

EAST COAST OLIVE OIL CORPORATION

and

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

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PAYMENT-IN-LIEU-OF-TAX AGREEMENT

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Oneida County Industrial Development Agency  
2007 Real Estate Transfer  
(East Coast Olive Oil Corporation Facility)

Oneida County, City of Rome, Rome Central School District

Tax Account No.: Part of CTM 243.000-1-1.3

## PAYMENT-IN-LIEU-OF-TAX AGREEMENT

**THIS AGREEMENT**, dated as of January 1, 2007, is by and between **EAST COAST OLIVE OIL CORPORATION**, a corporation duly organized and validly existing under the laws of the State of New York, having an address of 75 Wurz Avenue, Utica, New York 13502 (the "Company") and **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, an industrial development agency and a public benefit corporation of the State of New York having its principal office at 153 Brooks Road, Rome, New York 13441-4105 (the "Agency").

### W I T N E S S E T H:

WHEREAS, the Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law, Chapter 99 of the Consolidated Laws of New York, as amended, (the "Enabling Act"), and Chapter 372 of the Laws of 1970 of the State of New York, as amended, constituting Section 901 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of, among others, industrial facilities for the purpose of promoting, attracting and developing economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, the United States of America, acting by and through the Secretary of the Air Force, conveyed to the Agency a 63.919± acre parcel of land situate in the Griffiss Business and Technology Park, Rome, New York commonly known as "Parcel F1" by means of a Quit Claim Deed dated March 21, 2000 and recorded on August 4, 2000 in the Oneida County Clerk's Office in Book 2929 of Deeds at Page 191; and

WHEREAS, the Agency, as lessor, leased said Parcel F1 to Griffiss Local Development Corporation ("GLDC"), as lessee, pursuant to a lease agreement dated as of May 1, 2000 (the "Agency/GLDC Lease Agreement"); and

WHEREAS, a memorandum of the Agency/GLDC Lease Agreement was recorded on August 4, 2000 in the Oneida County Clerk's Office in Book 2929 of Deeds at Page 274; and

WHEREAS, pursuant to the Agency/GLDC Lease Agreement and at any time during the term thereof, GLDC has the right to acquire from the Agency the fee title to any portion of Parcel F1 which has not heretofore been conveyed to a third party; and

WHEREAS, GLDC and the Company entered into a purchase agreement dated as of May 19, 2006, as the same may be amended from time to time (the "Purchase Agreement") whereby GLDC agreed to sell, and the Company agreed to purchase, a 22.693± acre portion of Parcel F1 (the "Land"); and

WHEREAS, the Company desires to construct on the Land a 185,000± square foot manufacturing warehouse and distribution facility and related improvements (the "Building") and acquire, renovate and install machinery and equipment in the Building (the "Equipment") (the Land, the

Building, and the Equipment being collectively referred to as the "Facility"), all to be used by the Company in connection with importing, packing and distributing edible oils and other food products; and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to convey a fee interest in the Land to GLDC who, in turn, will convey said fee interest in the Land to the Company, take a leasehold interest from the Company in the Land, the Building and the Equipment constituting the Facility pursuant to the terms and conditions of a Lease Agreement dated as of the date hereof (the "Lease Agreement") and lease said Facility back to the Company pursuant to the terms and conditions of a Leaseback Agreement dated as of the date hereof (the "Leaseback Agreement"); and

WHEREAS, the Agency has agreed to accept a leasehold interest to the Facility from the Company pursuant to the Lease Agreement and lease back said Facility to the Company pursuant to the Leaseback Agreement in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Facility will be exempt from real property taxes, general property taxes, general school district taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company commencing July 31, 2007, the taxable status date, (the "Exempt Taxes"), because the Agency has a leasehold or other interest in the Facility and used for a purpose within the meaning of the applicable Constitutional and statutory provisions, including the Enabling Act, provided, however, such exemption will not extend to special assessments or ad valorem levies; and

WHEREAS, the Company understands that it, as lessee of the Facility leased by the Agency, will, in fact, have no Exempt Taxes to pay under the provisions of the Leaseback Agreement from July 31, 2007 through the term of the Leaseback Agreement (the "Exemption Term") (each year measured by the twelve month period commencing with the last Tuesday of each July (beginning on July 31, 2007), through and including the Monday immediately preceding the last Tuesday of the next succeeding July (herein referred to as an "Exemption Year"); and

