

**Inducement Resolution  
The Indium Corporation of America/Woods Park Drive Facility**

RESOLUTION OF THE ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION TOWARD APPOINTING THE INDIUM CORPORATION OF AMERICA, THE PRINCIPALS OF THE INDIUM CORPORATION OF AMERICA, AND/OR AN ENTITY FORMED OR TO BE FORMED ON BEHALF OF ANY OF THE FOREGOING AS AGENT OF THE AGENCY IN CONNECTION WITH AN AMENDED LEASE-LEASEBACK TRANSACTION, AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDUCEMENT AGREEMENT, AUTHORIZING THE AGENCY TO CONDUCT A PUBLIC HEARING AND MAKING CERTAIN FINDINGS AND DETERMINATIONS WITH RESPECT TO THE PROJECT.

WHEREAS, The Indium Corporation of America, on behalf of itself and/or the principals of The Indium Corporation of America, and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has applied to the Agency to enter into a transaction in which the Agency will assist in the acquisition and renovation of a three-story, 124,000± square foot office building (the "Improvements") situated on a 13.5± acre parcel of land located at 301 Woods Park Drive, Town of New Hartford, Oneida County, New York (the "Land") and acquisition and installation of equipment in the Improvements (the "Equipment"), all for the purpose of providing a corporate headquarters to support, expand and better utilize the Company's current manufacturing facilities in Oneida County (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the acquisition and equipping of the Facility is referred to as the "Project"); and

WHEREAS, AX NY Office L.P. ("AX NY") owns the Facility and leases it to the Agency pursuant to a Lease Agreement dated October 9, 2007 (the "Existing Lease Agreement"); and

WHEREAS, the Agency leases the Facility back to AX NY pursuant to a Leaseback Agreement dated October 9, 2007 (the "Existing Leaseback Agreement"); and

WHEREAS, AX NY subleases a 41,500± square foot portion of the Facility to the Company for its operation, and subleases an 82,000± square foot portion of the Facility to Hartford Fire Insurance Company for its operation (the "Hartford Sublessee"); and

WHEREAS, the Facility is the subject of a PILOT Agreement dated as of March 13, 2003 (the "Existing PILOT Agreement") by and among AX NY, the Hartford Sublessee and the Agency; and

WHEREAS, the Agency collects and allocates PILOT Payments under the Existing PILOT Agreement pursuant to the terms of an Agreement Allocating PILOT Payments dated as of October 15, 2008 (the "Allocation Agreement") by and among the Agency, the Town of New Hartford (the "Town"), the New Hartford Central School District and the County of Oneida (collectively, the "Affected Tax Jurisdictions"); and

WHEREAS, the Agency and the Taxing Authorities entered into the Allocation Agreement for the purpose of providing the Town with a source of funding first to pay the Town's Actual Debt Service pertaining to the Public Improvements to develop the New Hartford Business Park (as said terms are defined in the Allocation Agreement); and

WHEREAS, the Company proposes to purchase the Facility from AX NY, and AX NY will assign to the Company its interest under the Existing Lease Agreement, the Existing Leaseback Agreement and the Existing PILOT Agreement; and

WHEREAS, the Company and the Agency will amend and restate the Existing Lease Agreement, the Existing Leaseback Agreement and the Existing PILOT Agreement to add and include the Project and the proposed Financial Assistance (defined below), to extend the Lease Term (as said term is defined in the Existing Leaseback Agreement) and to conform all documents to the Agency's current forms; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in connection with the Project in the form of exemptions from sales and use taxes, exemptions from mortgage recording taxes and reduction in real property taxes for a period of ten years, commencing when the Existing PILOT Agreement is scheduled to expire, during which time taxes will be reduced by a fixed amount each year (the "Proposed Financial Assistance"), which financial assistance is a deviation

from the Agency's Uniform Tax Exemption Policy, and which will be more particularly set forth in a final authorizing resolution; and

WHEREAS, based upon representations made by the Company in the Application, the value of the Proposed Financial Assistance is described as follows:

- Sales and use tax exemption not to exceed \$131,250.00
- Mortgage recording tax exemption not to exceed \$99,750
- Exemptions from real property taxes, valued at approximately \$825,000

WHEREAS, Greg Evans, Chief Executive Officer of the Company, attended the meeting and presented additional details regarding the Project and requested the members consider amending the Proposed Financial Assistance to provide additional exemptions from real property taxes in support of the Project; and

