

EXECUTION COPY

**LAND DEVELOPMENT AGREEMENT WITH LICENSE
AND EXCLUSIVE OPTIONS**

THIS LAND DEVELOPMENT AGREEMENT WITH LICENSE AND EXCLUSIVE OPTIONS (hereinafter, the “Agreement”), dated as of the 4th day of November, 2022, by and between the **CAYUGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York (the “State”) with offices at 2 State Street, Auburn, New York 13021 (the “Agency”) and **CAYUGA MILK INGREDIENTS, LLC**, a limited liability company duly formed and validly existing under the laws of the State of New York with offices at 15 Eagle Drive, Auburn, New York 13021 (the “Company”).

WITNESSETH:

WHEREAS, the Agency was created by Chapter 688 of the Laws of 1970 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law (“GML”) 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, pursuant to and in accordance with a certain Project Authorizing Resolution adopted by the Agency on September 25, 2012 (the “2012 Project Authorizing Resolution”), the Agency previously undertook a certain project (the “2012 Project”) consisting of (A) the sale or lease by the Agency to **CAYUGA MILK INGREDIENTS, LLC** (hereinafter, the “Company”) of an approximately 25-acre parcel of land located off Eagle Drive within the Agency-owned Aurelius Industrial Park (the “Park”), Town of Aurelius, Cayuga County, New York (the “Land”, being all or portions of former TMID Nos. 114.00-3-2, 114.00-3-3, 114.00-3-06 and 114.00-3-7, as merged into existing Lot 2 in the Aurelius Industrial Park and identified as TMID No. 114.00-3-2.1); (B) the planning, design, construction and operation on the Land by the Company of an approximately 108,000 square-foot dairy ingredients processing facility (the “2012 Improvements”); (C) the acquisition and installation in and around the Improvements of certain machinery, equipment and other items of tangible personal property (the “2012 Equipment”); (D) the planning, design, construction and operation on the Land by the Company of certain wastewater treatment and solid waste disposal building improvements and related equipment to serve the Improvements (the “2012 Treatment Facility”, and collectively with the Land, Improvements and the Equipment, the “2012 Facility”); (E) at the election of the Company, the issuance by the Agency of its Exempt Facility Revenue Bonds (Cayuga Milk Ingredients, LLC Project) in a principal amount not to exceed \$30,000,000 (the “Bonds”) for the purpose of financing the Treatment Facility in accordance with applicable provisions of the Internal Revenue Code (the “Code”) relating to sewer treatment and solid waste disposal; (F) paying certain costs and

expenses incidental to the issuance of the Bonds and/or establishment of debt service reserve funds (the costs associated with item (D) above being hereinafter collectively referred to as the “Treatment Facility Costs”); and (G) the lease (with an obligation to purchase) or sale of the Agency’s interest in the Facility back to the Company; and

WHEREAS, the Agency and Company undertook the 2012 Project pursuant to a Straight Lease Transaction, as defined within the Act, which included and was memorialized by certain project documents (the “2012 Project Documents”, each dated as of April 8, 2013), including (i) a certain Warranty Deed (the “Warranty Deed”), (ii) a Lease Agreement (the “Lease Agreement”), (iii) a Leaseback Agreement (the “Leaseback Agreement”), (iv) a Payment-in-lieu-of Tax Agreement (the “PILOT Agreement”), (v) a PILOT Mortgage Agreement (the “PILOT Mortgage”, as amended), (vi) a Bill of Sale (the “Bill of Sale to Agency”), and (vii) related documents; and

WHEREAS, pursuant to and in accordance with a certain Project Authorizing Resolution adopted by the Agency on June 16, 2020 (the “2020 Project Authorizing Resolution”) the Agency previously undertook a certain project (the “2020 Project”) consisting of the appointment of the Company as agent of the Agency to undertake the planning, design, construction and operation of approximately 3,000 sf of building additions to the 2012 facility, including an approximately 2,408 sf addition at approximately 104 feet tall to house product evaporation and finishing equipment, an approximately 500 sf silo tank hall and dryer addition, along with additional building and site improvements and modifications within and around the 2012 Improvements (collectively, the “2020 Improvements”); (iii) the acquisition of and installation in and around the Land and 2012 Improvements and 2020 Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property, including silos, tanks, membranes, boilers and wastewater treatment equipment (the “2020 Equipment” and, collectively with, the Land and the Improvements, the “2020 Facility”); and

WHEREAS, the Agency and Company undertook the 2020 Project pursuant to a certain Agent and Financial Assistance and Project Agreement, dated as of June 16, 2020, along with related documents; and

