

## INDUCEMENT RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on May 8, 2009, at 3:00 p.m., at 44 West Bridge Street, Oswego, New York.

The meeting was called to order by the Chair and, upon the roll being duly called, the following members were:

**Present:** Donald H. Kunzwiler, Carolyn A. Rush, Morris Sorbello, Gary T. Toth and L. Michael Treadwell

**Absent:** Arthur W. Ospelt and H. Leonard Schick

**Also Present:** Kevin C. Caraccioli and David S. Dano

The following resolution was duly offered and seconded:

**RESOLUTION UNDERTAKING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A CERTAIN PROJECT, APPOINTING FULTON THERMAL CORPORATION, AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION OF AN ADDITION TO, AND EQUIPPING OF, AN EXISTING MANUFACTURING FACILITY, GRANTING OF CERTAIN FINANCIAL ASSISTANCE IN CONNECTION THEREWITH, INCLUDING THE ISSUANCE OF THE AGENCY'S TAX-EXEMPT (AND INCIDENTAL TAXABLE) INDUSTRIAL DEVELOPMENT REVENUE BONDS AND DELIVERY OF AN AGREEMENT BETWEEN THE AGENCY AND FULTON THERMAL CORPORATION**

**Whereas**, the County of Oswego Industrial Development Agency (the "Agency") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, together with Chapter 234 of the Laws of 1973 of the State of New York, as amended from time to time (collectively, the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration; and

**Whereas**, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to issue its industrial development revenue bonds and to grant other "financial

assistance” (as defined in the Act) to finance the cost of the acquisition, construction and equipping of one or more “projects” (as defined in the Act); and

**Whereas**, on March 23, 2009, Fulton Thermal Corporation, a corporation organized and existing under the laws of the State of New York (“Company”), presented an application (the “Application”) to the Agency, a copy of which was presented at this meeting and copies of which are on file at the office of the Agency, requesting that the Agency undertake a project (the “Project”) consisting of: (A) the acquisition of a leasehold interest in approximately 18 acres of land located at 972 Centerville Road in the Town of Richland, County of Oswego, New York (the “Land”) and the construction of and acquisition and installation of machinery, equipment and other personal property (the “Equipment”) in an approximately 115,000 square foot addition (the “Facility”) to its existing manufacturing and industrial building on the Land (the Land, the Equipment and the Facility are collectively referred to as the “Project Facility”) for use in the manufacture of packaged boilers and accessories and other uses directly related and ancillary thereto; (B) financing of all or a portion of the costs of the foregoing by the issuance of the Agency’s tax-exempt and incidental taxable “Industrial Development Revenue Bonds” (the “Bonds”) in an amount, presently estimated to aggregate up to \$10,000,000; (C) funding a Debt Service Reserve Fund and capitalized interest, if any; (D) granting certain other financial assistance in the form of exemptions from real property taxation, mortgage recording tax, and sales and use taxation (collectively with the Bonds, the “Financial Assistance”); and (E) leasing of the Project Facility to the Company or its designee pursuant to a lease and sublease agreement; and

**Whereas**, the Agency adopted a resolution on March 27, 2009, describing the Project and the financial assistance and taking official action towards the issuance of the Bonds; and

**Whereas**, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “SEQRA”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as defined by SEQRA) to be taken by the Agency and the preliminary agreement of the Agency to undertake of the Project constitutes such an action; and

**Whereas**, to aid the Agency in determining whether the preliminary agreement of the Agency to undertake the Project may have a significant impact upon the environment, the Company has prepared and submitted to the Agency a Short Environmental Assessment Form (the “EAF”), a copy of which is on file at the office of the Agency; and

**Whereas**, by Resolution adopted at this meeting entitled:

**RESOLUTION CLASSIFYING THE ISSUANCE OF INDUSTRIAL DEVELOPMENT REVENUE BONDS IN AN AMOUNT SUFFICIENT TO FINANCE THE COST OF THE CONSTRUCTION OF AN ADDITION TO, AND EQUIPPING OF, AN EXISTING MANUFACTURING FACILITY AT THE REQUEST OF FULTON THERMAL CORPORATION AS AN UNLISTED ACTION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT, DECLARING THE AGENCY LEAD AGENCY FOR PURPOSES OF AN UNCOORDINATED REVIEW THEREUNDER AND DETERMINING THAT THE PROJECT WILL NOT HAVE A**

## **SIGNIFICANT EFFECT ON THE ENVIRONMENT**

the Agency determined that the Project constitutes an “Unlisted Action” (as such quoted term is defined in SEQRA and will not have a significant effect on the environment; and