WHEREAS, after discussion among the members, the Agency contemplates that it will provide financial assistance to the Company in connection with the Project in the form of exemptions from sales and use taxes, exemptions from mortgage recording taxes and reduction in real property taxes for a period of twelve years commencing in 2023, during which time taxes will be reduced by a fixed amount each year (the "Financial Assistance"), which financial assistance is a deviation from the Agency's Uniform Tax Exemption Policy, and which will be more particularly set forth in a final authorizing resolution; and

WHEREAS, the Agency will collect and allocate PILOT Payments in accordance with the Allocation Agreement in 2023 and 2024 to satisfy the Town's Actual Annual Debt Service; and

WHEREAS, after the Town's Actual Annual Debt Service is satisfied the Allocation Agreement will terminate, and PILOT Payments will be billed by and paid to the Affected Tax Jurisdictions directly in the same proportion that taxes would have been paid but not for the Agency's involvement;

WHEREAS, based upon representations made by the Company in the Application, the value of the Financial Assistance is described as follows:

- Sales and use tax exemption not to exceed \$131,250.00
- Mortgage recording tax exemption not to exceed \$99,750
- Exemptions from real property taxes, valued at approximately \$1,270,000

WHEREAS, the Company operates multiple locations within Oneida County outside of the Facility, some of which are the subject of other lease-leaseback transactions between the Company and the Agency (such facilities, collectively, the “Indium Facilities”); and

WHEREAS, under the existing agreements between the Agency and the Company, the Company is already obligated to maintain at least 636 FTEs at the Indium Facilities (the “Existing Employment Obligation”) or else be subject to recapture or termination of financial assistance; and

WHEREAS, the Company currently employs 733 FTEs at the Indium Facilities, which is 97 FTEs higher than the Existing Employment Obligation; and

WHEREAS, the Company has committed to retain said 97 FTEs above the Existing Employment Obligation for the extended lease term as a result of the Project, and the Agency will condition the proposed Financial Assistance on the Company achieving the same (the “Employment Obligation”), or else be subject to recapture or termination of Financial Assistance relating to the Project; and

WHEREAS, prior to the closing of an amended lease-leaseback transaction, and the granting of any Financial Assistance, a public hearing (the “Hearing”) will be held so that all persons with views in favor of or opposed to either the Financial Assistance contemplated by the Agency, or the location or nature of the Facility, can be heard; and

WHEREAS, notice of the Hearing will be given prior to the closing of an amended lease-leaseback transaction, and the granting of any Financial Assistance, and such notice (together with proof of publication) will be substantially in the form annexed hereto as **Exhibit A**; and

WHEREAS, the minutes of the Hearing are or will be annexed hereto as **Exhibit B**; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed amended lease-leaseback transaction is either an inducement to the Company to maintain and expand the Facility in the County or is necessary to maintain the competitive position of the Company in its industry; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “SEQR Act” or “SEQRA”), the Agency constitutes a “State Agency”; and

WHEREAS, to aid the Agency in determining whether Facility may have a significant effect upon the environment, the Company has prepared and submitted to the Agency an Environmental Assessment Form and related documents (the "Questionnaire") with respect to the Facility, a copy of which is on file at the office of the Agency; and

WHEREAS, prior to the granting of any Financial Assistance, the Agency will complete its environmental review and make determinations for purposes of SEQRA.

NOW, THEREFORE, BE IT RESOLVED by the Oneida County Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

Section 1. (a) The Project and the Agency's Financial Assistance therefor, will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the County and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act and the same is, therefore, approved.

(b) It is desirable and in the public interest for the Agency to enter into an amended lease-leaseback transaction for the purpose of providing financial assistance for the Project, as reflected in the Company's application to the Agency and as amended from time to time prior to the closing of the amended lease-leaseback transaction.

Section 2. The form and substance of a proposed inducement agreement (in substantially the form presented to this meeting) by and between the Agency and the Company setting forth the undertakings of the Agency and the Company with respect to the closing of the amended lease-leaseback transaction, and the completion of the Facility (the "Agreement") is hereby approved. The Chairman of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, with such changes in terms and form as the Chairman shall approve. The execution thereof by the Chairman shall constitute conclusive evidence of such approval.