WHEREAS, as a condition precedent to its obligation to accept title to the Facility and enter into the Lease Agreement the Agency requires that the Company enter into this Agreement with the Agency whereby the Company agrees (a) to make certain payments to the Agency from which the Agency, in turn, will make payments to the City of Rome, the County of Oneida, and the Rome City School District (each a "Taxing Authority" and, collectively, the "Taxing Authorities") and to GLDC in accordance with the provisions of that certain Agreement Allocating PILOT Payments dated as of June 22, 2006 entered into by and among the Taxing Authorities, the Agency and GLDC pursuant to the Enabling Act (the "Agreement Allocating PILOT Payments"), a copy of which Agreement Allocating PILOT Payments is attached hereto as **Exhibit A** and the terms of which are incorporated herein by reference, and (b) to pay all special assessments and ad valorem levies imposed upon the Facility for which the Facility is not exempt, and (c) to pay all Exempt Taxes which are or become a lien against, or are to become due, either before the Exemption Term commences or after the Exemption Term ends; and

WHEREAS, to the best of the Agency's knowledge, there are no real property taxes, general property taxes, general school district taxes, or rollback taxes that are currently due or represent a Lien against the Facility, or any portion thereof, prior to the Closing Date as specified in the Leaseback Agreement; and

WHEREAS, all defined terms herein as indicated by the capitalization of the first letter thereof and not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Leaseback Agreement (including Schedule A thereto).

NOW, THEREFORE, to provide for certain payments in lieu of taxes to the Agency, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The Company shall pay to each Taxing Authority (at the address set forth in **Exhibit B** attached hereto) or to the applicable assessing entity (and its address):

(a) all taxes that are due with respect to the Facility prior to the Exemption Term, no later than the last day on which such payment may be made without penalty; and

(b) all special assessments and ad valorem levies coming due and payable during the term of the Leaseback Agreement for which the Facility is not exempt, no later than the last day on which such payments may be made without penalty.

Notwithstanding anything to the contrary herein contained, with respect to special assessments and ad valorem levies that may be lawfully paid in installments, the Company may elect to pay the same in such installments or in any combination of installments or payments that are allowed by the Taxing Authority or other entity assessing such levy.

2. The Company shall pay to the Agency an amount annually in lieu of the Exempt Taxes (each, a "PILOT Payment" and, collectively, the "PILOT Payments") during each Exemption Year, as follows:

(a) an amount equal to one hundred percent (100%) of such Exempt Taxes during each Exemption Year from the first (1<sup>st</sup>) through and including the fifth (5<sup>th</sup>) Exemption Year; and

(b) an amount equal to two-thirds (2/3) of such Exempt Taxes during each Exemption Year from the sixth (6<sup>th</sup>) through and including the fifteenth (15<sup>th</sup>) Exemption Year; and

(c) an amount equal to one hundred percent (100%) of such Exempt Taxes during each Exemption Year after the fifteenth (15<sup>th</sup>) Exemption Year.

Upon its receipt of PILOT Payments, the Agency shall allocate and remit the appropriate proportional shares thereof due to GLDC and each of the Taxing Authorities in accordance with the terms and provisions of the Agreement Allocating PILOT Payments.

Anything herein to the contrary, notwithstanding, this Agreement shall terminate on the date on which the Leaseback Agreement shall terminate and the Agency shall terminate its leasehold interest in the Facility pursuant to the Leaseback Agreement.

Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment when due hereunder including, without limitation, any failure of the Company to make any PILOT Payment or pay the Early Termination Charge (as hereinafter defined), if applicable, and upon failure to cure such default within thirty (30) days of receipt of notice as herein provided, the Company shall thereafter pay (i) as PILOT Payments, one hundred (100%) percent of the Exempt Taxes and (ii) the Early Termination Charge, if applicable, together with interest at the rate of nine (9%) percent per annum on any such delinquent PILOT Payments or delinquent Early Termination Charge, if applicable, together with expenses of collection, including but not limited to, payment of reasonable attorneys' fees; provided, however, nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.

3. Except for payments due to a Taxing Authority pursuant to Section 1 hereof, the Company will make PILOT Payments to the Agency hereunder for each Exemption Year by making the required payment to the Agency no later than the last day during which such Exempt Taxes could otherwise be made without penalty as if the Facility was owned by the Company and not by the Agency.

4. The PILOT Payments to be made by the Company pursuant to this Agreement are intended to be in lieu of all Exempt Taxes that would have to be paid on the Facility leased to the Company by the Leaseback Agreement if the Agency did not have a leasehold or other interest in the Facility.

5. If by reason of a change in the Constitution or laws of the State of New York, or an interpretation of the Constitution or the laws of the State of New York by the Court of Appeals (or such lower court from which the time to appeal has expired) of the State of New York, or for any other reason, the Company is required to pay any tax which the payments specified herein are intended to be in lieu of, the Company may deduct the aggregate of any such payments made by it from the amount herein agreed to be paid in lieu of such taxes and need only pay the difference together with the Early Termination Charge (as herein after defined), if applicable. Furthermore, inasmuch as the PILOT Payments herein agreed to be made by the Company are intended to be in lieu of all Exempt Taxes, it is agreed that said payments shall not, as to any Exemption Year, be in an amount greater than would be payable for such year for such Exempt Taxes, in the aggregate, by a private corporation on account of its ownership of the Facility.