**Whereas**, pursuant to Section 859-a of the Act and Section 147 of the Internal Revenue Code of 1986, as amended (the “Code”), notice of the public hearing was published on April 18, 2009, in the Post Standard, a newspaper of general circulation in the County of Oswego, New York and given to the chief executive officers of the affected tax jurisdictions by letter dated April 17, 2009; and

**Whereas**, pursuant to Section 859-a of the Act and Section 147 of the Code, the Agency conducted a public hearing with respect to the Project and the issuance of the Bonds on May 5, 2009, a transcript of which are on file at the offices of the Agency; and

**Whereas**, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance (i) will induce the Company to construct the Project Facility in the County of Oswego, and (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act; and

**Whereas**, the Agency has considered the policy, purposes and requirements of the Act in making its determinations with respect to undertaking the Project; and

**Whereas**, the approval of the Oswego County Legislature is a condition to the tax-exempt status of the Bonds; and

**Whereas**, the resolution authorizing the issuance of the Bonds has not yet been approved by the Agency; and

**NOW, THEREFORE**, be it resolved by the members of the County of Oswego Industrial Development Agency, as follows:

**Section 1.** It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of certain facilities, including manufacturing facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

**Section 2.** Based upon the representations and projections made by the Company to the Agency, the Agency hereby makes the following determinations:

- a) The Project Facility constitutes a “project” within the meaning of the Act.
- b) The Project will not result in the removal of any plant or facility of the Company or of any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State.
- c) The Project will preserve permanent, private sector jobs in the State or increase the overall number of permanent private sector jobs in the State.
- d) The granting of the Financial Assistance is an inducement to the Company to acquire, construct, equip and operate the Project Facility in the County, thereby and increasing the health, job opportunities, general prosperity and economic welfare of the inhabitants of the County in furtherance of the purposes of the Act.
- e) It is desirable and in the public interest for the Agency to issue its Bonds to finance a portion of the costs of the acquisition, construction and equipping of the Project, together with certain related costs and amounts, presently estimated to aggregate up to \$10,000,000 and to grant the other financial assistance.

**Section 3.** Subject to the conditions set forth in the last sentence of this Section 3, the Agency will (a) issue the Bonds in such principal amount and with such maturities, interest rate or rates, redemption terms and other terms and provisions to be determined by a further resolution of the Agency, (b) acquire an interest in and construct the Project Facility, (c) sell the Project Facility to the Company or its designee pursuant to an agreement to be entered into between the Agency and the Company whereby the Company will be obligated, among other things, to make payments to the Agency in amounts and at a time so that such payments will be adequate to pay the principal of, premium, if any, and interest on the Bonds, and (d) secure the Bonds in such manner as the Agency, the Company and the purchaser(s) of the Bonds mutually deem appropriate. The issuance of the Bonds contemplated by this Resolution are subject to (i) obtaining all necessary governmental approvals; (ii) approval by the Agency of the form and substance of the Bonds, the agreements and other documents necessary or desirable in connection with the authorization, issuance, sale and delivery of the Bonds; (iii) agreement by the Agency, the Company and the purchaser(s) of the Bonds upon mutually satisfactory terms for the Bonds (and any such additional bonds) and for the sale and delivery thereof; (iv) the condition that there are no changes in the Code and New York State Law, including regulations thereunder, which prohibit or limit the Agency from fulfilling its obligations hereunder; and (v) payment by the Company of the Agency’s Bond issuance fee and all costs and expenses of the Agency with respect to the Bond transaction.

**Section 4.** The form and substance of the proposed agreement (in the form and on the terms and conditions as presented at this meeting and attached hereto as Exhibit “A”) (the “Agreement”) between the Agency and the Company setting forth the preliminary undertakings of the Agency and the Company with respect to the Project Facility are hereby approved. The Chairman or Secretary/Treasurer of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, in substantially the same form as presented at this meeting and attached hereto as Exhibit “A”, with changes in terms and form as shall be consistent with this Resolution and as the Chairman or Secretary/Treasurer shall approve consistent with this Resolution. The execution thereof by the Chairman or Secretary/Treasurer shall constitute conclusive evidence of such approval.

**Section 5.** Subject to the due execution and delivery by the Company of the Agreement, the Company is appointed the true and lawful agency of the Agency to proceed with the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf. The appointment made by this Section 5 shall not be effective until the Agreement referred to in Section 3 hereof is duly executed and delivered by the Company.

**Section 6.** The law firm of Hiscock & Barclay, LLP is hereby appointed bond counsel to the Agency in relation to the proposed issuance of the Bonds contemplated by the Application.

**Section 7.** A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

**Section 8.** The Secretary/Treasurer of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

**Section 9.** Counsel to the Agency and special Agency counsel are hereby authorized to work with the Company, and others to prepare, for submission to the Agency, all documents necessary to effect the grant of Financial Assistance.

**Section 10.** No covenant, stipulation, obligation or agreement contained in this Resolution shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity and neither the members of the Agency nor any officer executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. Neither the members nor officers of the Agency, nor any person executing the Bonds or other documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof. The Bonds and the interest therein shall not be a debt of the State or Oswego County, New York or any political subdivision thereof (other than the Agency), and none of the State, Oswego County nor any political subdivision thereof (other than the Agency) shall be liable thereon. The Bonds shall be issued solely for the purposes set forth in this Resolution. The Bonds and the interest thereon shall constitute a special, limited obligation of the Agency payable solely from the revenues derived or to be derived from the lease, sale or other disposition of the Project Facility and from the enforcement of the security pledged to the payment of the Bonds.

**Section 11.** Any expense incurred by the Agency with respect to the Project and the

financing thereof shall be reimbursed out of the proceeds of the Bonds or, in the event such proceeds are insufficient after payment of other costs of the Project, or the Bonds are not issued by the Agency for any reason whatsoever, shall be paid by the Company.

**Section 12.** This Resolution shall take effect immediately.

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

	Aye	Nay	Abstain	Recuse	Absent
Donald H. Kunzwiler	X				
Arthur W. Ospelt					X
Carolyn A. Rush				X	
H. Leonard Schick					X
Morris Sorbello	X				
Gary T. Toth	X				
L. Michael Treadwell	X				

The resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of the County of Oswego Industrial Development Agency, Do Hereby Certify that (i) I have compared the annexed extract of the minutes of the meeting of the County of Oswego Industrial Development Agency (the "Agency") held on May 8, 2009, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I Further Certify that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Agency on May 8, 2009.

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Secretary

(SEAL)

## EXHIBIT "A"

### AGENCY/COMPANY AGREEMENT

#### AGREEMENT

**This Agreement** is between the County of Oswego Industrial Development Agency (the "Agency"), and Fulton Thermal Corporation, a corporation organized and existing under the laws of the State of New York (the "Company").

**Article 1. 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 Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, together with Chapter 234 of the Laws of 1973 of the State of New York, as amended from time to time (collectively, the "Act") to grant "financial assistance" (as defined in the Act) in connection with "Projects" (as defined in the Act) 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 to promote, attract, encourage and develop recreation and economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to grant financial assistance.

1.03. The Company has requested that the Agency undertake a project (the "Project") consisting of: (A) the acquisition of a leasehold interest in approximately 18 acres of land located at 972 Centerville Road in the Town of Richland, County of Oswego, New York (the "Land") and the construction of and acquisition and installation of machinery, equipment and other personal property (the "Equipment") in an approximately 115,000 square foot addition (the "Facility") to its existing manufacturing and industrial building on the Land (the Land, the Equipment and the Facility are collectively referred to as the "Project Facility") for use in the manufacture of packaged boilers and accessories and other uses directly related and ancillary thereto; (B) financing of all or a portion of the costs of the foregoing by the issuance of the Agency's tax-exempt and incidental taxable "Industrial Development Revenue Bonds" (the "Bonds") in an amount, presently estimated to aggregate up to \$10,000,000; (C) funding a Debt Service Reserve Fund and capitalized interest, if any; (D) granting certain other financial assistance in the form of exemptions from real property taxation, mortgage recording tax, and sales and use taxation (collectively with the Bonds, the "Financial Assistance"); and (E) leasing of the Project Facility to the Company or its designee pursuant to a lease and sublease agreement.

1.04. The Company hereby represents to the Agency that undertaking the

Project, the appointment of the Company as the agent of the Agency for the construction and equipping of the Project Facility and the grant of Financial Assistance (A) will be an inducement to it to develop and operate the Project Facility in the County of Oswego, and (B) will not result in the removal of any commercial, industrial or manufacturing plant or facility of the Company or of any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State.

1.05. The Agency has determined that the acquisition, construction and equipping of the Project Facility and the leasing of the same to the Company will promote and further the purposes of the Act.

1.06. On May 8, 2009, the Agency adopted a resolution (the "Resolution") preliminarily agreeing, subject to the satisfaction of all conditions precedent set forth in such resolution, to appoint the Company as the Agency's agent for the construction and equipping of the Project Facility.

1.08 In the Resolution, subject to the execution of this Agreement by the Company and other conditions set forth therein and herein the Agency appointed the Company as its agent for the purposes of constructing and equipping the Project Facility, entering into contracts and doing all things requisite and proper for constructing and equipping the Project Facility.

**Article 2. Undertakings on the Part of the Agency.** Based upon the statements, representations and undertakings of the Company and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. Reserved.

2.02. The Agency will adopt such proceedings and authorize the execution of such documents as may be necessary or advisable for (A) the designation of the Company as the Agency's agent, (B) the acquisition, construction and equipping of the Project Facility, and (C) the leasing and sale of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.03. The Agency will enter into the agreement to lease the Project Facility to the Company (the "Financing Agreement"). The Financing Agreement shall contain all provisions required by law and such other provisions as shall be mutually satisfactory to the Agency and the Company.

2.04. The Company may proceed with the acquisition, construction and equipping of the Project Facility and advance such funds as may be necessary to accomplish such purposes.

2.05 Subject to Section 4.02 hereof, the Company is appointed the true and lawful agent of the Agency for the construction and equipping of the Project Facility, and to

make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for the construction and equipping of the Project Facility, all with the same powers and the same validity as if the Agency were acting in its own behalf.

**Article 3. Undertakings on the Part of the Company.** Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein, the Company agrees as follows:

3.01. Prior to the grant of exemption from real property taxes, the Company will enter into a Payment in Lieu of Tax Agreement and Financing Agreement with the Agency containing the terms and conditions described in Section 2.03 hereof.

3.02 (a) The Company shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition, construction and equipping of the Project Facility (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).

(b) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove, any mechanics' or other liens against the Project Facility for labor or material furnished in connection with the acquisition, construction and equipping of the Project Facility.

(c) The Company shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(d) The defense and indemnities provided for in this Article 3 shall survive expiration or termination of this Agreement and 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 members, 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.

(e) 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 protective coverage 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.

(f) The Company shall include the Agency as a named insured under all public liability insurance policies obtained by the Company with respect to the Project Facility.

3.03. The Company agrees that as agent of the Agency or otherwise, it will comply with all the requirements of all federal, state and local law, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or the Company with respect to the Project, the acquisition, construction and equipping of the Project 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.

3.04. The Company agrees that, as agent for the Agency, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute), it will comply with all the requirements Section 220 of the Labor Law of the State of New York, as amended.

3.05. 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.

3.06. 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 Project Facility, or are in any manner otherwise payable directly or indirectly in connection with the Project 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.

3.07 The Company hereby ratifies and confirms its obligations to pay an administrative fee to the Agency in the amount of .50% of the Project costs. Such amount is due and payable in full at closing.

3.08 The Company hereby ratifies and confirms its obligations to pay an annual administrative reporting fee of \$500.00 to cover administrative and reporting requirements to comply with New York State reporting regulations on Agency assisted projects.

3.09 Whenever practicable, the Company and/or its agents, employees and contractors agree to hire from the local labor pool during the construction period of the Project Facility.

#### **Article 4. General Provisions.**

4.01. This Agreement shall take effect on the date of the execution hereof by the Agency and the Company and, subject to Section 4.05 hereof, shall remain in effect until the Financing Agreement becomes effective. It is the intent of the Agency and the Company that

this Agreement be superseded in its entirety by the Financing Agreement.

4.02. It is understood and agreed by the Agency and the Company that grant of Financial Assistance and the execution of the Financing Agreement and related documents are subject to (A) obtaining all necessary governmental approvals; (B) approval by the members of the Agency; (C) approval by the Company; (D) the condition that there are no changes in New York State Law, including regulations, which prohibit or limit the Agency from fulfilling its obligations hereunder; and (E) payment by the Company of the Agency's Bond issuance fee and all costs and expenses of the Agency with respect to the Bond transaction.

4.03. The Company agrees that it will reimburse the Agency for all reasonable and necessary expenses, including without limitation the fees and expenses of counsel to the Agency and special counsel to the Agency and indemnify the Agency from all losses, claims, damages and liabilities, in each case which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder.

4.04. If for any reason the Financing Agreement is not executed and delivered by the Company and the Agency on or before eighteen (18) months from the execution hereof, the provisions of this Agreement (other than the provisions of Articles 3.02, 3.03, 3.04, 3.06 and 4.03 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 authorized by the Company and incurred by the Agency in connection with the acquisition, construction and equipping of the Project Facility;

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

(c) The Company will pay the out-of-pocket expenses of members of the Agency, counsel for the Agency and special Agency counsel incurred in connection with the Project and will pay the fees of counsel for the Agency and special Agency counsel for legal services relating to the Project or the proposed financing thereof.

**In Witness Whereof**, the parties hereto have entered in this Agreement as of \_\_\_\_\_, 2009.

**COUNTY OF OSWEGO INDUSTRIAL  
DEVELOPMENT AGENCY**

By: \_\_\_\_\_  
L. Michael Treadwell  
Treasurer

**FULTON THERMAL CORPORATION**

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