Section 3. The Agency shall assist the Company in the Project and will provide the Financial Assistance with respect thereto subject to (i) obtaining all necessary governmental approvals, (ii) approval of

the members of the Company, (iii) approval of the members of the Agency, (iv) satisfactory completion of the environmental review of the Facility by the Agency in compliance with the State Environmental Quality Review Act, (v) agreement by the Agency and the Company upon mutually acceptable terms and conditions for the amendment to the Leaseback Agreement and other documentation usual and customary to transactions of this nature, (vi) the condition that there are no changes in New York State Law which prohibit or limit the Agency from fulfilling its obligation and commitment as herein set forth to enter into the amended lease-leaseback transaction and (vii) payment by the Company of the Agency's transaction fee and the fees and disbursements of transaction counsel, more particularly described in the Inducement Agreement.

Section 4.

The Company is herewith and hereby appointed the agent of the Agency to renovate, equip and complete the Facility. The Company is hereby empowered to delegate its status as agent of the Agency to the agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company may choose in order to renovate, equip and complete the Facility. The terms and conditions for the appointment of the Company as agent of the Agency for the purposes described in this resolution are set forth in the form of the attached letter addressed to the Company, marked as **Exhibit C** to this resolution. The form of such letter is incorporated herein by reference and is approved and adopted by the Agency, and the Chairman or Executive Director of the Agency or any other duly authorized official of the Agency are authorized to execute and deliver such letter to the Company upon satisfaction of the conditions described in Section 3 hereof. The Agency hereby appoints the Company, the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company as agents of the Agency solely for purposes of making sales or leases of goods, services, and supplies to the Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency shall be deemed to be on behalf of the Agency and for the benefit of the Facility. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the Company, the Company, the agents, subagents, contractors, subcontractors,

materialmen, vendors and/or suppliers and the Company, as agent of the Agency.

Section 5. The Agency is hereby authorized and directed to schedule the Hearing, so that the Agency may receive comments from all interested parties on the financial assistance contemplated by the Agency and the Financial Assistance requested by the Company.

Section 6. The law firm of Bond, Schoeneck & King, PLLC is appointed Transaction Counsel in connection with the amended lease-leaseback transaction.

Section 7. Counsel to the Agency and Transaction Counsel are hereby authorized to work with counsel to the Company and others to prepare, for submission to the Agency, all documents necessary to effect the amended lease-leaseback transaction.

Section 8. The Chairman of the Agency is hereby authorized and directed (i) to distribute copies of this resolution to the Company and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 9. This resolution shall take effect immediately.

STATE OF NEW YORK    )  
                                  : ss.:  
COUNTY OF ONEIDA    )

I, the undersigned Secretary of the Oneida County Industrial Development Agency DO HEREBY CERTIFY THAT:

I have compared the foregoing copy of a resolution of the Oneida County Industrial Development Agency (the “Agency”), with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.

Such resolution was passed at a meeting of the Agency duly convened in public session on July 15, 2022 at eight a.m., local time, at Rome, New York which the following members were:

**Members Present:** David Grow, Michael Fitzgerald; Ferris Betrus, Kirk Hinman, Mary Faith Messenger, Gene Quadraro, Steve Zogby

**EDGE Staff Present:** Bill Van Shufflin, Tim Fitzgerald, and Laura Cohen; Shawna Papale, Maureen Carney, and Mark Kaucher via WebEx

**Other Attendees:** Rome Mayor Jackie Izzo; Paul Goldman, Esq., Goldman Attorneys, PLLC (WebEx); Linda Romano (WebEx), Bond, Schoeneck & King; Mark Levitt and Jenna Peppenelli (WebEx); Greg Evans and Mike Lennon, The Indium Corporation of America; Bruce Smith(WebEx), Central Utica Building, LLC; Lou Aiello, MVHS (WebEx); Enessa Carbone and Edward Impert (WebEx), Lithia Motors, Inc. (WebEx); Patrick Donnelly, (WebEx); Jolene Cleaver, The Sentinel (call-in)

The question of the adoption of the foregoing resolution was duly put to vote, which resulted as follows:

Voting Aye

Voting Nay

David Grow  
Michael Fitzgerald  
Ferris Betrus  
Kirk Hinman  
Mary Faith Messenger  
Gene Quadraro  
Steve Zogby

and, therefore, the resolution was declared duly adopted.

The Agreement and the Application are in substantially the form presented to and approved at such meeting.



I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) the meeting was open for the public to attend and public notice of the date, time and location for the meeting was duly given, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout the meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of November 2022.