WHEREAS, the Company, has submitted an application to the Agency requesting the Agency’s assistance with a certain project (the “Project”) consisting of: (i) retention by the Agency of a leasehold interest in the Land, subject to (a) the removal of approximately 3 acres of the Land to be transferred by the Company to an affiliate (with the 2012 Project Documents amended accordingly, and (b) the sale by the Agency to the Company of approximately 10.315 acres of real property identified as Lot 4 and TMID No. 114.00-3-4 (the “Agency Lands”) to be incorporated into the 2012 Facility and 2020 Facility; (ii) the appointment of the Company as agent of the Agency to undertake the planning, design, construction and operation of certain improvements to the 2012 Facility and 2020 Facility, including expanded milk product receiving bays, expanded wastewater treatment facilities and improvements, establishment of trucking and parking improvements, along with additional building and site improvements and modifications

within and around the 2012 Improvements, 2020 Improvements and Lot 4 (collectively, the “Improvements”); (iii) the acquisition of and installation in and around the Land, Lot 4, 2012 Improvements, 2020 Improvements and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property and wastewater treatment equipment (the “Equipment” and, collectively with, the Land and the Improvements, the “Facility”); and (iii) amendment of the 2012 Project Documents to provide for a continuing straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the “Straight Lease Transaction”); and

WHEREAS, in furtherance of the Project, the Agency and Company have negotiated terms for disposition of either a fee or leasehold interest in the Agency Lands to the Company (the “Disposition”) to be memorialized herein; and

WHEREAS, in furtherance of the Disposition, and in accordance with applicable provisions of the Public Authorities Law (“PAL”), the Agency previously issued a Notice of Disposition to required recipients pursuant to PAL Section 2897(6)(d), dated September 13, 2022 (the “Disposition Notice”), such Disposition being exempted from publicly advertising for bids pursuant to PAL Section 2897(6)(c)(v) and obtaining fair market value pursuant to PAL Section 2897(7)(ii); and

WHEREAS, the Agency and the Company wish to enter in to this Agreement to provide the Company with preliminary Project development access rights to the Agency Lands and an exclusive option to acquire the Agency Lands from the Agency in furtherance of the Project.

NOW THEREFORE, for and in consideration of the promises and the mutual covenants hereinafter contained, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto formally covenant, agree and bind themselves as follows:

ARTICLE I REPRESENTATIONS AND COVENANTS

Section 1.1. Representations and Covenants of the Agency.

The Agency makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Agency is a duly established and existing public benefit corporation pursuant to the Act, as amended, and Chapter 688 of the Laws of 1970 of the State, pursuant to which the Agency has the power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. Upon completion of the procedural requirements mandated upon the Agency by the Act, along with satisfaction

by the Company and the Agency of certain Express Contingencies, as defined herein, the Agency will have the authority to take the actions contemplated herein under the Act.

(b) The Agency has been duly authorized to execute and deliver this Agreement.

(c) Pursuant to the terms hereof, it is contemplated that the Agency will transfer to the Company title to or a leasehold interest in the Agency Lands and retain a leasehold interest in the Land, and the Agency contemplates that it will designate the Company as its agent for the purposes of acquiring, constructing, equipping, operating, repairing and maintaining the Project, all for the purpose of promoting the industry, health, welfare, convenience and prosperity of the inhabitants of the State and the County of Cayuga, New York, and improving their standard of living.

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

(e) The Agency has been induced to enter into this Agreement by the undertaking of the Company to acquire, construct, equip, operate, repair and maintain the Project and to create and retain related jobs in Cayuga County, New York.

(f) 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 Agency, threatened against or affecting the Agency, to which the Agency is a party, and in which an adverse result would in any way diminish or adversely impact on the Agency's ability to fulfill its obligations under this Agreement.

(g) No entity or person other than Company (pursuant to the terms hereof) has any right to acquire all or any portion of the Agency Lands.

(h) The Agency is the sole fee owner of the Agency Lands and shall at Closing (as defined herein) deliver good and marketable title to the Agency Lands, free and clear of all liens, encumbrances, mortgages, leases, historical or landmark restrictions, bills of sale, contracts of sale (oral or written, except as provided herein), special agreements of any kind or nature whatsoever, or any liens of any nature other than Permitted Exceptions (defined below).

Section 1.2. Representations and Covenants of the Company.

The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

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

(b) Upon receipt of necessary lender consent(s) for the removal of certain portions of the realty associated with Tax Parcel # 114.00-3-2.1, neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this 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 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 Project will not result in the removal of a civic, commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

(d) The Project-related activities of the Company will conform with all Applicable Law, 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 (d), excluding any failure that is due to an act or omission of the Agency to comply with Applicable Law.

(e) 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 diminish or adversely impact on the Company's ability to fulfill its obligations under this Agreement.