6. This Agreement shall be binding upon the successors and assigns of the parties.

7. It is the intent of the parties that the Company will have all the rights and remedies of a taxpayer with respect to any real property or other tax, service charge, special benefit, ad valorem levy, assessment or special assessment or service charge because of which, or in lieu of which, the Company is obligated to make a payment hereunder, as if and to the same extent as if the Company were the owner of the Facility. It is the further intent of the parties that the Company will have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility with respect to any proposed assessment or change in assessment concerning the property, or any portion thereof, whether through an assessor, board of assessment review, court of law, or otherwise and likewise will be entitled to protest before and be heard by such assessor, board of assessment review, court of law or otherwise and will be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any taxes that would have been payable but for the provisions hereof. In the event, however, that a court of competent jurisdiction shall enter an order or judgment determining or declaring that, by reason of the Agency's ownership of

the Facility, the Company does not have the right to bring a proceeding to review such assessment under the Real Property Tax Law or any other law, then the Company shall have the right to contest such assessment in the name and as the agent of the Agency, and the Agency agrees to cooperate with the Company in all respects in any such proceeding at the sole cost and expense of the Company.

8. All amounts payable by the Company hereunder will be paid to the Agency or the respective Taxing Authority, as applicable, and will be payable in such lawful money of the United States of America as at the time of payment is legal tender for the payment of public and private debts, including a check payable in such money.

9. For so long as this Agreement is in effect and until the Company pays in full all sums due pursuant to this Agreement including the PILOT Payments and the Early Termination Charge (as hereinafter defined), if applicable, the Company hereby unconditionally and irrevocably waives its right, if any, to apply for and/or receive the benefit of any other real property tax exemption with respect to the Facility, including, without limitation, any real property tax exemption that may be available under Section 485-b and Section 485-e of the Real Property Tax Law.

10. (a) This Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto and with the prior written consent of GLDC, which consent shall not be withheld if such amendment, change, modification or alteration does not adversely affect GLDC with respect to its obligations with the GLDC Lenders.

(b) All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when mailed by United States registered or certified mail, postage prepaid, return receipt requested, to the Agency or the Company, as the case may be, addressed as follows:

If to the Agency:

Oneida County Industrial Development Agency  
153 Brooks Road  
Rome, New York 13441-4105  
Attn.: Chairman

With a Copy to:

Bond, Schoeneck & King, PLLC  
501 Main Street  
Utica NY 13501  
Attn.: Linda E. Romano, Esq.

If to the Company:

East Coast Olive Oil Corporation  
75 Wurz Avenue  
Utica NY 13502  
Attn.: Luis V. Gato, Director

With a Copy to:  
Richard Cohen, Esq.  
Cohen and Cohen, LLP  
258 Genesee Street  
Utica NY 13502

If to GLDC:  
Griffiss Local Development Corporation  
153 Brooks Road  
Rome, New York 13441-4105  
Attn.: Steven J. DiMeo, Authorized Representative

With a Copy to:  
Saunders, Kahler, Amoroso & Locke, L.L.P.  
185 Genesee Street, Suite 1400  
Utica NY 13501  
Attn.: Joseph E. Saunders, Esq.

provided, that the Agency or the Company or GLDC may, by notice given hereunder to the other, designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

11. If, prior to the date that the GLDC Loans (as that term is defined in the Agreement Allocating PILOT Payments) are irrevocably paid in full, this Agreement is set aside (and thus no longer in effect), invalidated, or otherwise terminates or is terminated and said termination is not caused by any action or failure to act by GLDC, or the Company is in default with respect to its obligations hereunder, then, and in such event, and regardless of the reason therefor (unless it is by reason of an action or failure to act by GLDC), the GLDC Loans shall be deemed (for the purposes of this Agreement) to have been "accelerated" thereby becoming immediately due and payable, in full, whereupon the Company shall pay an early termination charge (the "Early Termination Charge") to the Agency in an amount equal to the then unpaid and outstanding combined principal balances or the "accelerated" GLDC Loans plus all accrued interest and other sums due pursuant thereto or in connection therewith (e.g. prepayment penalties or hedge or swap "breakage" fees, etc.).