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Shawna Papale, Secretary

## **EXHIBIT A**

### **NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York State General Municipal Law, will be held by the Oneida County Industrial Development Agency (the "Agency") on the 6<sup>th</sup> day of October 2022 at 10:00 a.m., local time, at New Hartford Town Hall, 8635 Clinton Street, New Hartford, New York in connection with the following matters:

The Indium Corporation of America, on behalf of itself and/or the principals of The Indium Corporation of America, and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has applied to the Agency to enter into a transaction in which the Agency will assist in the acquisition and renovation of a three-story, 124,000± square foot office building (the "Improvements") situated on a 13.5± acre parcel of land located at 301 Woods Park Drive, Town of New Hartford, Oneida County, New York (the "Land") and acquisition and installation of equipment in the Improvements (the "Equipment"), all for the purpose of providing a corporate headquarters to support, expand and better utilize the Company's current manufacturing facilities in Oneida County (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the acquisition, renovation and equipping of the Facility is referred to as the "Project").

AX NY Office L.P. ("AX NY") owns the Land and Improvements and leases the same to the Agency pursuant to a lease agreement, and the Agency leases the Land and Improvements back to AX NY pursuant to a leaseback agreement (collectively, the "Existing Leases"). AX NY subleases a 41,500± square foot portion of the Facility to the Company for its operation, and subleases an 82,000± square foot portion of the Facility to Hartford Fire Insurance Company for its operation (the "Hartford Sublessee"). The Facility is the subject of a PILOT Agreement dated as of March 13, 2008 (the "Existing PILOT Agreement") by and among AX NY, the Hartford Sublessee and the Agency. PILOT Payments under the Existing PILOT Agreement are collected and allocated by the Agency under the terms of an Agreement Allocating PILOT Payments dated as of October 15, 2008 (the "Allocation Agreement") by and among the Agency, the Town of New Hartford (the "Town"), the New Hartford Central School District and the County of Oneida (collectively, the "Affected Tax Jurisdictions"). AX NY will sell the Land and Improvements to the Company, assign to the Company its interest under the Existing Leases and the Existing PILOT Agreement, and the Company and the Agency will amend the Existing Leases and the Existing PILOT Agreement to add and include the Project and the proposed financial assistance to the Facility (described below). PILOT Payments will continue to be collected and allocated in accordance with the Allocation Agreement until such time as the Town is made whole for the Town's Actual Debt Service pertaining to the Public Improvements to develop the New Hartford Business Park (as said terms are defined in the Allocation Agreement). After the final allocation is made to the Town, the Allocation Agreement will terminate and the Affected Tax Jurisdictions will bill, collect and allocate PILOT Payments in the same proportion that taxes would have been allocated but not for the Agency's involvement. At the end of the lease term, the Agency will terminate its leasehold interest in the Facility. The Agency is contemplating providing financial assistance to the Company in support of the Project in the form of exemptions from sales and use taxes, exemptions from mortgage recording taxes and reduction of real property taxes for a period of eleven years, during which time taxes will be reduced by a fixed amount each year, which financial assistance is

a deviation from the Agency's Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein.

A representative of the Agency will at the above-stated time and place hear and accept written comments from all persons with views in favor of or opposed to either the proposed financial assistance to the Company or the location or nature of the Facility. Members of the public may listen to the Public Hearing by calling 1-408-418-9388 (Access code: 263 414 02671). Comments may also be submitted to the Agency in writing or electronically. Minutes of the Public Hearing will be transcribed and posted on the Agency's website. A copy of the Application for Financial Assistance filed by the Company with the Agency, including an analysis of the costs and benefits of the proposed Project, is available for public inspection at the offices of the Agency, 584 Phoenix Drive, Rome, New York.

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

Dated: September 19, 2022

By: /s/ Shawna M. Papale, Executive Director

## EXHIBIT B

### MINUTES OF PUBLIC HEARING

Oneida County Industrial Development Agency  
2022 Real Estate Lease  
The Indium Corporation of America Facility

1. Mark Kaucher, representing the Oneida County Industrial Development Agency (the "Agency"), called the hearing to order at 10:00 a.m.
2. Mr. Kaucher also recorded the minutes of the hearing.
3. Mr. Kaucher then described the proposed project and related financial assistance as follows:

The Indium Corporation of America, on behalf of itself and/or the principals of The Indium Corporation of America, and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company") has applied to the Agency to enter into a transaction in which the Agency will assist in the acquisition and renovation of a three-story, 124,000± square foot office building (the "Improvements") situated on a 13.5± acre parcel of land located at 301 Woods Park Drive, Town of New Hartford, Oneida County, New York (the "Land") and acquisition and installation of equipment in the Improvements (the "Equipment"), all for the purpose of providing a corporate headquarters to support, expand and better utilize the Company's current manufacturing facilities in Oneida County (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the acquisition and equipping of the Facility is referred to as the "Project").

