

**GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a
GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER**

TO

HP HOOD LLC

AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT

Dated as of June 30, 2017

AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT

THIS AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT (hereinafter, the "Agent Agreement"), dated as of June 30, 2017, by and between the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER**, a public benefit corporation of the State of New York, having its offices at 99 MedTech Drive, Suite 106, Batavia, New York, 14020 (the "Agency"), and **HP HOOD LLC**, a limited liability company duly formed and validly existing under the laws of the State of Delaware and duly authorized to conduct business in the State of New York, with offices at 6 Kimball Lane, Suite 400, Lynnfield, Massachusetts 01940 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 390 of the Laws of 1972 of the State of New York pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, pursuant to that certain Lease Agreement, dated as of February 1, 2009 (the "2009 Lease Agreement") by and between Genesee Agri-Business LLC ("Genesee Agri-Business"), as lessor and the Agency, as lessee, a memorandum of which was recorded in the office of the Genesee County Clerk on March 2, 2009 in Liber 872 at Page 424, Genesee Agri-Business leased approximately two hundred and three (203) acres of land located in the Town of Batavia, Genesee County, New York to the Agency (the "Ag Park Land"); and

WHEREAS, pursuant to that certain Leaseback Agreement, dated as of February 1, 2009 (the "2009 Leaseback Agreement") by and between the Agency, as lessor, and Genesee Agri-Business as lessee, a memorandum of which was recorded in the office of the Genesee County Clerk on March 2, 2009 in Liber 872 at Page 435, the Agency subleased its interest in the Ag Park Land back to Genesee Agri-Business; and

WHEREAS, pursuant to that certain Amended and Restated Lease Agreement, dated as of June 30, 2017 (the "Amended 2009 Lease Agreement"), by and between Genesee Agri-Business, as lessor and the Agency, as lessee, and that certain Amended and Restated Leaseback Agreement, dated as of June 30, 2017 (the "Amended 2009 Leaseback Agreement"), by and between the Agency, as lessor and Genesee Agri-Business, as lessor, Genesee Agri-Business and the Agency terminated the Agency's leasehold interest in the Land (as hereinafter defined) and Genesee Agri-Business' sub-leasehold interest in the Land, but retained the Agency's leasehold interest in the remaining portion of the Ag Park Land and Genesee Agri-Business' sub-leasehold interest in the remaining portion of the Ag Park Land; and

WHEREAS, pursuant to that certain Purchase and Sale Agreement, dated as of March 2, 2012 by and between Genesee Agri-Business and Wave Holdings, LLC (as predecessor to Muller Quaker Dairy), Genesee Agri-Business sold that certain portion of the Ag Park Land

which constitutes the Land (as hereinafter defined) to Muller Quaker Dairy, subject to the Agency's leasehold estate created under the 2009 Lease Agreement and Genesee Agri-Business' sub-leasehold estate created under the 2009 Leaseback Agreement, which said leasehold estate and sub-leasehold estate have now been terminated pursuant to the Amended 2009 Lease Agreement and the Amended 2009 Leaseback Agreement; and

WHEREAS, by Resolution adopted by the Agency on March 12, 2012, in connection with a certain project undertaken by Muller Quaker Dairy, as agent of the Agency, the Agency authorized the execution of certain documents including (i) that certain Lease Agreement, dated as of August 1, 2012, by and between Muller Quaker Dairy, as lessor and the Agency, as lessee (the "Original Lease Agreement"), a memorandum of which was recorded in the Office of the Genesee County Clerk on September 26, 2012 in Liber 894 at Page 828 and (ii) that certain Leaseback Agreement, dated as of August 1, 2012, by and between the Agency, as lessor and Muller Quaker Dairy, as lessee (the "Original Leaseback Agreement"), a memorandum of which was recorded in the Office of the Genesee County Clerk on September 26, 2012 in Liber 894 at Page 834, pursuant to which Muller Quaker Dairy leased its interest in the Land (as defined below) to the Agency and the Agency subleased its interest in the Land back to Muller Quaker Dairy; and

WHEREAS, pursuant to that certain Assignment and Assumption of Agreements, dated as of January 12, 2016 (the "2016 Assignment and Assumption of Agreements"), by and among the Agency, Muller Quaker Dairy and Batavia Dairy Products, LLC ("Batavia Dairy Products"), which 2016 Assignment and Assumption of Agreements was recorded in the Office of the Genesee County Clerk on February 29, 2016 in Liber 357 at Page 505, Muller Quaker Dairy assigned to Batavia Dairy Products, its rights, title, interest, duties and obligations and liabilities under certain documents, including but not limited to, the Original Lease Agreement and the Original Leaseback Agreement; and

WHEREAS, pursuant to that certain Assignment and Assumption of Agreements, dated as of June 30, 2017 (the "Assignment and Assumption of Agreements"), by and among the Agency, Batavia Dairy Products and the Company, Batavia Dairy Products assigned to the Company, its rights, title, interest, duties and obligations and liabilities under certain documents, including but not limited to, the Original Lease Agreement and the Original Leaseback Agreement; and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (A) the acquisition or retention by the Agency of a leasehold interest in, certain land located at 5140 Ag Park Drive West, Town of Batavia, Genesee County, New York (being more particularly described as tax map identification number 13.-1-165.111/P) (the "Land") and the existing improvements located thereon, consisting principally of a 383,000 square-foot manufacturing facility (the "Existing Improvements"), (B) (i) the renovation and equipping of the Existing Improvements and (ii) the construction and equipping on the Land of small external additions, silo tanks, an approximately 100,000 square-foot refrigerated warehouse and related improvements and infrastructure for use by the Company as a fluid processing plant (the

"Improvements") and (C) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property, including but not limited to, processing equipment, filling equipment, and waste water treatment equipment (the "Equipment", and collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, by Resolution adopted on June 27, 2017 (the "Resolution"), the Agency authorized the Company to act as its agent for the purposes of undertaking the Project subject to the Company entering into this Agent Agreement; and

WHEREAS, by the Resolution, the Agency approved certain benefits and financial assistance in connection with the Project consisting of: (a) an exemption from all New York State and local sales and use tax for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction, renovation or equipping of the Facility (the "Sales and Use Tax Exemption Benefits") and (b) a partial abatement from real property taxes benefit conferred through a certain Amended and Restated Payment-In-Lieu-Of-Taxes Agreement, dated as of June 30, 2017 (the "Amended and Restated PILOT Agreement") requiring the Company to make payments in lieu of taxes ("Tax Payments") for the benefit of each municipality and school district having taxing jurisdiction over the Project (the sales and use tax exemption benefit and the partial abatement from real property taxes benefit are hereinafter collectively referred to as the "Financial Assistance"); and

WHEREAS, pursuant to and in accordance with Sections 859-a and 874 of the Act, the Agency requires, as a condition and as an inducement for it to provide the Financial Assistance, that the Company enter into this Agent Agreement for the purposes of, among other things, to govern administration of and provide assurances with respect to the provision and recapture of said Financial Assistance upon the terms herein set forth; and

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

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

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

1. Purpose of Project and Scope of Agency. The purpose of the Agency's provision of Financial Assistance with respect to the Project is to promote, develop, encourage and assist in the undertaking of the Project to advance job opportunities, health, general prosperity and economic welfare of the people of Genesee County, New York, and to specifically promote the

investment, employment and other commitments of the Company contained herein and in the Company's Application.