ARTICLE II
DEVELOPMENT RIGHTS, OPTION AND CONSIDERATION

Section 2.1. Development Rights. Subject and pursuant to the terms, conditions and contingencies contained within this Agreement, the Agency hereby grants to the Company the exclusive right to undertake the Project on the Agency Lands. During the term of this Agreement, the Agency shall not engage in discussions with any other developers or solicit proposals relating to the Agency Lands (the “Development Rights”). The exclusive development rights provided herein shall be granted for a period of one (1) year from the date hereof (the “Development Term”). In the event that a Closing Date, as defined within Section 2.2, below, is not scheduled and a Closing, as defined below, is not conducted within the Development Term, as may be extended pursuant to the terms of this Agreement, the Company’s rights and obligations hereunder, with the exception of the obligations contained within Section 8.11 hereof, shall lapse and become null and void. It is expressly agreed by the parties hereto that the Agency and the Company shall work cooperatively to assure that the Company may expediently initiate, undertake, and complete the Project. The Company shall have the right to request two (2) six (6) month extensions to the Development Term (such individual, successive six (6) month periods hereinafter, the “Extension Terms”). Any such request for extensions (an “Extension Request”) by the Company shall be submitted to the Agency in writing at least sixty (60) days prior to the end of the Development Term, as may be extended. In no event may the Development Term be extended to comprise a period of greater than two (2) years, unless the Development Term is further extended by resolution adopted by the Agency. Upon the Company’s request, the Agency shall execute a written confirmation of the date upon which the Extension Term shall expire. The Agency may approve or disapprove a request for one or more Extension Terms in its sole and absolute discretion, such approval of the Agency shall not be unreasonably withheld, conditioned, or delayed. It is expressly agreed by the parties hereto that any such request may reasonably be denied by the Agency where there remain any unsatisfied Company Express Contingencies, as defined herein, where any such unsatisfied Company Express Contingency results from the action or failure to act on the part of the Company.

Section 2.2. Exclusive Option to Acquire the Agency Lands. Subject and pursuant to the terms, conditions and contingencies contained within this Agreement, the Agency hereby grants to the Company the exclusive option to acquire fee title (or a leasehold interest) to the Agency Lands for purposes of undertaking the Project (collectively, the “Option”). The Agency Lands are comprised of approximately 10.315 acres, being identified as TMID No. 114.00-3-4, and is more particularly defined and depicted within Exhibit A, hereto. Said Option is hereby granted by the Agency to the Company in exchange for the **\$25,787.50** Deposit, as further described herein and paid by the Company contemporaneously herewith, and for the Company’s willingness to undertake the Project, which shall promote the industry, health, welfare, convenience and prosperity of the inhabitants of the State and the County of Cayuga, New York, and improve their standard of living. The Company may exercise the Option subject to the terms and conditions set forth herein and only during the Development Term, as defined

herein, and whereupon, the Agency and the Company shall consummate the transactions contemplated herein on the Closing Date, as defined herein. In the event that a Closing is not conducted within the Development Term, the Option shall lapse and become null and void.

Section 2.3. Consideration. In exchange for the Development Rights, Option, and title to the Agency Lands, as contemplated herein, the Company shall pay to the Agency the sum of **TWO HUNDRED FIFTY SEVEN THOUSAND EIGHT HUNDRED SEVENTY FIVE AND 00/100 DOLLARS (\$257,875.00)**, the “Purchase Price”) as follows:

(a) **\$25,787.50** upon execution of this Agreement, such payment to be a non-refundable deposit (the “Deposit”) in exchange for the Development Rights and Option granted herein; and

(b) **\$232,087.50** to be paid on the Closing Date for title to the Agency Lands.

Section 2.4 Closing Date; Contemplated Transactions. (a) Closing Date. The consummation of the within described transactions shall be hereinafter referred to as the “Closing”. The date of the Closing (hereinafter, the “Closing Date”), shall be mutually established by the Agency and the Company during the Development Term pursuant to the terms, conditions and contingencies contained within this Agreement, but in no event later than sixty (60) days following satisfaction of the Express Contingencies, as defined herein.

(b) Contemplated Transactions. In furtherance of the Project and on the Closing Date, the Agency and the Company contemplate entering into agreement(s) that would allow the Agency to retain a fee or leasehold interest in the Land and Agency Lands, with the Company and Agency entering into amendments to the 2012 Project Documents, all for purposes of providing financial assistance to the Company in the form of (i) sales and use tax exemptions in connection with the construction of the Project, (ii) mortgage recording tax exemption(s) in connection with one or more financings undertaken by the Company in furtherance of the Project, and (iii) a partial real property tax exemption relating to the Improvements to be contained within an amendment to the PILOT Agreement (collectively with the above-described financial assistance, the “Agency Financial Assistance”). For these purposes, it is contemplated that the Agency shall transfer fee title to the Agency Lands to the Company with a retained leasehold interest in the Agency Lands and contemporaneously enter into an amendment to the Leaseback Agreement.

Section 2.5. Agency Fees. The Company, prior to or commensurate with execution and delivery of this Agreement, shall pay all outstanding consulting and legal costs incurred by the Agency in connection with the Project. On the Closing Date, the Company shall pay to the Agency (i) the amount of **\$168,978.05** as an administrative fee in connection with the Agency’s provision of the Agency Financial Assistance in furtherance of the Project, of which \$126,733.53 shall be payable on the Closing Date

and \$42,244.52 shall be payable on the fifth anniversary of the Closing Date; (ii) all outstanding consulting and legal costs incurred by the Agency in connection with the Project; and (iii) all other fees and costs of the Agency incidental to undertaking the Project.

ARTICLE III LICENSE PROVISIONS

Section 3.1. Grant of License. (a) Subject and pursuant to the terms, conditions and contingencies contained within this Agreement, the Agency hereby grants to the Company an exclusive, revocable license (the “License”) to enter the Agency Lands for the exclusive purposes of surveying, studying, testing, drilling, boring and otherwise analyzing the Agency Lands in connection with the planning, design and engineering of the Project, as defined herein. The Company shall provide the Agency with copies of all engineering reports and test results associated with the Agency Lands and Project received by the Company during the term hereof, including, but not limited to geotechnical boring results and other reports and test results relating to the Agency Lands site conditions. The License shall be co-terminus with the Development Term, as defined herein, unless otherwise revoked by the Agency. The Agency, as Licensor, may revoke this license at any time if the Company, as Licensee, is in breach of any term or provision hereof and such breach has not been cured within sixty (60) days of written notice of such breach has been given to the Company by the Agency.

(b) License Indemnities and Events of Default. The Company, as Licensee, does hereby protect, defend, indemnify and hold harmless the Agency, as Licensor, against any and all claims, costs, judgments, liens, or actions, including reasonable attorneys' fees and costs of defense, for damage to property or injury to persons suffered on, or resulting or arising from the Company's activities on the Agency Lands, including any activities, actions, malfeasance or omissions of the Company or any officer, employee, director, agent or contractor of the Company. The provisions of this paragraph shall survive termination of this agreement. The Company hereby further protects, defends, indemnifies and holds harmless the Agency, as Licensor, against any and all claims, costs, judgments, liens, or actions, including reasonable attorney's fees and costs of defense, for claims, judgments, actions and any related liens associated with the Company's business activities as same may affect the Agency or title to the Agency Lands, including, but not limited to any action or dispute that may give rise to a lien against the Agency Lands. If at any point during the Development Term an action or proceeding (whether coupled with a lien filing or not) is threatened or initiated by a third party against the Agency or the Agency's title to the Agency Lands as a direct result of the Company's business activities relative to the Project, the Company shall be deemed in default of this Agreement unless bonded off, released of record or otherwise remedied to the Agency's satisfaction within sixty (60) business days of written demand to cure tendered by the Agency. The Company's failure to cure such a default (whether through payment, settlement, performance or payment bond, or otherwise) within said sixty (60) day period shall have the effect of terminating this Agreement, including all development

rights, the Option and any other rights of the Company contained herein or otherwise. In all events, the Company's indemnification of the Agency and obligation to pay all Agency costs associated with the Project pursuant to Section 2.5 hereof shall survive the termination of this Agreement.

(c) License Insurance Requirements:

At all times throughout the term of this Agreement, the Company, as Licensee, shall maintain the following insurance:

(i) Worker's compensation insurance, disability benefits insurance, and each other form of insurance which the parties hereto are required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Licensee working on the Project.

(ii) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Licensor by any applicable workmen's compensation law; and a blanket excess liability policy in the amount not less than \$5,000,000, protecting the Agency, as Licensor, against any loss or liability or damage for personal injury or property damage.

All insurance required by this Agreement shall name the Agency, as Licensor, as an additional insured. All such insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Licensee and authorized to write such insurance in the State. 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, as Licensee, is engaged. All policies evidencing such insurance shall provide for (i) payment of the losses of the Licensee and the Agency as their respective interests may appear, and (ii) if possible, at least thirty (30) days written notice of the cancellation thereof to the Licensee and the Agency, as Licensor. All such certificates of insurance of the insurers that such insurance is in force and effect, shall be deposited with the Agency on or before the first occasion on which Licensee is to enter on the Agency Lands for the purposes described in this Agreement. Prior to expiration of the policy evidenced by said certificates, the Licensee shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

ARTICLE IV
CONTEMPLATED PILOT PROVISIONS

Section 4.1. Payment in Lieu of Tax Agreement. (a) On the Closing Date, subject to the Agency's adoption of a project authorizing resolution, the Company and

the Agency shall enter into a PILOT Agreement. The PILOT Agreement shall be co-terminus with the amended 2012 Project Documents and require annual PILOT payments (the “PILOT Payments”) to be made by the Company to the Agency for the benefit of the County of Cayuga (the “County”), the Town of Aurelius (the “Town”) and the Union Springs Central School District (the “School”, and collectively with the County and Town, the “Affected Taxing Jurisdictions”).

(b) The above-described PILOT Agreement shall require PILOT Payments to be made by the Company to the Agency within each PILOT year. The Agency and Company shall amend the PILOT Mortgage to include the Agency Lands and Facility (the “PILOT Mortgage”) to secure PILOT Payments, such PILOT Mortgage to be secured as a priority of payment and/or lien over any mortgages or credit facilities secured by the Company in connection with the Project. The Agency shall work with the Company’s lenders to provide subordination of the PILOT Mortgage to lender mortgage(s), subject to the Agency’s reserved priority of payment of PILOT obligations. The parties hereto agree that any PILOT Mortgage so recorded shall be exempt from applicable mortgage recording taxes to extent permitted by law.

ARTICLE V CONTINGENCIES PRIOR TO PERFORMANCE

Section 5.1. Express Contingencies.

With the exception of undertaking pre-closing activities (as further defined herein), the parties hereto shall not be obligated to perform or carry out any of the proposed undertakings for the Project, as detailed within Article VI, below, until the following express contingencies (“Express Contingencies”) are satisfied:

(a) **Agency Express Contingencies:**

(i) Required Agency Procedures. The Agency previously accepted the Application pursuant to the Agency’s Initial Project Resolution adopted on August 16, 2022. Upon satisfaction by the Company of the Express Contingencies set forth within Section 5.1 (b), below, the Agency shall consider approval of a project authorizing resolution wherein the Financial Assistance shall be authorized along with all necessary actions for the Agency to undertake the Project, including the appointment of the Company as agent in connection with same (collectively, “Agency Procedures”).

(b) **Company Express Contingencies:**

(i) Project Design, Site Plan Approval and SEQRA. The Company, at its exclusive cost and expense, shall have completed all engineering and design activities necessary to construct the Project. The Company shall further secure all necessary Governmental Approvals relating to the Project, including any zoning and site plan approval(s) necessary to undertake the Project from the Town and/or Town Planning Board, subject only to those conditions that are satisfactory to the Company in the

Company's sole and absolute discretion. Further, the Company shall cause the Project to be reviewed pursuant to SEQRA by an appropriate lead agency, with such SEQRA review and related classification and findings to be completed prior to the Agency's adoption of a project authorizing resolution relating to the Project.

(ii) Financing Commitments. The Company shall secure firm financing commitment(s) in form and substance customary for transactions of the type contemplated by this Agreement at interest rates and on other terms acceptable to the Company in its sole discretion providing for the provision of funds sufficient to fund all costs associated with the Project (collectively, the "Financing Commitments"). Evidence of satisfaction of the Financing Commitments shall include (a) demonstration that the Company may proceed to close with lender(s) within sixty (60) days after satisfaction of each of the Expressed Contingencies.

(iii) The Company shall have secured Title Commitment (as defined below) for a Title Policy relating to the acquisition of an interest in the Agency Lands sufficient to undertake the Project.

(c) **Other Express Contingencies**

(i) Infrastructure Easement. In furtherance of the Project, the Company is may require an Easement Agreement from the County to provide rights to install and maintain infrastructure under Eagle Drive and adjacent to the Agency Lands (the "County Easement"), the terms and conditions of which shall be satisfactory to the Company in the Company's sole and absolute discretion. The Agency shall work cooperatively with the Company and County in connection with development of the County Easement and all necessary actions required to be undertaken by the County to approve same.

ARTICLE VI
PROPOSED UNDERTAKINGS FOR PROJECT; GRANT OF ADDITIONAL
OPTION; COMPANY INDEMNITIES

Section 6.1. Proposed Undertakings by the Agency.

(a) Pre-closing Activities. The Agency shall use best efforts to eliminate the Agency Express Contingencies and Other Express Contingencies as set forth in Section 5.1 above. The Agency's best efforts shall be used to carry out the Agency Procedures and to assist the Company, where appropriate, in securing any Governmental Approvals relating to the Project.

(b) Closing and post-closing activities. Upon satisfaction of the Express Contingencies and Other Express Contingencies as set forth within Section 5.1 above, it is contemplated that the Company will exercise the Option in accordance herewith and the Agency will transfer the Agency Lands to the Company for purposes of allowing the Company to undertake the Project as agent of the Agency. In connection with the

Closing, it is contemplated that the Agency will provide the Agency Financial Assistance in accordance with Act and Code to the Company.

Section 6.2. Proposed Undertakings by the Company.

(a) Undertaking of Project. The Company shall promptly undertake the Project on the Closing Date. The costs incurred by the Company in furtherance of undertaking the Project shall be 100% borne by the Company. The Company shall use best efforts in undertaking all aspects of the Project.

(b) Pre-closing activities. The Company shall use best efforts to eliminate the Company Express Contingencies set forth within Section 5.1, above. Subject to the satisfaction of the Company Express Contingencies, the Company's best efforts shall be used to prepare for prompt commencement of construction on the Closing Date, including: (i) to finalize all necessary plans and specifications for the Project, including finalized budget figures, which shall be provided to the Agency; (ii) to secure any and all necessary Governmental Approvals for the Project; (iii) to finalize and execute all necessary contracts for the construction of the Project (copies of which shall be provided to the Agency); (iv) to secure the Financing Commitments; and (v) such other business activities of the Company necessary to undertake the Project. Any and all contracts entered into by the Company for the construction of the Project containing any form of performance guarantee shall also list the Agency and its assigns as additional indemnified parties.

(c) Closing and post-closing activities. Upon satisfaction of the Express Contingencies set forth within Section 5.1, above, the Company may exercise the Option to acquire an interest in the Agency Lands from the Agency on the Closing Date. The Company will construct the Project pursuant to terms and conditions of this Agreement, the Lease Agreement, applicable construction contracts, and any financing indentures, covenants and conditions.

(d) Project performance measures and timeframes. The Lease Agreement shall contain provisions requiring the Company to meet specific performance measures and timeframes for completion of the Project imposed by the Agency, such performance measures and timeframes to be subject to the Company's exclusive approval.

(e) Project Insurance and Indemnities. The Lease Agreement will require the Company to provide appropriate insurance coverage for the Project, along with provisions whereby the Company shall indemnify the Agency and its respective assigns from any and all costs and liabilities associated with the Agency Lands and the Project.

Section 6.3 Indemnification and Hold Harmless Provisions.

(a) Subject to the provisions contained herein or within any other agreement by and among the parties hereto, the Company hereby releases the Agency and its assigns from, agrees that the Agency, and its assigns shall not be liable for, and agrees to

indemnify, defend and hold the Agency and its assigns and their executive director, officers, members, directors and employees, and their respective successors, assigns or personal representatives, 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 Project arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Agency Lands and Project or (ii) liability arising from or expense incurred by the Agency's financing, construction, renovation, equipping, owning and leasing of the Project, including without limiting the generality of the foregoing, all causes of action and 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 members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability; except, however, that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the indemnified party to the extent that such an indemnity would be prohibited by law. The above-described indemnifications shall survive the Closing Date and during the term of the Lease Agreement.

Section 6.4 Reserved.

Section 6.5 Title Review.

During the Development Term, the Company shall order a fully guaranteed abstract (or abstracts) of title setting forth the title for the Agency Lands for at least sixty (60) years, including tax, title, and judgment searches run against the Agency Lands, all dated or redated subsequent to commencement of the Development Term, with copies of all title exception documents ("Title Commitment") in order to permit the Title Company to issue to the Company at Closing, ALTA Owner's, and to the lender(s), Lender's Title Insurance Policies (the "Title Policy"), which shall include all title endorsements required by Company and Company's lender(s), as well as the Company's members and any equity partner(s), insuring good and marketable fee simple or leasehold title to the Agency Lands, in an amount no less than the Purchase Price, subject to such exceptions to title as are permitted herein. The cost of such Title Commitment shall be borne by the Company. A copy of the Title Commitment shall be provided to the Agency within Ten (10) days of receipt thereof by the Company. The Company shall obtain and review the Title Commitment and provide Agency with written notice of any objectionable title conditions within 120 days of the date hereof. Within twenty (20) business days after its receipt of the notice from the Company of any objectionable title conditions, the Agency shall notify the Company as to whether or not the Agency shall (i) remedy the objectionable title conditions (at or prior to Closing), or (ii) at the Company's sole election, obtain the Title Company's commitment to insure over, at the Agency's cost and expense, each of the objectionable title conditions noted by the Company (the "Title Notice"). The Agency shall be required to cure objectionable title conditions other than the Permitted Exceptions, as defined within Schedule B of the Title Commitment (the "Permitted Exceptions"). Notwithstanding anything to the contrary contained herein,

Permitted Exceptions shall not include and the Agency shall be obligated to cure, without limitation, objectionable title conditions that the Company expressly agrees to be responsible to cure (which shall include any title conditions created by the Company during the Development Term); exceptions for filed or unfiled mechanics' liens resulting from work performed by or at the request of the Company for the Project pursuant to Section 5.1(a)(ii) hereof, taxes, judgments, monetary encumbrances, or other liens; the exception for defects, liens, encumbrances, adverse claims or other matters created after the date of the Title Commitment but prior to the Closing. The parties agree to cooperate with each other to ensure that the Title Policy shall be in form and substance acceptable to the Company, and Company's lender(s), as well as the Company's members and any equity partner(s), as of the Closing Date. In the event that Closing shall fail to occur as a consequence of the Agency being unable or unwilling to deliver title to the Agency Lands as described above, the Deposit shall be returned to the Company, subject to offset as set forth within Sections 2.5 and 8.11 hereof.

ARTICLE VII NO RECOURSE OF AGENCY

Section 7.1. No Recourse; Special Obligation.

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

(b) The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State or of the County of Cayuga, New York, and neither the State, nor the County of Cayuga, New York shall be liable hereon or thereon. and, further, other than those covenants and indemnities provided by the Agency to the Company herein, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, as its interests may appear, payable solely from the revenues of the Agency derived and to be derived from the sale or other disposition of the Agency Lands, including the Deposit and Purchase Price, or any indemnification or proceeds derived from insurance required herein.

Section 7.2. No Joint Venture Created.

The parties hereto mutually agree that by entering into this Agreement the parties hereto are not entering into a joint venture.

ARTICLE VIII
MISCELLANEOUS PROVISIONS

Section 8.1. Notices.

All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when delivered and, if delivered by mail, shall be sent by certified mail, postage prepaid, addressed as follows:

To the Agency: Cayuga County Industrial Development Agency
2 State Street
Auburn, New York 13021
Attn: Executive Director

With copies to: Harris Beach PLLC
677 Broadway, Suite 1101
Albany, New York 12207
Attn: Justin S. Miller, Esq.

To the Company: Cayuga Milk Ingredients, LLC
15 Eagle Drive
Auburn, New York 13021
Attn: CEO

With copies to: Nixon Peabody LLP
1300 Clinton Square
Rochester, New York 14604
Attn: Jared C. Lusk, Esq.

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.

Section 8.2. Binding Effect.

This Agreement shall inure to the benefit of and shall be binding upon the Agency, the Company and their respective successors and assigns.

Section 8.3. Severability.

In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.4. Amendments, Changes and Modifications.

This Agreement may not be amended, changed, modified, altered or terminated without the concurring written consent of the parties hereto.

Section 8.5. Execution of Counterparts.

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

Section 8.6. Applicable Law.

This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

Section 8.7. Recording and Filing.

This Agreement or a memorandum thereof, shall be recorded or filed, as the case may be, in the Office of the Clerk of the County of Cayuga, or in such other office as may at the time be provided by law as the proper place for the recordation or filing thereof.

Section 8.8. Survival of Obligations.

This Agreement shall survive beyond the Closing Date and the performance of the obligations of the Company to make payments required by Section 2.3. All indemnities contained herein shall survive any termination or expiration of this Agreement.

Section 8.9. Section Headings Not Controlling.

The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning or be taken as an interpretation of any provision of this Agreement.

Section 8.10. No Broker.

The Agency and the Company represent and warrant to the other that no party hereto has dealt with any broker or finder entitled to any commission, fee, or other compensation by reason of the execution of this Agreement, and each party agrees to indemnify and hold the other harmless from any charge, liability or expense (including attorneys' fees) the other may suffer, sustain, or incur with respect to any claim for a commission, fee or other compensation by a broker or finder claiming by, through or under the other party.

Section 8.11. Agreement to Pay Attorneys' Fees and Expenses.

(a) In accordance with the Application submitted by the Company, and the provisions hereof, the Company shall be responsible for payment of all reasonable attorneys' fees and expenses incurred by the Agency in connection with the within described Project. It is agreed by the parties hereto that all accrued attorneys' fees and expenses incurred by the Agency following the date hereof will be paid by the Company on the Closing Date, however, if the Company submits an Extension Request or if an Extension Term is granted and/or memorialized in accordance herewith, then all accrued attorneys' fees and expenses incurred by the Agency will be paid by the Company prior to the effectiveness of any such Extension Term. Any attorneys' fees and expenses accrued by the Agency after the Closing Date shall be paid by the Company within thirty (30) days of written request by the Agency. In the event that the Closing Date does not occur within the Development Term provided herein, or if the Company should default under any of the provisions of this Agreement, the Lease Agreement, or any other agreement associated with the Project, and the Agency should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, within thirty (30) days of written request by the Agency, pay to the Agency all reasonable and outstanding attorneys' fees and expenses, along with the reasonable fees of attorneys and such other expenses so incurred in collecting same.