AX NY Office L.P. ("AX NY") leases the Facility to the Agency pursuant to a lease agreement, and the Agency leases the Facility back to AX NY pursuant to a leaseback agreement (collectively, the "Existing Leases"). AX NY subleases a 41,500± square foot portion of the Facility to the Company for its operation, and subleases an 82,000± square foot portion of the Facility to Hartford Fire Insurance Company for its operation (the "Hartford Sublessee"). The Facility is the subject of a PILOT Agreement dated as of March 13, 2003 (the "Existing PILOT Agreement") by and among AX NY, the Hartford Sublessee and the Agency. PILOT Payments under the Existing PILOT Agreement are collected and allocated by the Agency under the terms of an Agreement Allocating PILOT Payments dated as of October 15, 2008 (the "Allocation Agreement") by and among the Agency, the Town of

New Hartford (the “Town”), the New Hartford Central School District and the County of Oneida (collectively, the “Affected Tax Jurisdictions”). AX NY will assign to the Company its obligations under the Existing Leases and the Existing PILOT Agreement, and the Company and the Agency will amend the Existing Leases and the Existing PILOT Agreement to add and include the Project and the proposed financial assistance (described below), to extend the terms, and to conform all documents to the Agency’s current forms. The Agency will bill and collect PILOT Payments in 2023 and 2024 in accordance with the Allocation Agreement; in 2025 the Allocation Agreement will terminate, and the Affected Tax Jurisdictions will bill and collect PILOT Payments in the same proportion that taxes would have been allocated but not for the Agency’s involvement. At the end of the lease term, the Agency will terminate its leasehold interest in the Facility. The Agency is contemplating providing financial assistance in the form of exemptions from sales and use taxes, exemptions from mortgage recording taxes and reduction in real property taxes for a period of twelve years, during which time taxes will be reduced by a fixed amount each year, which financial assistance is a deviation from the Agency’s Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein.

4. Mr. Kaucher then opened up the hearing for comments from the floor for or against the proposed financial assistance and the location and nature of the Facility. Attached is a listing of the persons heard and a summary of their views.
5. Mr. Kaucher then asked if there were any further comments, and, there being none, the hearing was closed at 10:15 a.m.

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Mark Kaucher

STATE OF NEW YORK        )  
                                      : SS.:  
COUNTY OF ONEIDA        )

I, the undersigned Secretary of the Oneida County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the foregoing copy of the minutes of a public hearing held by the Oneida County Industrial Development Agency (the "Agency") on October 6, 2022 at 10:00 a.m. local time, at New Hartford Town Hall, 8635 Clinton Street, New Hartford, New York, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the minutes in connection with such matter.

I FURTHER CERTIFY that (i) the hearing was open for the public to attend and public notice of the date, time and location for said hearing was duly given, (ii) the hearing in all respects was duly held, and (iii) members of the public had an opportunity to be heard.

IN WITNESS WHEREOF, I have hereunto set my hand as of November 15, 2022.

\_\_\_\_\_  
Secretary

EXHIBIT C

[To be printed on IDA letterhead and delivered to the Company when appropriate]

November 15, 2022

ICA Holdings III, LLC  
Attn.: Michael Lennon  
34 Robinson Road  
Clinton NY 13323

RE: *Oneida County Industrial Development Agency Lease-Leaseback Transaction  
ICA Holdings III, LLC Facility*

Ladies and Gentlemen:

Pursuant to a resolution duly adopted on July 15, 2022, the Agency appointed The Indium Corporation of America (the "Indium Sublessee"), on behalf of itself and/or the principals of the Indium Sublessee, and/or an entity formed or to be formed on behalf of any of the foregoing, its agent in connection with a transaction in which the Agency will assist in the acquisition and renovation of a three-story, 124,000± square foot office building (the "Improvements") situated on a 13.5± acre parcel of land located at 301 Woods Park Drive, Town of New Hartford, Oneida County, New York (the "Land") and acquisition and installation of equipment in the Improvements (the "Equipment"), all for the purpose of providing a corporate headquarters to support, expand and better utilize the Indium Sublessee's current manufacturing facilities in Oneida County (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the acquisition and equipping of the Facility is referred to as the "Project"). You subsequently advised the Agency that the Indium Sublessee formed on its behalf **ICA Holdings III, LLC** (the "Company")

This appointment includes authority to purchase on behalf of the Agency all materials to be incorporated into and made an integral part of the Facility, and the following activities as they relate to any renovation, equipping and completion of any buildings, whether or not any materials, equipment or supplies described below are incorporated into or

become an integral part of such buildings: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with renovation and equipping (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with renovation and equipping and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs), installed or placed in, upon or under such building, including all repairs and replacements of such property.

