

INDUCEMENT AGREEMENT

This INDUCEMENT AGREEMENT (the "Agreement") is between the HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY, 320 North Prospect Street, Herkimer, New York 13350 (the "Agency") and TRB ASSOCIATES, LLC (the "Company").

ARTICLE I PRELIMINARY STATEMENT

Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of Article 18-A of the General Municipal Law of the State of New York as amended, Chapter 410 of the Laws of 1970 and Chapter 158 of the Laws of 1981 of the State of New York (collectively, the "Act") to issue its special revenue bonds for the purpose of financing "Projects" (as defined in the Act) to acquire title to Projects and to lease or sell the same upon such terms and conditions as the Agency may deem advisable.

1.02. The purposes of the Act are (i) to promote industry and develop trade by inducing manufacturing, industrial, warehousing, research, recreation and commercial enterprises to locate or remain in the State and (ii) to encourage and assist in the providing of industrial pollution control facilities. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to provide assistance through sales tax incentives (the "Assistance").

1.03. The Company has requested that the Agency provide Assistance in demolition, construction, renovation, and equipping of a shopping center to be located at the Company's Shopper's Square property in the City of Little Falls, Herkimer County, New York in Herkimer County, New York (said facility and equipment hereinafter are referred to as the "Facility") and lease the Facility from the Company and leaseback the facility to the Company.

1.04. The Company hereby represents to the Agency that (other than is permitted by law) the Assistance will not result in the removal of an industrial or manufacturing plant from one area of the State to another area of the State or the abandonment of one or more plants of the Company located in the State.

1.05. The Agency has determined that acquiring, constructing, renovating and equipping of the Facility, as described in the Company's application to the Agency (the "Application") and the leasing or sale thereof to the Company will promote and further the purposes of the Act.

1.06. On October 25, 2012, the Agency adopted a resolution (the "Resolution") agreeing to undertake the Assistance in order to assist the Company and to effectuate the purposes of the Act and, subject to the happening of all acts, conditions and things required precedent to such assistance and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate.

1.07. In the Resolution, the Agency appointed the Company its agent for the purposes of constructing, equipping, and financing the Facility, entering into contracts and doing all things requisite and proper for completing the Facility.

ARTICLE II UNDERTAKINGS ON THE PART OF THE AGENCY

Based upon the statements, representations and undertakings of the Company regarding the Facility and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. Upon satisfactory completion of the conditions precedent set forth herein and in the Resolution and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate, the Agency will adopt, or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary or advisable for (i) the construction, renovation and equipping of the Facility, and (ii) the assignment of the rights and delegation of duties respecting the Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.02. The Agency pursuant to a lease agreement with the Company (the "Lease Agreement") will take a leasehold interest in the Facility and will enter into a leaseback agreement respecting the Facility with the Company (the "Leaseback Agreement"). The Lease Agreement and the Leaseback Agreement shall contain all provisions required by law and such other provisions as shall be mutually acceptable to the Agency and the Company.

2.03. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in the pursuance thereof.

ARTICLE III UNDERTAKINGS ON THE PART OF THE COMPANY

Based upon the statements, representations and undertakings of the Agency herein and in the Resolution and subject to the conditions set forth herein and in the Resolution, the Company agrees as follows:

3.01. The Company hereby accepts the appointment made by the Agency in the Resolution to be the true and lawful agents of the Agency to (i) renovate and equip the Facility and (ii) make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agents of the Agency, and in general to do all things which may be requisite or proper for completing the Facility, all with the same powers and the same validity as the Agency could do if acting on its own behalf.

3.02. The Company will, to the extent deemed by it to be necessary or desirable, enter into a contract or contracts for the construction, renovation and equipping of the Facility (including any necessary contracts for the acquisition of real property necessary or useful in said Facility), and it will transfer to the Agency, or cause to be transferred to the Agency, a title or leasehold interest to the land within and to all improvements thereon.

3.03. The Agency will enter into the Lease Agreement and Leaseback Agreement with the Company containing, among other things, the terms and conditions described in Section 2.02 hereof and such other indentures, guarantees, and related agreements as shall be necessary or appropriate to the Company and the Agency.

3.04. (a) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove (or bond the same if acceptable to the Agency and its counsel), and mechanics' or other liens against the Facility for labor of materials furnished in connection with the construction, renovation and equipping of the Facility. The Company shall forever defend, indemnify and hold the Agency, its members, officers, employees and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, harmless from and against all costs, losses, expenses, claims, damages and liabilities of whatever kind or nature arising, directly or indirectly, out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the construction, renovation and equipping of the Facility or arising out of any contract or other arrangement therefor (and including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether such claims or liabilities arise as a result of the Company acting as agent for the Agency pursuant to this Agreement or otherwise.

(b) The Company shall forever defend, indemnify and hold harmless the Agency, its members, officers, employees and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, from and against all claims, causes of action, liabilities and expenses howsoever arising for loss or damage to property or any injury to or death of any person (including, without limitation, death of or injury to any employee of the Company) that may occur subsequent to the date hereof by any cause whatsoever in relation to the Facility, including the failure to comply with the provisions of Article 3.04 hereof, or arising, directly or indirectly, out of the ownership, construction, renovation, operation, maintenance, repair or financing of the Facility, including without limitation from any environmental conditions on and within the Facility and any claims arising therefrom, and including, without limitation, any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing, including any proceedings or actions commenced challenging the actions of the Agency in regards to the Assistance or the Facility.

(c) The defense and indemnities provided for in this Article 3 shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be

caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its member, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(d) The Company shall provide and carry worker's compensation and disability insurance as required by law and comprehensive liability insurance with such coverages (including, without limitation, owner's protection for the benefit of the Agency and contractual coverage covering the indemnities herein provided for), with such limits and with such companies as may be approved by the Agency. Upon the request of the Agency, the Company shall provide certificates of insurance in form satisfactory to the Agency evidencing such insurance.

3.05. The Company agrees that, as agent for the Agency or otherwise, it will comply with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or the Company with respect to the Facility, the construction, renovation and equipping thereof, the operation and maintenance of the Facility and the financing thereof. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.06. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.07. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the Facility, or are in any manner otherwise payable directly or indirectly in connection with the Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

ARTICLE IV GENERAL PROVISIONS

4.01. This Agreement shall take effect on the date of execution hereof by the Agency and the Company and shall remain in effect until the Lease Agreement and the Leaseback Agreement becomes effective, it is the intent of the Agency and the Company that this Agreement be superseded in its entirety by the Lease Agreement and Leaseback Agreement except for the indemnities contained herein, which shall survive.

4.02. It is understood and agreed by the Agency and the Company that the execution of the Lease Agreement and the Leaseback Agreement and related documents are subject to (i) obtaining all necessary governmental approvals (including, without limitation, the approvals required by the Tax Equity and Fiscal Responsibility Act of 1982), (ii) approval of the Company, (iii) approval of the members of the Agency, (iv) compliance with the State Environmental Quality Review Act, (v) payment by the Company of the Agency's agency fee and legal fee as described in Article 4.03.

4.03. The Company agrees that it will reimburse the Agency for all reasonable and necessary direct out-of-pocket expenses, which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder. Without limiting those expenses and in addition the Company also agrees to pay (i) an application fee of \$250.00; (ii) an Agency fee of \$38,331.00 being approximately 1% of the total project amount subject to Agency fee of \$3,833,100.00 (Total Project Amount) payable $\frac{1}{2}$ upon the execution of this Agreement and $\frac{1}{2}$ upon execution of the Lease Agreement and the Leaseback Agreement and other closing documents; and (iii) Agency counsel fees to the firm of Kernan and Kernan, P.C. in the amount of \$10,000.00 in connection with this Agreement, the Lease Agreement, the Leaseback Agreement, the Resolution, the Pilot Agreement, rendering of preliminary Opinion to the Agency rendering of final transaction opinion and the closing. Additional legal services required by the Company's lenders shall be charged at an additional rate of \$220 per hour.

4.04. If for any reason the Lease Agreement is not executed on or before eighteen (18) months from the execution hereof, the provision of this Agreement (other than the provisions of Articles 3.04, 3.05, 3.06 and 3.08 above, which shall survive) shall, unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses, which were incurred by the Agency in connection with the construction, renovation and equipping of the Facility;

(b) The Company shall assume and be responsible for any contracts for construction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Facility; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency and Agency counsel incurred in connection with the Facility and will pay the fees of Agency counsel for legal services relating to the Facility in accordance with Article 4.03.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on this _____ day of _____, 2012.

HERKIMER COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: [Signature]
John Piseck
Chairman

TRB ASSOCIATES, LLC

By: [Signature]

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

On the 31st day of October in the year 2012 before me the undersigned, a Notary in and for said State, personally appeared John Piseck personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Lillian A. Oram
Notary Public

LILLIAN A. ORAM
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN HERKIMER COUNTY
REG.#010R4719707
MY COMM. EXPIRES 5/31/ 2014

Connecticut
STATE OF ~~NEW YORK~~)
) ss.: Madison
COUNTY OF ~~HERKIMER~~)

On the 9th day of November in the year 2012 before me the undersigned, a Notary in and for said State, personally appeared Jules Berke personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Pamela S. Brooke
Notary Public Comm. exp. 8-31-16