Pursuant to the Resolution, the Agency has appointed the Company as agent to undertake the Project. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution to acts reasonably related to the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation thereof in and around the Facility. Pursuant to the Resolution and this Agent Agreement, the Company has the power to delegate such agency, in whole or in part, to agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and to such other parties as the Company chooses including but not limited to the individuals and entities described on **Schedule A** attached hereto (collectively, the "Subagent"). The Company shall have the right to amend **Schedule A** from time to time and shall be responsible for maintaining an accurate list of all parties acting as agent of the Agency. The Company's right to appoint subagents is expressly conditioned upon updating **Schedule A**, hereto, along with the timely filing of Form ST-60 (non-primary) for each subagent, with such updated **Schedule A** and a copy of and proof of filing of such ST-60 (non-primary) being immediately filed with the Agency. The right of the Company and all Subagents to act as agent of the Agency shall expire on **December 31, 2019**, unless extended as contemplated by the Resolution. The aggregate amount of work performed by the Company and all Subagents as agent for the Agency shall not exceed the amounts identified in the Resolution and Section 2(h)(i) of this Agent Agreement.

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

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

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

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

creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.

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

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

(e) The Company covenants that it will comply in all respects with that certain Environmental Compliance and Indemnification Agreement, dated as of June 30, 2017, from the Company to the Agency.

(f) Any personal property acquired by the Company in the name of the Agency shall be located in the Town of Batavia, Genesee County, New York, except for temporary periods during ordinary use.

(g) In accordance with Section 875(3) of the General Municipal Law of the State of New York, the policies of the Agency, and the Resolution, the Company covenants and agrees that it will be subject to a Sales and Use Tax Recapture Event Determination (as hereinafter defined and described below) resulting in the potential recapture and/or termination of any and all of the Sales and Use Tax Exemption Benefits, if the Company receives, or any Subagents receives any Sales and Use Tax Exemption Benefits from the Agency, and it is determined by the Agency that (each a "Sales and Use Tax Recapture Event Determination"):

(1) the Company or its Subagents, if any, authorized to make purchases for the benefit of the Project is not entitled or authorized to take the Sales and Use Tax Exemption Benefits;

(2) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its Subagents, if any;

(3) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project;

(4) the Sales and Use Tax Exemption Benefits are for property or services which are not used in accordance with the terms of this Agent Agreement; or

(5) whenever required under applicable law.

The Company covenants and agrees that it will be subject to a Recapture Event Determination (as hereinafter defined and described below) resulting in the potential recapture and/or termination of any and all of the Financial Assistance, if the Company receives, or any Subagents receives any Financial Assistance from the Agency, and it is determined by the Agency that there is (each a "Recapture Event Determination"):

- (1) sale or closure of the Facility;
- (2) submission of a false application by the Company;
- (3) significant change in use in the Facility;
- (4) significant change in the business activities of the Company or the Project operator;
- (5) material noncompliance with or breach of terms of the Agency transaction documents (including but not limited to the Amended and Restated Lease Agreement (as hereinafter defined), the Amended and Restated Leaseback Agreement (as hereinafter defined) and the Amended and Restated PILOT Agreement) or of zoning or land use laws or regulations or federal, state or local environmental laws or regulations;
- (6) significant employment reductions not reflective of the Company's (normal) business cycle and/or local and national economic conditions or inconsistent with employment levels presented to the Agency at the time the Amended and Restated PILOT Agreement was agreed to by the Agency (prior to determination, the Company will be asked to come before the Agency's Governance Committee to be given their due process);
- (7) the Company has made a material false or misleading statement, or omitted any information which, if included, would have rendered any information in the Company's Application or supporting documentation false or misleading in any material respect; or
- (8) the Company fails to meet and maintain the following thresholds and requirements:
 - (i) The Company recognizes and acknowledges that the Agency is entering into this Agent Agreement based in part on representations made by the Company in its Application, dated on or about May 23, 2017 regarding job creation and retention at the Facility.
 - (ii) For the purposes of this Agent Agreement, "Full-Time Equivalent Employee" shall mean, with respect to any specific date or period, a person or

persons directly employed on such date or during such period by the Company (inclusive of its affiliates, tenants and other occupants and users of the Facility), and who shall on such date or for such period have carried out the terms of such employment on a "Full-Time Equivalent Basis" at the Facility. "Full-Time Equivalent Basis" shall mean a person or persons who shall on an aggregate basis work at least thirty-five (35) hours per week, or one hundred forty (140) hours per month which shall be measured on a quarter annual basis.

(iii) The Application represents that, for the purpose of this Agent Agreement, the Company intends to employ and maintain for the term of the Amended and Restated PILOT Agreement, a workforce of no less than two hundred and thirty (230) Full-Time Equivalent Employees which in the aggregate shall work on a Full-Time Equivalent Basis at the Facility, as of December 31, 2021.

(iv) The Company is required under this Agent Agreement and hereby agrees to submit a copy of quarterly NYS-45 reports (for the Company, inclusive of its affiliates, tenants and other occupants and users of the Facility), and any other reports required by the Agency to evidence the employment commitment.

(v) If it is determined upon review of the Annual Report that the number of Full-Time Employees at the Facility is less than what was represented in the Application (the "Employment Target"), the Agency shall have the right to require the Company pay to the Agency for the benefit of the Affected Tax Jurisdictions an amount equal to the benefits provided hereunder and any sales and mortgage tax exemptions, if any, provided by the Agency to the Company in connection with the Project.

In order to certify and verify the foregoing, the Company or the tenant shall annually complete and submit to the Agency the Annual Certification Report in the form attached hereto as **Exhibit F. Failure by the Company to complete and submit said form to the Agency by February 15 of each year commencing as of February 15, 2018, shall constitute an Event of Default hereunder, whereby the Agency, in its sole and absolute discretion, may terminate this Agent Agreement and/or the Amended and Restated PILOT Agreement and recapture any or all Financial Assistance.**

The Company and the Agency mutually agree that, should the Agency determine to recapture benefits with respect to the Project, the Agency also shall, in its sole discretion and on a case-by-case basis, determine the timing and percentage of recapture or termination of financial assistance to the Company.

If the Agency makes a Recapture Event Determination, the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such

amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate Affected Tax Jurisdiction(s). The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner and/or local taxing authorities may assess and determine the Financial Assistance due from the Company, together with any relevant penalties and interest due on such amounts.

This Section 2(g) shall be coterminous with the leasehold estate created by the Amended Leaseback Agreement and shall survive any termination or expiration of this Agent Agreement.

(h) The Company further: (i) covenants that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in an amount up to **\$59,105, 200.00**, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency, subject to Section 2(g) of this Agent Agreement, cannot exceed **\$4,728,416.00** and (ii) confirms that real property tax abatement benefits to be provided to the Company shall conform to those contained within the Amended and Restated PILOT Agreement, a copy of is attached hereto as **Exhibit D**.

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

(j) The Company acknowledges and agrees that all purchases made in furtherance of the Project shall be made using "IDA Agent or Project Operator Exempt Purchase Certificate" (NYS Form ST-123, a copy of which is attached hereto as **Exhibits B-1 and B-2**), and it shall be the responsibility of the Company (and not the Agency) to complete NYS Form ST-123. The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the bill or invoice should state:

"I, [NAME OF COMPANY _____] OR SUBAGENT _____], certify that I am a duly appointed agent of the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** and that I am purchasing the tangible personal property or services for use in the HP Hood LLC Project located at 5140 Ag Park Drive in the Town of Batavia, Genesee County, New York, being IDA OSC Project Number 1801 17 01A".

For convenience purposes, in the instance where the vendor does not print on each invoice the acknowledgment as described in the prior sentence, an "Invoice Rider" (a copy of which is attached hereto as **Exhibit B-3**) can be utilized for record keeping purposes.

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

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

(m) The Company covenants and agrees that it will (i) maintain its existence and not dissolve, (ii) continue to be a corporation subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business in the State, (iii) not liquidate, wind-up or dissolve or otherwise sell, assign, or dispose of all or substantially all of its property, business or assets. This Agent Agreement may not be assigned in whole or part without the prior written consent of the Agency.

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

3. Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its executive director, directors, members, officers, employees, agents (except the Company), representatives, successors and assigns harmless from and against, any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Facility or breach by the Company of this Agent Agreement or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, constructing, rehabilitating, renovating, equipping, owning and leasing of the Equipment or of the Facility, including without limiting the generality of the foregoing, all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective executive director, directors, members, 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 that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified.

4. Insurance Required. Effective as of the date hereof and until the Agency consents in writing to a termination, the Company shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type and paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(a) (i) Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Facility, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company or (ii) as an alternative to the above requirements (including the requirement of periodic appraisal), the Company may insure the Facility under a blanket insurance policy or policies covering not only the Facility but other properties as well. Such insurance shall have a commercially reasonable deductible.

(b) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Facility.

(c) 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 Company by any applicable workers' compensation law; and a blanket excess

liability policy in the amount not less than **\$3,000,000**, protecting the Company against any loss or liability or damage for personal injury or property damage.

5. Additional Provisions Respecting Insurance. (a) Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged. All policies evidencing such insurance shall provide for payment of the losses of the Company and the Agency as their respective interests may appear. The Company shall cause all contractors and agents of the Company undertaking the Project to carry and provide evidence of insurance as required within Section 4(a) and 4(b) of this Agent Agreement, with the Agency named as an additional insured.

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

6. This Agent Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

7. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, or by a nationally-recognized overnight courier, addressed as follows:

To the Agency: Genesee County Industrial Development Agency
d/b/a Genesee County Economic Development Center
99 MedTech Drive, Suite 106
Batavia, New York 14020-3141
Attn.: President/CEO

With a Copy to: Harris Beach PLLC
99 Garnsey Road
Pittsford, New York 14534
Attn.: Russell E. Gaenzle, Esq.

To the Company: HP Hood LLC
6 Kimball Lane, Suite 400
Lynnfield, Massachusetts 01940
Attn.: Theresa Bresten, VP and Treasurer

With a Copy to: HP Hood LLC
6 Kimball Lane, Suite 400
Lynnfield, Massachusetts 01940
Attn.: Paul Nightingale, SVP and General Counsel

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

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

9. The warranties, representations, obligations and covenants of the Company under this Agent Agreement shall be absolute and unconditional and shall remain in full force and effect during the term of this Agent Agreement, shall be deemed to have been relied upon by the Agency, and shall survive the delivery and termination of this Agent Agreement to the Agency, regardless of any investigation made by the Agency. This Agent Agreement shall survive any termination or expiration of the Amended and Restated Leaseback Agreement (as defined below) or the Amended and Restated PILOT Agreement, as described below.

10. The parties are contemplating that unless the Agency and Company enter into that certain Amended and Restated Lease Agreement, dated as of June 30, 2017 (the "Amended and Restated Lease Agreement") by and between the Company and the Agency, and the related Amended and Restated Leaseback Agreement, dated as of June 30, 2017 (the "Amended and Restated Leaseback Agreement") by and between the Agency and the Company, the Company agrees not to take title to any real property as agent for the Agency. The Agency will provide the Company with a bill of sale (a form of which is attached hereto as **Exhibit E**) which sells, transfers and delivers unto the Company and its successors and assigns, all Equipment which were acquired and installed and/or are to be acquired and installed by the Company as agent for the Agency pursuant to this Agent Agreement which Equipment is located or intended to be located within and used exclusively in furtherance of the operations of the Facility.

11. The Company covenants and agrees to pay all fees, costs and expenses incurred by the Agency, as set forth in the Application, for (a) legal services, including but not limited to those provided by the Agency's general counsel or bond/transaction counsel, (b) other consultants retained by the Agency, if any, in connection with the Project (however, unless an Event of Default has occurred and is continuing, prior to retaining a consultant, the Agency shall obtain the Company's consent, which consent shall not be unreasonably withheld); and (c) with respect to Agency's enforcement of any event of default or failure to comply with the terms of this Agent Agreement (including reasonable attorneys' fees).

The Company further covenants and agrees that the Company is liable for payment to the Agency of all charges referred to above, as well as all other actual costs and expenses reasonably incurred by the Agency in undertaking the Project notwithstanding the occurrence of any of (i) the Company's withdrawal, abandonment, cancellation or failure to pursue the Project; (ii) the inability of the Agency or the Company to procure the services of one or more financial


institutions to provide financing for the Project; or (iii) the Company's failure, for whatever reason, to undertake and/or successfully complete the Project.

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[Signature Page to Agent, Financial Assistance and Project Agreement]

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

**GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY d/b/a
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER**

By: 
Steven G. Hyde, President/CEO

HP HOOD LLC

By: _____
Gary R. Kaneb, Chief Financial Officer

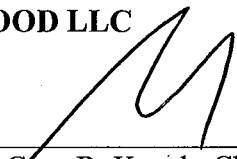
[Signature Page to Agent, Financial Assistance and Project Agreement]

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

**GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY d/b/a
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER**

By: _____
Stephen G. Hyde, President/CEO

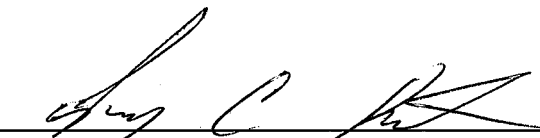
HP HOOD LLC

By:  _____
Gary R. Kaneb, Chief Financial Officer

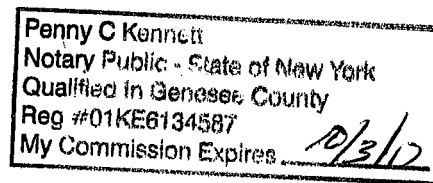
[Acknowledgment Page to Agent, Financial Assistance and Project Agreement]

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

On the 27th day of June in the year 2017, before me, the undersigned, personally appeared **STEVEN G. HYDE**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public



COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF ESSEX) ss.:

On the ____ day of June in the year 2017, before me, the undersigned, personally appeared **GARY R. KANEB** personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

[Acknowledgment Page to Agent, Financial Assistance and Project Agreement]

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

On the _____ day of June in the year 2017, before me, the undersigned, personally appeared **STEPHEN G. HYDE**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF ESSEX) ss.:

On the 27th day of June in the year 2017, before me, the undersigned, personally appeared **GARY R. KANEB** personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public



Maria Williams
Notary Public
Commonwealth of Massachusetts
My Comm. expires March 26, 2021

SCHEDULE A

LIST OF APPOINTED AGENTS¹

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

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

SCHEDULE B

MANDATORY AGENT AND SUBAGENT CONTRACT LANGUAGE

"This contract is being entered into by **HP HOOD LLC** (the "Agent"), as agent for and on behalf of the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency"), in connection with a certain project of the Agency for the benefit of Agent, consisting in part of the acquisition and installation of certain machinery, equipment and building materials, all for incorporation and installation in certain premises located at 5140 Ag Park Drive, in the Town of Batavia, Genesee County, New York (the "Premises"). The acquisition of the machinery, equipment and building materials to be incorporated and installed in the Premises and all services and rentals of equipment related to the acquisition, construction and equipping of the Project shall be exempt from all New York State and local sales and use taxes if the acquisition thereof is effected in accordance with the terms and conditions set forth in the attached sales tax exemption information letter of the Agency; and the Agent hereby represents that this contract is in compliance with the terms of the Agent, Financial Assistance and Project Agreement, by and between HP Hood LLC and the Agency dated as of June 30, 2017 (the "Agent Agreement"). This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor hereby acknowledges and agrees to the terms and conditions set forth in this paragraph."

EXHIBIT A

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

[See Attached]

EA-1



IDA Appointment of Project Operator or Agent For Sales Tax Purposes

ST-60

(4/13)

The industrial development agency or authority (IDA) must submit this form within 30 days of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

For IDA use only

Name of IDA Genesee County Industrial Development Agency d/b/a Genesee County Economic		IDA project number (use OSC numbering system for projects after 1998) 1801 17 01A	
Street address 99 MedTech Center, Suite 106		Development Center	
City Batavia		Telephone number (585) 343-4866	State NY
Name of IDA project operator or agent		Mark an X in the box if directly appointed by the IDA: <input type="checkbox"/>	Employer identification or social security number
Street address		Telephone number ()	Primary operator or agent? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
City		State	ZIP code
Name of project HP Hood, LLC Project		Purpose of project (see instructions) Manufacturing	
Street address of project site 5140 Ag Park Drive		State NY	
City Batavia		ZIP code 14020	
Description of goods and services intended to be exempted from New York State and local sales and use taxes Goods/services related to the purchase and renovation of an existing 383,000 sq ft manufacturing facility located on land; construct and equip small external additions, silo tanks, and approx. 100,000 sq ft refrigerated warehouse and improvements and infrastructure for use as fluid processing plant			
Date project operator or agent appointed (mm/dd/yy)		Date project operator or agent status ends (mm/dd/yy) 12/31/19	Mark an X in the box if this is an extension to an original project: <input type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax:		Estimated value of New York State and local sales and use tax exemption provided:	

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer or employee signing on behalf of the IDA Steven G. Hyde	Print title President and Chief Executive Officer
Signature 	Date 06/30/2017
	Telephone number (585) 343-4866

Instructions

Filing requirements

An IDA must file this form within 30 days of the date the IDA appoints any project operator or other person as agent of the IDA, for purposes of extending any sales and compensating use tax exemptions.

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA need not file this form if the IDA does not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, the IDA must, within 30 days of the change, file a new form with the new information.

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA must, within 30 days, send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. It should attach to the letter a copy of the form it originally filed. The IDA need not send a letter for a form that is not valid merely because the "Completion date of project" has passed.

Purpose of project

For Purpose of project, enter one of the following:

- Services
- Agriculture, forestry, fishing
- Finance, insurance, real estate
- Transportation, communication, electric, gas, sanitary services
- Construction
- Wholesale trade
- Retail trade
- Manufacturing
- Other (specify)

Mailing instructions

Mail completed form to:

**NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?

Internet access: www.tax.ny.gov
(for information, forms, and publications)

Sales Tax Information Center: (518) 485-2889
To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

EXHIBIT B-1

**NYS FORM ST-123
FOR
COMPANY**

[See Attached]

EB-1



IDA Agent or Project Operator

Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. See TSB-M-14(1.1)S, *Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities*, for more information.

Name of seller			Name of agent or project operator HP Hood, LLC		
Street address			Street address 6 Kimball Lane, Suite 400		
City, town, or village	State	ZIP code	City, town, or village	State	ZIP code
			Lynnfield	MA	01867
Agent or project operator sales tax ID number (see instructions)					

Mark an **X** in one: Single-purchase certificate Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Name of IDA Genesee County IDA		
Name of project HP Hood, LLC	IDA project number (use OSC number) 1801 17 01A	
Street address of project site 5140 Ag Park Drive West		
City, town, or village Batavia	State NY	ZIP code 14020
Enter the date that you were appointed agent or project operator (mm/dd/yy) 06 / 30 / 17	Enter the date that agent or project operator status ends (mm/dd/yy) 12 / 31 / 17	

Exempt purchases

(Mark an **X** in boxes that apply)

- A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
- B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
- C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number — If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter **N/A**.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

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Need help?



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- check for new online services and features



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(for persons with hearing and speech disabilities using a TTY):

(518) 485-5082

EXHIBIT B-2

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

[See Attached]

EB-2



IDA Agent or Project Operator

Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. See TSB-M-14(1.1)S, Sales Tax Reporting and Recordkeeping Requirements for Industrial Development Agencies and Authorities, for more information.

Form with fields for Name of seller, Name of agent or project operator, Street address, City, town, or village, State, ZIP code, and Agent or project operator sales tax ID number.

Mark an X in one: [] Single-purchase certificate [X] Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Form with fields for Name of IDA (Genesee County IDA), Name of project (HP Hood, LLC), IDA project number (1801 17 01A), Street address of project site (5140 Ag Park Drive West), City, town, or village (Batavia), State (NY), ZIP code (14020), and dates for agent appointment and operator status.

Exempt purchases

(Mark an X in boxes that apply)

- Options A, B, and C for exempt purchases: A. Tangible personal property or services... B. Certain utility services... C. Motor vehicle or tangible personal property...

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence.

Form with fields for Signature of purchaser or purchaser's representative (include title and relationship) and Date.

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number — If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter *N/A*.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You **must** identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

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(for persons with hearing and speech disabilities using a TTY):

(518) 485-5082

EXHIBIT B-3

INVOICE RIDER FORM

I, _____, the
_____ of HP Hood LLC [or, subagent/subcontractor
name: _____] (the "Purchaser") certify that the Purchaser is
a duly appointed agent of the Genesee County Industrial Development Agency
d/b/a Genesee County Economic Development Center (the "Agency") and that the
Purchaser is purchasing the tangible personal property or services for use in the
following Agency Project, and that such purchases qualify as exempt from sales
and use taxes under the Agent, Financial Assistance and Project Agreement, dated
as of June 30, 2017, by and between the Agency and HP Hood LLC.

Name of the Project: HP Hood LLC 2017 Project

Street Address of the Project Site: 5140 Ag Park Drive, Town of Batavia,
Genesee County, New York

IDA OSC Project Number: 1801 17 01A

EXHIBIT C

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

[See Attached]



Annual Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority (IDA)

OSC PROJECT CODE: 0502 17 01A

For Period Ending December 31, (enter year)

Project information

Name of IDA agent/project operator: HP Hood, LLC; Federal employer identification number (FEIN): 04-1450950; Street address: 6 Kimball Lane, Suite 400; Telephone number: (617) 887-3000; City: Lynnfield; State: MA; ZIP code: 01867.

Name of IDA: Genesee County IDA; Name of project: HP Hood, LLC Project; Street address of project site: 5140 Ag Park Drive West; City: Batavia; State: NY; ZIP code: 14020.

- 1 Project purpose (mark an X in the appropriate box): [] Services [] Construction [] Agriculture, forestry, fishing [] Wholesale trade [] Retail trade [] Finance, insurance or real estate [] Transportation, communication, electric, gas, or sanitary services [X] Manufacturing [] Other (specify)

2 Date project began (mm/dd/yy): 06 / 30 / 17 (date of original IDA agent appointment)

3 Beginning date of construction or installation (mm/dd/yy; see instructions): / / ; [] actual [] expected

4 Completion date of construction phase of project (mm/dd/yy; see instructions): / / ; [] actual [] expected

5 Completion date of project (mm/dd/yy; see instructions): 12 / 31 / 17 ; [] actual [X] expected (date of expiration of IDA agent status)

6 Duration of project (actual or expected; years/months): /

Table with 2 columns: Description, Amount. Row 1: 7 Total sales and use tax exemptions (actual tax savings; NOT total purchases) 7 \$

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer, employee, or authorized representative signing for the IDA agent/project operator; Title of person signing; Signature; Date

Failure to annually file a complete report may result in the removal of authority to act as an IDA agent/project operator.

Mail completed report to: NYS Tax Department, IDA Unit, W A Harriman Campus, Albany NY 12227.

General information

Who must file?

The General Municipal Law (GML) and the Public Authorities Law require the agent/project operator (also known as the *project occupant*) of an Industrial Development Agency or Authority (IDA) to file an annual report with the Tax Department. The agent/project operator required to file this report is the person **directly** appointed by the IDA to act for and to represent the IDA for the project. The agent/project operator is ordinarily the one for whom the IDA project was created.

There is usually only one agent/project operator directly appointed by the IDA for an IDA project. However, if the IDA directly appoints multiple agents/project operators, each agent/project operator must file this form (unless they are related corporations).

Only the agent/project operator(s) directly appointed by the IDA must file Form ST-340. Contractors, subcontractors, consultants, or agents appointed by the agent/project operator(s) should **not** themselves file Form ST-340. However, the agent/project operator(s) must include on Form ST-340 information obtained from such contractors, subcontractors, consultants, and agents, as described below.

What must be reported?

The report must show the **total value of all state and local sales and use taxes exempted** during the calendar year, as a result of the project's designation as an IDA project. This includes:

- the value of the exemptions obtained by the agent/project operator; and
- the value of the exemptions obtained by your contractors, subcontractors, consultants, and others, whether or not appointed as agents of the IDA.

The report requires only the **total combined** exemptions obtained by the above people. A break down of the total is not required. However, since the report must include the value of the exemptions they obtained, the agent/project operator must keep records of the amounts others report to the agent/project operator.

It is important that the agent/project operator make it clear to the contractors, subcontractors, consultants, and others that they must keep accurate tax information and have it available so that the agent/project operator can comply with the annual reporting requirements.

Do not include in this report the amount of any sales and use tax exemptions arising out of other provisions of the Tax Law (for example, manufacturer's production equipment exemption, research and development exemption, or contractor's exemption for tangible personal property incorporated into a project of an exempt organization).

See instructions below for additional information required.

When is the report due?

You must file Form ST-340 on a calendar-year basis. It is due by the last day of February of the following year. The reporting requirement applies to IDA projects started on or after July 21, 1993.

Project information

At the top of the form, identify the reporting period by entering the year in the space provided. If an address is required, always include the ZIP code.

Name of IDA agent/project operator

Enter the name, address, federal employer identification number (FEIN), and telephone number of the IDA agent/project operator.

Name of IDA agent/project operator's authorized representative

Enter the name, address, title (for example, attorney or accountant), and telephone number of the individual authorized by the IDA agent/project operator to submit this report.

Name of IDA

Enter the name and address of the IDA. If more than one IDA is involved in a particular project, the IDA agent/project operator must file a separate report for the tax exemptions attributable to each IDA.

Name of project

Enter the name of the project and the address of the project site. If the IDA agent is involved in more than one project, a separate report must be filed by the IDA agent/project operator for each project, even if authorized by the same IDA.

Line instructions

Line 1 — Project purpose — Mark an **X** in the box that identifies the purpose of the project. If you mark *Other*, please be specific in identifying its purpose.

Line 2 — Enter the date the project started (this means the earliest of the date of any bond or inducement resolution, the execution of any lease, or any bond issuance). Include month, day, and year.

Line 3 — Enter the date you, or your general contractor or subcontractor, actually began, or expect to begin, construction or installation on the project. Mark an **X** in the appropriate box to indicate if the date entered is actual or expected. If the project does not involve any construction, enter **Does not apply**.

Line 4 — Enter the date the construction phase of the project was completed or is expected to be completed. Mark an **X** in the appropriate box to indicate if the date entered is actual or expected.

Line 5 — Enter the date installation, lease, or rental of property (for example, machinery or computers) on the project ended or the date the project is expected to be completed. Mark an **X** in the appropriate box to indicate if the date entered is actual or expected.

Line 6 — Enter the total number of years and months from the project's inception to its completion or expected completion.

Line 7 — Enter the total amount of New York State and local sales and use taxes exempted during the reporting period (if none, enter 0) as a result of the project's receipt of IDA financial assistance. This includes exemptions obtained at the time of purchase as well as through a refund or credit of tax paid. Include the sales and use taxes exempted on purchases of property or services incorporated into or used on the exempt project. This includes the taxes exempted on purchases made by or on behalf of the agent/project operator, the general contractor for the project, and any subcontractors, consultants, or others. Do **not** enter total purchases on line 7.

Signature area

Enter the name and title of the person signing on behalf of the IDA agent/project operator (for example, the IDA agent/project operator's officer, employee, or other authorized representative). The IDA agent/project operator's officer, employee, or authorized representative must sign the report. Enter the date signed.

Mail completed report to: **NYS Tax Department, IDA Unit, W A Harriman Campus, Albany NY 12227.**

Need help?



Internet access: www.tax.ny.gov
(for information, forms, and publications)



Sales Tax Information Center: (518) 485-2889
To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

EXHIBIT D

AMENDED AND RESTATED PILOT AGREEMENT

[See Attached]

**GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
d/b/a
GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER**

AND

HP HOOD LLC

AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAXES AGREEMENT

**Project Address:
5140 Ag Park Drive
Town of Batavia
Genesee County, New York**

**Tax Map Nos.
13.-1-165.111/P**

**Affected Tax Jurisdictions:
Genesee County
Town of Batavia
Batavia City School District**

Dated as of June 30, 2017

**AMENDED AND RESTATED
PAYMENT-IN-LIEU-OF-TAXES AGREEMENT**

THIS AMENDED AND RESTATED PAYMENT-IN-LIEU-OF-TAXES AGREEMENT, dated as of June 30, 2017 (hereinafter, the "Amended and Restated PILOT Agreement"), is by and between the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER**, a public benefit corporation duly existing under the laws of the State of New York, with its offices located at 99 MedTech Drive, Suite 106, Batavia, New York 14020 (the "Agency") and **HP HOOD LLC**, a Delaware limited liability company duly authorized to conduct business in the State of New York, having offices at 6 Kimball Lane, Suite 400, Lynnfield, Massachusetts 01940 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 565 of the Laws of 1970 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, pursuant to that certain Lease Agreement, dated as of February 1, 2009 (the "2009 Lease Agreement") by and between Genesee Agri-Business LLC ("Genesee Agri-Business"), as lessor and the Agency, as lessee, a memorandum of which was recorded in the office of the Genesee County Clerk on March 2, 2009 in Liber 872 at Page 424, Genesee Agri-Business leased approximately two hundred and three (203) acres of land located in the Town of Batavia, Genesee County, New York to the Agency (the "Ag Park Land"); and

WHEREAS, pursuant to that certain Leaseback Agreement, dated as of February 1, 2009 (the "2009 Leaseback Agreement") by and between the Agency, as lessor, and Genesee Agri-Business as lessee, a memorandum of which was recorded in the office of the Genesee County Clerk on March 2, 2009 in Liber 872 at Page 435, the Agency subleased its interest in the Ag Park Land back to Genesee Agri-Business; and

WHEREAS, pursuant to that certain Amended and Restated Lease Agreement, dated as of June 30, 2017 (the "Amended 2009 Lease Agreement"), by and between Genesee Agri-Business, as lessor and the Agency, as lessee, and that certain Amended and Restated Leaseback Agreement, dated as of June 30, 2017 (the "Amended 2009 Leaseback Agreement"), by and between the Agency, as lessor and Genesee Agri-Business, as lessor, Genesee Agri-Business and the Agency terminated the Agency's leasehold interest in the Land (as hereinafter defined) and Genesee Agri-Business' sub-leasehold interest in the Land, but retained the Agency's leasehold interest in the remaining portion of the Ag Park Land and Genesee Agri-Business' sub-leasehold interest in the remaining portion of the Ag Park Land; and

WHEREAS, pursuant to that certain Purchase and Sale Agreement, dated as of March 2, 2012 by and between Genesee Agri-Business and Wave Holdings, LLC (as predecessor to Muller Quaker Dairy), Genesee Agri-Business sold that certain portion of the Ag Park Land

which constitutes the Land to Muller Quaker Dairy, subject to the Agency's leasehold estate created under the 2009 Lease Agreement and Genesee Agri-Business' sub-leasehold estate created under the 2009 Leaseback Agreement, which said leasehold estate and sub-leasehold estate have now been terminated pursuant to the Amended 2009 Lease Agreement and the Amended 2009 Leaseback Agreement; and

WHEREAS, by Resolution adopted by the Agency on March 12, 2012, the Agency authorized the execution of that certain Payment-In-Lieu-of-Tax Agreement, dated as of August 1, 2012 (the "Original PILOT Agreement") by and between the Agency and Muller Quaker Dairy in connection with a certain project undertaken on the Land (as hereinafter defined) by Muller Quaker Dairy, as agent of the Agency; and

WHEREAS, pursuant to the terms of the Original PILOT Agreement, Muller Quaker Dairy agreed to make payments in lieu of real property taxes to the Agency for the benefit of Genesee County (the "County"), the Town of Batavia (the "Town") and the Batavia City School District (the "School District" and; collectively with the County and the Town, the "Affected Tax Jurisdictions"); and

WHEREAS, pursuant to that certain Assignment and Assumption of Agreements, dated as of January 12, 2016 (the "2016 Assignment and Assumption of Agreements"), by and among the Agency, Muller Quaker Dairy and Batavia Dairy Products, LLC ("Batavia Dairy Products"), which 2016 Assignment and Assumption of Agreements was recorded in the Office of the Genesee County Clerk on February 29, 2016 in Liber 357 at Page 505, Muller Quaker Dairy assigned to Batavia Dairy Products, its rights, title, interest, duties and obligations and liabilities under the Original PILOT Agreement; and

WHEREAS, Batavia Dairy Products and the Agency amended the Original PILOT Agreement pursuant to that certain First Amendment to PILOT Agreement, dated as of January 12, 2016 (the "First Amendment to PILOT Agreement"), whereby Batavia Dairy Products and the Agency modified the Total PILOT Payment (as such term is defined in the Original PILOT Agreement); and

WHEREAS, pursuant to that certain Assignment and Assumption of Agreements, dated as of June 30, 2017 (the "Assignment and Assumption of Agreements"), by and among the Agency, Batavia Dairy Products and the Company, Batavia Dairy Products assigned to the Company, its rights, title, interest, duties and obligations and liabilities under the First Amendment to PILOT Agreement; and

WHEREAS, the Company has requested the Agency's assistance with a certain project (the "Project") consisting of: (A) the acquisition or retention by the Agency of a leasehold interest in, certain land located at 5140 Ag Park Drive West, Town of Batavia, Genesee County, New York (being more particularly described as tax map identification number 13.-1-165.111/P) (the "Land") and the existing improvements located thereon, consisting principally of a 383,000 square-foot manufacturing facility (the "Existing Improvements"), (B) (i) the renovation and equipping of the Existing Improvements and (ii) the construction and equipping on the Land of small external additions, silo tanks, an approximately 100,000 square-foot refrigerated

warehouse and related improvements and infrastructure for use by the Company as a fluid processing plant (the "Improvements") and (C) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property, including but not limited to, processing equipment, filling equipment, and waste water treatment equipment (the "Equipment", and collectively with the Land, the Existing Improvements and the Improvements, the "Facility"); and

WHEREAS, in order to induce the Company to acquire, construct and equip the Facility, the Agency is willing to take or retain a leasehold interest in the Land, the Improvements, and the personal property constituting the Facility pursuant to that certain Amended and Restated Lease Agreement, dated as of June 30, 2017 (the "Amended Lease Agreement") by and between the Company and the Agency, and thereafter sublease back to the Company said Land, Improvements, and personal property constituting the Facility pursuant to that certain Amended and Restated Leaseback Agreement, dated as of June 30, 2017 (the "Amended Leaseback Agreement") by and between the Agency and the Company; and

WHEREAS, in order to induce the Company to acquire, construct and equip the Facility the Agency and the Company desire to amend and restate, in its entirety, the Original PILOT Agreement, as amended by the First Amendment to PILOT Agreement in accordance with the terms of this Amended and Restated PILOT Agreement.

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed that the Original PILOT Agreement, as amended by the First Amendment to PILOT Agreement, is hereby amended, restated and replaced in its entirety by this Amended and Restated PILOT Agreement as follows:

Section I - Payment in lieu of Ad Valorem Taxes:

Section 1.1 A. Filing of Form RP-412-a. On September 25, 2012, the Agency filed with the Town of Batavia Assessor and the Affected Taxing Jurisdictions a New York State Form RP-412-a, "Application For Real Property Tax Exemption" (the "2012 Exemption Application") with respect to the Facility under Section 412-a of the New York State Real Property Tax Law (the "RPTL"). Following the execution of the 2016 Assignment and Assumption of Agreements, the Agency and Batavia Dairy Products executed the First Amendment to PILOT Agreement modifying the Total PILOT Payments to be made under the Original PILOT Agreement and on January 25, 2016, the Agency filed with the Town of Batavia Assessor and the Affected Taxing Jurisdictions a New York State Form RP-412-a, "Application For Real Property Tax Exemption" (the "2016 Exemption Application") with respect to the Facility under Section 412-a of the RPTL.

The Agency will file with the Town of Batavia Assessor and the Affected Taxing Jurisdictions a New York State Form RP-412-a, "Application For Real Property Tax Exemption" relating to this Amended and Restated PILOT Agreement under Section 412-a of the RPTL (the "2017 Exemption Application"). The Company shall provide the Agency with the information necessary for the completion and filing of the 2017 Exemption Application and shall provide

such additional information and take such actions as are required by the appropriate assessors or Board of Assessment Review to process and approve the 2017 Exemption Application. Notwithstanding anything contained herein or in the Amended Leaseback Agreement to the contrary, in the event the 2017 Exemption Application is denied for any reason, the Company shall pay (and hereby agrees to pay) all Real Estate Taxes levied upon the Facility as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the 2017 Exemption Application, provided that (i) the overall operating efficiency of the Facility is not impaired and the Facility continues to qualify as a "project" under the Act; (ii) neither the Facility nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. For purposes of the foregoing "Real Estate Taxes" means all general levy real estate taxes levied against the Facility by the County, the Town and the School District.

B. Agreement to Make Payments. As long as the Facility is owned by or leased to the Agency, the Company agrees to pay annually to the Affected Tax Jurisdictions as a payment in lieu of taxes, on or before on or before October 1 of each year for School District taxes and on or before January 1 of each year for County and Town taxes (collectively, the "Payment Date"), commencing on October 1, 2017, and January 1, 2018, respectively, an amount equal to the "Total Tax Payment", as described in Schedule A attached hereto. The Company shall make all such Total Tax Payment in the amounts and on the dates specified above directly to each Affected Tax Jurisdiction, whether or not any such Total Tax Payment is billed by the Agency, the Affected Tax Jurisdictions, or any other party. The parties agree and acknowledge that payments made hereunder are to obtain revenues for public purposes, and to provide a revenue source that the Affected Tax Jurisdictions would otherwise lose because the subject parcels are not on the tax rolls.

1.2 Allocation. The Agency shall remit to the Affected Tax Jurisdictions amounts received hereunder, *if any*, within thirty (30) days of receipt of said payment and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Agency's involvement, unless the Affected Tax Jurisdictions have consented in writing to a specific allocation.

1.3 Tax Rates. For purposes of determining the allocation of the Total Tax Payment among the Affected Tax Jurisdictions, the Agency shall use the last tax rate utilized for levy of taxes by each such jurisdiction. For County and Town purposes, the tax rates used to determine the allocation of the Total Tax Payment shall be the tax rates relating to the calendar year which includes the Total Tax Payment due date. For School District purposes, the tax rates used to determine the Total Tax Payment shall be the rate relating to the School District year which includes the Total Tax Payment due date.

1.4 Valuation of Future Additions to the Facility: If there shall be a future addition to the Facility constructed or added in any manner after the date of this Amended and Restated PILOT Agreement, the Company shall notify the Agency of such future addition ("Future Addition"). The notice to the Agency shall contain a copy of the application for a building permit, plans and specifications, and any other relevant information that the Agency may

thereafter request. Upon the earlier of substantial completion, or the issuance of a certificate of occupancy for any such Future Addition to the Facility, the Company shall become liable for payment of an increase in the Total Tax Payment. The Agency shall notify the Company of any proposed increase in the Total Tax Payment related to such Future Addition. If the Company shall disagree with the determination of assessed value for any Future Additions made by the Agency, then and in that event that valuation shall be fixed by a court of competent jurisdiction. Notwithstanding any disagreement between the Company and the Agency, the Company shall pay the increased Total Tax Payment until a different Total Tax Payment shall be established. If a lesser Total Annual Payment is determined in any proceeding or by subsequent agreement of the parties, the Total Tax Payment shall be re-computed and any excess payment shall be refunded to the Company or, in the Agency's sole discretion, such excess payment shall be applied as a credit against the next succeeding Total Tax Payment(s).

1.5 Period of Benefits. The tax benefits provided for herein should be deemed to include, and as more fully set out on Schedule A: (i) the 2017-18 School District tax year through the 2026-27 School District tax year and (ii) the 2018 County and Town tax year through the 2027 County and Town tax year; *provided, however*, the Company shall pay (i) the 2027-28 School District tax bill and (ii) the 2028 County and Town tax bills on the dates and in the amounts as if the Agency were not in title on the tax status date with respect to said tax years

This Amended and Restated PILOT Agreement shall expire on December 31, 2027. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this Amended and Restated PILOT Agreement executed by both parties after any applicable public hearings. The Company agrees that it will not seek any tax exemption for the Facility while this Amended and Restated PILOT Agreement is in effect, which could provide benefits for more than the periods provided for herein and specifically agrees that the exemptions provided for herein, to the extent actually received (based on the number of lease years elapsed), supersede and are in substitution of the exemptions provided by Section 485-b of the RPTL. It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

Section II - Special District Charges, Special Assessments and other charges.

2.1 Special district charges, special assessments, and special ad valorem levies (specifically including but not limited to fire district charges), and pure water charges and sewer charges are to be paid in full in accordance with normal billing practices.

Section III - Transfer of Facility.

3.1 In the event that the Facility is transferred from the Agency to the Company (the Amended Lease/Amended Leaseback Agreements are terminated), and the Company is ineligible for a continued tax exemption under some other tax incentive program, or this Amended and Restated PILOT Agreement terminates and the property is not timely transferred back to the Company, the Company agrees to pay no later than the next tax lien date (plus any applicable grace period), to each of the Affected Tax Jurisdictions, an amount equal to the taxes

and assessments which would have been levied on the Facility if the Facility had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemption described herein or date of termination.

3.2 Total Tax Payments made by the Company for a tax year in which the Facility is transferred from the Agency to the Company (the Amended Lease/Amended Leaseback Agreements are terminated) and the Company is ineligible for a continued tax exemption under some other tax incentive program, or this Amended and Restated PILOT Agreement terminates and the property is not timely transferred back to the Company, shall be applied as a credit against payments to the Affected Tax Jurisdictions that are payable after such transfer or termination, or shall be refunded to the Company by the Affected Tax Jurisdictions (and in no event shall the Agency be liable for any such refund), if and to the extent that the Company's total payment to each Affected Tax Jurisdiction in said year would otherwise exceed the amount of real property taxes that would have been levied on the Facility for the entirety of said year.

Section IV - Assessment Challenges.

4.1 The Company shall 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 with respect to the Facility by any of the Affected Tax Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall 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 tax equivalent provided for herein.

4.2 The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Amended and Restated PILOT Agreement, as if and to the same extent as if the Company were the owner of the Facility.

4.3 The Company shall (i) cause the appropriate real estate tax assessment office and tax levy officers to assess the Facility and apply tax rates to the respective assessments as if the Facility were owned by the Company, (ii) file any accounts or tax returns required by the appropriate real estate tax assessment office and tax levy officers.

Section V - Changes in Law.

5.1 To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

Section VI - Events of Default.

6.1 The following shall constitute "Events of Default" hereunder. The failure by the Company to: (i) make the payments described in Section I within thirty (30) days of the Payment

Date (the "Delinquency Date"); (ii) make any other payments described herein on or before the last day of any applicable cure period within which said payment can be made without penalty; or (iii) the occurrence and continuance of any events of default under the Amended Leaseback Agreement after any applicable cure periods. Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Agency and/or the Affected Tax Jurisdictions may have at law or in equity, the Agency and/or Affected Tax Jurisdictions may, immediately and without further notice to the Company (but with notice to the Agency with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default. The Agency and the Company hereby acknowledge the right of the Affected Tax Jurisdictions to recover directly from the Company any amounts so in default pursuant to Section 874(6) of the General Municipal Law and the Company shall immediately notify the Agency of any action brought, or other measure taken, by any Affected Tax Jurisdiction to recover any such amount.

6.2 If payments pursuant to Section I herein are not made by the Delinquency Dates, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows. With respect to payments to be made pursuant to Section I herein, if said payment is not received by the Delinquency Date defined in Section 6.1 herein, the Company shall pay, in addition to said payment, (i) a late payment penalty equal to five percent (5%) of the amount due and (ii) for each month, or any part thereof, that any such payment is delinquent beyond the first month, interest on the total amount due plus the late payment penalty, in an amount equal to one percent (1%) per month. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, Company shall pay, in addition to said payment, the greater of the applicable penalties and interest or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

Section VII - Assignment.

7.1 No portion of any interest in this Amended and Restated PILOT Agreement may be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder without the prior written consent of the Agency, which shall not be unreasonably withheld or delayed.

Section VIII - Miscellaneous.

8.1 This Amended and Restated PILOT Agreement may be executed in any number of counterparts each of which shall be deemed an original but all of which together shall constitute a single instrument.

8.2 All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency: Genesee County Industrial Development Agency
d/b/a Genesee County Economic Development Center
99 MedTech Drive, Suite 106
Batavia, New York 14020-3141
Attn.: President/CEO

With a Copy to: Harris Beach PLLC
99 Garnsey Road
Pittsford, New York 14534
Attn.: Russell E. Gaenzle, Esq.

To The Company: HP Hood LLC
6 Kimball Lane, Suite 400
Lynnfield, Massachusetts 01940
Attn: Theresa Bresten, VP and Treasurer

With a Copy to: HP Hood LLC
6 Kimball Lane, Suite 400
Lynnfield, Massachusetts 01940
Attn: Paul Nightingale, SVP and General Counsel

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

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

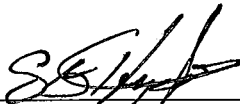
8.4 Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Facility and paid to the Agency by the Company. No member of the Agency nor any person executing this Amended and Restated PILOT Agreement on its behalf shall be liable personally under this Amended and Restated PILOT Agreement. No recourse shall be had for the payment of the principal or interest on amounts due hereunder or for any claim based upon or in respect of any modification of or supplement hereto against any past, present or future member, officer, agent, servant, or employee, as such, of the Agency, or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officer, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Amended and Restated PILOT Agreement.

[The Balance of This Page Intentionally Left Blank]

[Signature Page to Amended and Restated PILOT Agreement]

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

**GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY, d/b/a
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER**

By: 
Steven G. Hyde, President/CEO

HP HOOD LLC

By: _____
Gary R. Kaneb, Chief Financial Officer

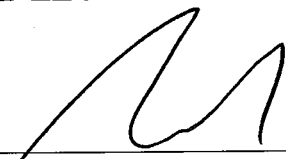
[Signature Page to Amended and Restated PILOT Agreement]

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

**GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY, d/b/a
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER**

By: _____
Stephen G. Hyde, President/CEO

HP HOOD LLC

By:  _____
Gary R. Kaneb, Chief Financial Officer

SCHEDULE A

Amended and Restated PILOT Agreement dated as of June 30, 2017
by and between the Genesee County Industrial Development Agency d/b/a
Genesee County Economic Development Center and
HP Hood LLC

"Total Tax Payment" shall mean an amount equal to (A) the assessed value of the Facility (including any portion of such assessed value attributed to the Land) *multiplied* by the then existing tax rate for the applicable Affected Tax Jurisdiction (after application of any applicable equalization rate) *reduced* by the Percentage Abatement set forth in the table below, plus (B) the assessed value of all Future Additions (determined in accordance with Section 1.4 of this Amended and Restated PILOT Agreement), *multiplied* by the then existing tax rate for the applicable Affected Tax Jurisdiction (after application of any applicable equalization rate).

<u>PILOT Agreement Year</u>	<u>School Tax Year</u>	<u>County Tax Year</u>	<u>Town Tax Year</u>	<u>Percentage Abatement</u>
Year 1	2017-18	2018	2018	100%
Year 2	2018-19	2019	2019	100%
Year 3	2019-20	2020	2020	100%
Year 4	2020-21	2021	2021	80%
Year 5	2021-22	2022	2022	60%
Year 6	2022-23	2023	2023	60%
Year 7	2023-24	2024	2024	40%
Year 8	2024-25	2025	2025	40%
Year 9	2025-26	2026	2026	20%
Year 10	2026-27	2027	2027	20%
Year 11	2027-28	2028	2028	Full Taxes

The abatement schedule shall allow for a 100% exemption from taxation for the Facility in the Amended and Restated PILOT Agreement Years 1, 2 and 3 with such exemption thereafter being eliminated in a 20% increment for Year 4, and a 20% increment on an every-other-year basis thereafter. After the tenth (10th) Amended and Restated PILOT Agreement Year, the Facility shall be subject to full taxation by the Affected Taxing Jurisdictions.

EXHIBIT E

BILL OF SALE

GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER, a public benefit corporation of the State of New York with offices at 99 MedTech Drive, Suite 106, Batavia, New York, 14020 (the "Grantor"), for the consideration of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration received by the Grantor from **HP HOOD LLC**, a limited liability company duly organized and validly existing under the laws of the State of Delaware, duly authorized to conduct business in the State of New York with offices at 6 Kimball Lane, Suite 400, Lynnfield, Massachusetts 01940 (the "Grantee"), the receipt of which is hereby acknowledged by the Grantor, hereby sells, transfers and delivers unto the Grantee and its successors and assigns, the Equipment, as defined in the Agent, Financial Assistance and Project Agreement dated as of June [], 2017 (the "Agent Agreement"), as may be amended from time to time, acquired and installed and/or to be acquired and installed by the Grantee as agent for the Grantor pursuant to the Agent Agreement, which Equipment is located or intended to be located at the Grantee's Facility located at 5140 Ag Park Drive in the Town of Batavia, Genesee County, New York.

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

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

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

[_____]

Form Only - Do Not Sign

By: _____

Name:

Title:

EXHIBIT F

ANNUAL PROJECT REPORT

DUE BY:

Genesee County Economic Development Center



A. Business Information: <i>Please fill in blanks or change as necessary</i>		# 1	
Organization Name:	Organization Name Change: (if applicable)*		
Project Address:	Address Change (if applicable)*		
Contact Person:	Contact Person Change: (if applicable)		
Name:	Name:		
Phone:	Phone:		
Fax:	Fax:		
E-mail:	E-mail:		
Mailing Address (if different from Organization Address):	Mailing Address Change: (if applicable)		
Not For Profit (Yes or No)			
B. Project Information:			
Project Name:	Project ID:		
Project Description:			
C. Tax Exemptions: <i>Please fill in blanks</i>			
If you claimed exemption from New York State Sales Tax or Mortgage Tax during 201_ , please answer the following questions. If not applicable to your project, please indicate by responding with an "N/A" in the blank provided.			
Total Sales Tax exemption from 1/1/1_ – 12/31/1_ (Actual tax savings, NOT total purchases):	Attach copy of NYS Form ST-348 on which you reported the value of sales and use tax exemptions for your project. <i>New York State requires that a company receiving sales tax exemptions file an ST-348 no later than the end of February following the year in which the exemption was claimed.</i>		
Value of 201_ Mortgage Recording Tax Exemption (1.25% of the mortgage amount):			
D. Employment Data:			
201_ employment (only for the location that is receiving IDA benefits) PLEASE REFER TO the definition of Full-Time Equivalent Jobs.			
Job Classification	Number of Full-Time Equivalent Employees (as of 12/31/1_)	Average annual salary of Full-Time Equivalent employees (Reported in prior column)	Average annual salary and benefits of Full-Time Equivalent employees
Executive Management (Owner / CEO / Management)			
Production / Manufacturing			
Clerical / Administrative			
Other			
Definition of Full-Time Equivalent Jobs: Full-time jobs, plus any combination of two or more part-time jobs that, when combined together, constitute the equivalent hours of a full-time position.			
Please attach copies of your NYS-45 Quarterly Combined Withholding, Wage Reporting & Unemployment Insurance			

Return for each quarter in 201_. (Please note that benefits will be terminated if these reports are not submitted.)
 Report the total number of full-time and part-time covered employees for the third month of the fourth quarter as shown on the NYS-45: _____

If you are a new Company and a NYS-45 is not available, please check here

Number of Full-Time Equivalent Construction Jobs created during 201_: _____

If the NYS-45 includes multiple locations, please attach a separate sheet that certifies the job information specific to the project location.

E. Bonds: Please complete this section if you have a bond with the GCEDC.

New Bond Issue Amount: \$ _____

Taxable Tax Exempt

Bond Closing Date: _____

Cost of Bond Issuance: _____

Bond Interest Type (Fixed or Variable): _____

Debt Retired During 201_: \$ _____

Bond Interest Rate: _____

Outstanding Amount of Bond at Dec. 31, 201: \$ _____

F. Capital Investments:

Please list investments directly related to the project described in Section B made during the period of January 1 - December 31, 201_. Do not include investments from previous reporting periods or operating expenses.

	As Reported on original Application	Reported on Previous Report (Cumulative)	Actual Expense in 201_ (Included in the project defined in section B)		As Reported on original Application	Reported on Previous Report (Cumulative)	Actual Expense in 201_ (Included in the project defined in section B)
Building Cost: <small>(New build or expansion)</small>				Other: <small>(Renovations of existing space)</small>			
Land & Building: <small>(Purch. price incl. engineering cost.)</small>				Total Investment:			
Production Equip.: <small>(Not Sales Taxable)</small>				Total Amount Financed:			
Other Equipment: <small>(Basic taxable equip.)</small>				Mortgage Amt.:			

Please reference the original project application and explain any variances from the original project estimates: _____

Do you anticipate relocating, expanding your business or purchasing equipment within the next 12 months?
 YES _____ NO _____

If yes, please explain _____

G. Signature: Report will not be considered complete unless signature is provided

An Authorized Company Official must certify the information provided by completing the following:

Termination of benefits is possible if the information submitted is determined to be incorrect or if the information is not submitted by the requested date. The GCEDC reserves the right to complete an examination of back-up documentation related to the company's reported project information at any time should the GCEDC have reasonable cause to do so.

I hereby attest that the information contained in this report is true and correct to the best of my knowledge.

Signature (Authorized Company Official) _____

Date _____

Please Print (Name and Title) _____