The Agency will appoint the Company as its only direct agent for the Project. The agency appointment includes the power of the Company to delegate such agency appointment, in whole or in part, to agents, subagents, contractors, subcontractors, materialmen, suppliers and vendors of the Company and to such other parties as the Company chooses so long as they are engaged, directly or indirectly, in the activities hereinbefore described. Please advise the Executive Director of the Agency if you wish to appoint a contractor or other subagent, and the Agency will issue an ST-60 to that party.

In exercising this agency appointment, you and each of your properly appointed agents and subagents must claim the sales tax exemption for all purchases by giving your vendors New York State Form ST-123. The supplier or vendor should identify the Facility on each bill or invoice as the “**ICA Holdings III, LLC Facility**” and indicate thereon that the Company, its agents, subagents, contractors and subcontractors acted as agent for the Agency in making the purchase.

You and each of your agents, subagents, contractors and/or subcontractors claiming a sales tax exemption in connection with the Facility must complete a New York State Department of Taxation and Finance Form ST-60. Original copies of each completed Form ST-60 must be delivered to the Agency within five (5) days of the appointment of each of your agents, subagents, contractors or subcontractors. Any agent, subagent, contractor or subcontractors of the Company which delivers completed Form ST-60 to the Agency will be deemed to be the agent, subagent, contractor or subcontractor of the Agency for purposes of renovating and equipping the Facility, and shall only then be authorized to use Form ST-123 as described above. Failure to comply with these requirements may result in loss of sales tax exemptions for the Facility.

It is important to note that contractors and subcontractors who have not been appointed subagent cannot use the sales tax exemption for equipment rental, tools, supplies and other items that do not become part of the finished project. Contractors and subcontractors must be appointed as agent or sub-agent of the Agency to use the Agency sales tax exemption for these purchases. Contractors and subcontractors who have not been appointed a subagent and are making purchases that would otherwise be exempt outside of the Agency’s interest in the Facility must claim the sales tax exemption for construction materials by giving their vendors a completed “Contractor Exempt Purchase Certificate” (Form ST-120.1) checking box (a).

The aforesaid appointment of the Company as agent of the Agency to construct and equip the Facility shall expire at the earlier of (a) the completion of such activities and improvements, or (b) November 15, 2023, provided, however, such appointment may be extended at the discretion of the Agency, upon the written request of the Company if



such activities and improvements are not completed by such time, and further provided that the Agency shall not unreasonably withhold its consent to the extension of such appointment.

Based upon representations made by the Company and the Sublessee, the value of the sales tax to be abated relating to the construction and equipping of the Facility is estimated at \$148,750.00. The Agency is required by law to recapture any New York State sales tax exemptions claimed by the Sublessee that exceed (a) \$100,000 for purchases made between the date of project inducement and the date of the public hearing and (b) \$148,750.00 for purchases made relating to the Project in the aggregate.

You should be aware that the New York State General Municipal Law requires you to file an Annual Statement (Form ST-340) with the New York State Department of Taxation and Finance regarding the value of sales tax exemptions you, your agents, consultants or subcontractors have claimed pursuant to the authority we have conferred on you with respect to the Project. We are providing a form of a worksheet for you to track all exempt purchases made in completing the Project, using Forms ST-123 or Form ST-120.1. Please provide the Agency with a copy of Form ST-340 along with your annual report to the Agency and this worksheet. The penalty for failure to file such statement, or to provide a copy to the Agency, is the removal of your authority to act as an agent.

If, for some reason, this transaction never closes, you will be liable for payment of the sales tax, if applicable and you are not otherwise exempt, on all materials purchased.

Please sign and return a copy of this letter for our files. The Agency will issue and deliver Form ST-60 to you upon receipt of this signed agency appointment letter. The Agency reserves the right to issue a revised agency appointment letter with respect to the process for utilizing and reporting exemptions hereunder.

Very truly yours,

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Name:  
Title:

ACCEPTED & AGREED:

ICA HOLDINGS III, LLC

By: \_\_\_\_\_  
Name:  
Title: