suite 403, Buffalo, New York 14203 (the “Grantor”), for the consideration of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration received by the Grantor from **1016 EAST DELAVAN, LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with offices at c/o McGuire Development Company, 455 Cayuga Road, Suite 100, Buffalo, New York 14225 (the “Grantee”), the receipt of which is hereby acknowledged by the Grantor, hereby sells, transfers and delivers unto the Grantee and its successors and assigns, the Equipment [as defined in the Agent and Financial Assistance Project Agreement dated December 1, 2025 (the “Agent Agreement”), as may be amended from time to time], which were acquired and installed and/or are to be acquired and installed by the Grantee as agent for the Grantor pursuant to the Agent Agreement, which Equipment is located or intended to be located at the Grantee’s Facility located at 1016-1044 East Delavan Avenue, Buffalo, New York 14215.

TO HAVE AND TO HOLD the same unto the Grantee and its successors and assigns, forever.

THE GRANTOR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE EQUIPMENT OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE EQUIPMENT OR ANY PART THEREOF FOR THE GRANTEE’S PURPOSES OR NEEDS. THE GRANTEE SHALL ACCEPT TITLE TO THE EQUIPMENT “AS IS,” WITHOUT RECOURSE OF ANY NATURE AGAINST THE GRANTOR FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OF DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE GRANTOR SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

IN WITNESS WHEREOF, the Grantor has caused this bill of sale to be executed in its name by the officer described below on the date indicated beneath the signature of such officer and dated as of the ____ day of _____, 20__.

**ERIE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

Form Only - Do Not Sign

By: _____

Name: Elizabeth A. O’Keefe

Title: Vice President of Operations

EXHIBIT F

**DRAFT FORM OF ANNUAL EMPLOYMENT AND SALARY AND FRINGE
BENEFITS AND RELATED PROJECT INFORMATION CERTIFICATION LETTER**

[Attached Next Page]

EXHIBIT G

Payment in lieu of Taxes Estimated Due Dates and Payment Formula

**** Assumes Project Completion Date is before the December 31, 2026 Tax Status Date**

Project Tax Year	TAX FISCAL YEAR		Payment Factor
	County	City/School	
1	2027	2026-2027	5%
2	2028	2027-2028	5%
3	2029	2028-2029	10%
4	2030	2029-2030	10%
5	2031	2030-2031	15%
6	2032	2031-2032	15%
7	2033	2032-2033	20%
8	2034	2033-2034	20%
9	2035	2034-2035	25%
10	2036	2035-2036	25%
11	2037	2036-2037	30%
12	2038	2037-2038	50%

PILOT Payment Amount Formula

Upon the commencement of the tax fiscal years set forth above, the Company shall make payments in lieu of taxes to all taxing authorities in accordance with the formula, below. For each taxing authority, such payments in lieu of taxes shall be equal to the sum of (a) the land component payment amount, and (b) the variable component payment amount, as further described, below.

- (a) The land component (“Land Component”) shall be equal to the product of:
 - (i) The then current tax rate for the then current tax fiscal year,
x
 - (ii) The then current assessed valuation that is to be determined by the Assessor of the City of Buffalo of the non-depreciable portion of all tax parcels comprising the Project (assessed as land).

- (b) The variable component (“Variable Component”) shall be equal to the product of:
 - (i) The then current tax rate for the then current tax fiscal year
x
 - (ii) The then current assessed valuation of the depreciable portion of all tax parcels difference comprising the Project (assessed as buildings or other improvements).
x
 - (iii) A payment factor applicable to such tax fiscal year as expressed in the table, above.