Section 8.12. No Additional Waiver Implied by One Waiver.

In the event any agreement contained herein should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 8.13. Force Majeure.

Neither party shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) to the extent said failures or delays are proximately caused by causes beyond that party's reasonable control and occurring without its fault or negligence, including, without limitation, acts of God, labor shortages, materials shortages, war, insurrection, terrorism, natural disasters, pandemics (including, with respect to COVID-19) or epidemics proximate to the Project. As a condition to the claim of nonliability, the party experiencing the difficulty shall give the other prompt written notice, with full details following the occurrence of the cause relied upon. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

Section 8.14. Assignment.

(a) This Agreement may not be assigned by the Company in whole or in part except 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 prior written consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed. . A transfer in excess of 50% of the equity voting interests of the Company (including all parent companies of the Company through and including the ultimate taxpayer(s) owning or controlling 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. Any assignment shall be consented to by the Agency on the following conditions, as of the time of each assignment:

- (i) no assignment shall relieve the Company from primary liability for any of its obligations hereunder;
- (ii) any approved assignee shall assume the obligations of the Company hereunder to the extent of the interest assigned; and
- (iii) the Company shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Agency a true and complete copy of such assignment and the instrument of assumption; and
- (iv) if the Agency shall so request, as of the purported effective date of any assignment pursuant to subsection (a) of this Section 8.14, the Company at its cost shall furnish to the Agency with an opinion, in form and substance satisfactory to the Agency as to items (i) and (ii) above.

(b) Any such assignment shall be subject to the review and approval by the Agency and its counsel (at no cost to the Agency; any such cost to be paid by the Company, including reasonable attorney’s fees), which approval shall not be unreasonably withheld, conditioned or delayed, and shall contain such terms and conditions as reasonably required by the Agency and its counsel.

Section 8.15. Company Right to Terminate.

The Agency acknowledges that the Company shall have the right, at its sole discretion, to terminate the Agreement and/or seek any available remedy at law or equity, including specific enforcement of the Agency’s obligations hereunder. The Company’s election to terminate this Agreement shall be evidenced in writing and transmitted to the Agency in accordance with Section 8.1, hereof. Termination of this Agreement by the Company shall automatically extinguish and nullify the Option and the related development rights granted herein.

IN WITNESS WHEREOF, the Agency and the Company have caused this Agreement to be executed in their respective names, all as of the date first above written.

**CAYUGA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

By: Michael Miller
Name: Michael Miller
Title: Executive Director

CAYUGA MILK INGREDIENTS, LLC

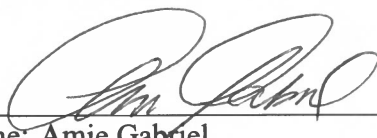
By: _____
Name: Amie Gabriel
Title: Interim CEO

IN WITNESS WHEREOF, the Agency and the Company have caused this Agreement to be executed in their respective names, all as of the date first above written.

CAYUGA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Name: Michael Miller
Title: Executive Director

CAYUGA MILK INGREDIENTS, LLC

By:  _____
Name: Amie Gabriel
Title: Interim CEO

State of New York)
)
County of Cayuga) ss.:

On the 1st day of November in the year 2022 before me, the undersigned, personally appeared **Michael Miller**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

State of New York)
)
County of Cayuga) ss.:

RICCARDO T. GALBANO
NOTARY PUBLIC, State of New York
My Commission Expires June 19, 2023

On the ___ day of November in the year 2022 before me, the undersigned, personally appeared **Amie Gabriel**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

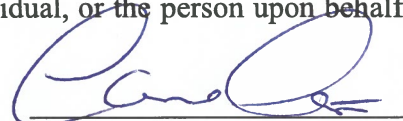
State of New York)
)
County of Cayuga) ss.:

On the _____ day of November in the year 2022 before me, the undersigned, personally appeared **Michael Miller**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

State of New York)
)
County of Cayuga) ss.:

On the 2nd day of November in the year 2022 before me, the undersigned, personally appeared **Amie Gabriel**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

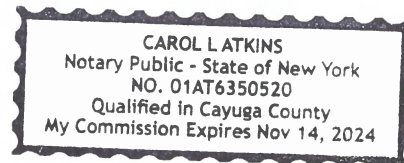


EXHIBIT A
DESCRIPTION OF AND DEPICTION OF THE AGENCY LANDS