If, prior to the date that the GLDC Loans are irrevocably paid in full, the aggregate amount of PILOT Payments due hereunder in any given Exemption Year reduces or is reduced to a level whereby the allocation of PILOT Payments to be made by the Agency to GLDC and the Taxing Authorities pursuant to the Agreement Allocating PILOT Payments would be insufficient to fully and timely pay the Scheduled Debt Service for GLDC Loans (as that term is defined in the Agreement Allocating PILOT Payments) for such Exemption Year, then GLDC shall promptly deliver written notice of such insufficiency to the Company and the Company shall, at its option, (i) elect to pay such insufficiency directly to GLDC at the normal time for which PILOT Payments are due; or (ii) pay to GLDC an amount equal to the Early Termination Charge.

Upon its receipt of the PILOT Payments and the Early Termination Charge, the Agency shall immediately remit the same to GLDC and the Taxing Authorities in accordance with the terms and provisions of the Agreement Allocating PILOT Payments.

Notwithstanding the above provisions, and provided that the Company has made PILOT Payments to the Agency in an amount sufficient (when allocated and remitted to GLDC by the Agency) to enable GLDC to timely pay the Scheduled Debt Service for GLDC Loans (as defined in the Agreement Allocating PILOT Payments), the Company's obligation with respect to any Early Termination Charge shall not, under any circumstances, exceed the principal amount provided in **Exhibit C**, based upon the date that the Early Termination Charge becomes due, plus accrued interest and any other sums which may be due with respect to the GLDC Loans (e.g., prepayment penalties, hedge agreement "breakage" fees, etc.) and any interest due hereunder. In addition, the principal amounts provided in **Exhibit C** shall be reduced by any portion of the \$1,325,000.00 in PILOT – Tax Increment Financing proceeds that has not been disbursed by GLDC to the Company under the provisions of the May 18, 2006 Financial Incentives Letter from GLDC to the Company attached to the Purchase Agreement as Schedule 12.1.12 (the "Financial Incentives Letter") or any other document related to the Facility as of the date that the Early Termination Charge becomes due. The payment of an Early Termination Charge under this PILOT Agreement by the Company prior to a disbursement of the PILOT – Tax Increment Financing proceeds by GLDC to the Company will terminate GLDC's obligation to make any further disbursements or such proceeds to the Company.

12. Notwithstanding anything to the contrary herein contained, the Company shall not assign its rights or delegate its duties or obligations under this Agreement without the prior written consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed. The Agency shall have the right to assign this Agreement to any person or entity. Without limiting the generality of the foregoing, the Agency shall have the right to assign this Agreement to GLDC and /or to any one or more of the GLDC Lenders (as defined in the Agreement Allocating PILOT Payments) as collateral security for the payment of any one or more of the GLDC Loans (as defined in the Agreement Allocating PILOT Payments). The Agency shall notify the Company of any assignment and send a copy of the assignment agreement to the Company.

13. The Company shall make PILOT Payments to the Agency in accordance with the provisions hereof until such time as the Facility is placed on the tax roll as a non-exempt property and Exempt Taxes first become due and payable.

14. Notwithstanding anything to the contrary contained herein, the obligations of the Company to the Agency hereunder including, without limitation, the Company's obligations to make the PILOT Payments and to pay the Early Termination Charge, if applicable, shall survive the expiration or termination of this Agreement.

15. The obligations of the Agency under the PILOT Agreement and the Agreement Allocating PILOT Payments constitute a special obligation of the Agency, and all charges payable pursuant to or expenses or liabilities incurred thereunder shall be payable solely out of the revenues and other moneys of the Agency derived and to be derived from PILOT Payments. Neither the members, officers, agents (except the Company) or employees of the Agency, nor any person executing the Agency Documents, shall be liable personally or be subject to any personal liability or accountability by reason of the leasing, construction, renovation, equipping or operation of the Facility. The obligations of the Agency under the Agency Documents are not and shall not be an obligation of the State or any municipality of the State



and neither the State nor any such municipality (including, without limitation, Oneida County) shall be liable thereon.


[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this **PILOT Agreement** as of the date first above written.

EAST COAST OLIVE OIL CORPORATION

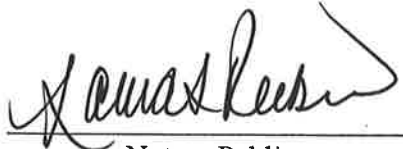
By:   
Luis V. Gato  
Director

ONEIDA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Robert R. Calli  
Chairman

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

On the 9th day of January 2007 before me, the undersigned a notary public in and for said state, personally appeared **Luis V. Gato**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

LAURA S. RUBERTO  
Notary Public, State of New York  
Appointed in Oneida County  
Commission Expires Aug. 1, 2010

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

On the <sup>11<sup>th</sup></sup> day of January 2007 before me, the undersigned a notary public in and for said state, personally appeared **Robert R. Calli**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

LAURA S. RUBERTO  
Notary Public, State of New York  
Appointed in Oneida County  
Commission Expires Aug. 1, 2010