

AGENCY AGREEMENT

THIS AGENCY AGREEMENT (the "Agreement") made as of the 25th day of February, 2016 by and between the BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York, having its principal offices at 60 Hawley Street, P.O. Box 1510, Binghamton, Broome County, New York 13902 (the "Agency") and ADEC SOLUTIONS USA, INC., a New York corporation, having its principal offices at 56 Broome Corporate Parkway, Conklin, New York 13748 (the "Company").

W I T N E S S E T H:

WHEREAS, the Agency was created by Chapter 564 of the 1970 Laws 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 referred to as the "Enabling Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Enabling Act authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease any or all of its facilities at such rentals and on such other terms and conditions as it deems advisable; and

WHEREAS, pursuant to and in connection with the provisions of the Enabling Act, the Agency is empowered under the Act to undertake the providing of financing and accepting a leasehold interest in the Facility (as described below); and

WHEREAS, the Company has presented an application (the "Application") to the Agency, copies of which are on file at the office of the Agency, requesting that the Agency consider undertaking a project consisting of the following: (A)(1) the leasing, by the Agency, of a parcel of land containing approximately 5.00 acres located at 56 Broome Corporate Parkway in the Town of Conklin, Broome County, New York (the "Land"), (2) the renovation and equipping of a 20,000+/- square foot steel frame metal building located on the Land (the "Facility"), and (3) the acquisition and equipping therein and thereon of certain equipment (the "Equipment") (the Land, the Facility, and the Equipment being hereinafter collectively referred to as the "Project"), all of the foregoing to be intended for use by the Company as a document management facility and any other directly or indirectly related activities; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales taxes, mortgage recording taxes and real estate taxes (collectively, the "Financial Assistance"); and (C) the leaseback of the Project from the

Agency to the Company or such other person(s) or entity(ies) as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution, dated September 12, 2014 (the "Resolution"), the Agency authorized the Company to act as its agent for the purposes of renovating and equipping the Project subject to the Company entering into this Agency 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. Scope of Agency. 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 renovation and equipping of the Project.
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) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of, or compliance with, the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.
 - (b) The Project and the operation thereof will conform with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Project, 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 (b.)
 - (c) 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 the Company's ability to fulfill its obligations under this Agreement.
 - (d) The Company covenants that (i) the Project will comply in all respects with all environmental laws and regulations; (ii) no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist on the Project except in compliance with all applicable laws; (iii) the Company will take all reasonable and prudent steps to prevent an unlawful

release of hazardous substances onto the Project or onto any other property; (iv) no asbestos will be incorporated into or disposed of on the Project; (v) no underground storage tanks will be located on the Project except in full compliance at all times with all applicable laws, rules, and regulations; and (vi) no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company, upon receiving any information or notice contrary to the representations contained in this Section (d), shall immediately notify the Agency in writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend, indemnify, and hold harmless the Agency, its executive director, directors, officers, employees, members, agents (except the Company), representatives, their respective successors and assigns and personal representatives from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorney fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this Section. In the event the Agency in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Project, the Company agrees to pay the expenses of same to the Agency upon demand.

- (e) The Company acknowledges receipt of a copy of Section 875 of the New York State General Municipal Law, a copy of which is attached hereto as Exhibit "B," and agrees to the terms thereof as a condition precedent to receiving or benefiting from a New York State sales and use tax exemption.

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, officers, employees, members, agents (except the Company), representatives, their respective successors and assigns and personal representatives harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Project or breach by the Company of this Agreement, or (ii) liability arising from or expense incurred by the Agency (a) renovating and equipping the Project; (b) taking a leasehold interest in the Project; and (c) leasing the Project back to the Company, including without limiting the generality of the foregoing, all causes of action and reasonable attorney 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 its executive director, directors, officers, employees, members, agents (except the Company), and representatives, their respective successors and assigns and personal representatives 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 that portion of the fault or negligence attributable to the Agency or 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 in substantial conformity with the requirements set forth on Exhibit "A" attached hereto. Certificates of insurance indicating that such insurance is in force and effect, shall be deposited with the Agency on or before the commencement of the term of this Agreement. 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 Agreement.
5. Counterpart Signatures. This 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.
6. Notices. All notices provided for by this Agreement shall be made in writing, and shall be deemed to have been given on the date of delivery if personally served on the party to whom notice is to be given, or on the next day after mailing if mailed to the party to whom notice is to be given by overnight courier of national reputation providing evidence of receipt and properly addressed, or on the third day after mailing if mailed to the party to whom notice shall be given by first class, certified mail, postage prepaid and properly addressed to the following:

To the Agency: Broome County Industrial Development Agency
60 Hawley Street
P.O. Box 1510
Binghamton, New York 13902

Attn: Executive Director

with a copy to: Joseph B. Meagher, Esq.
Thomas, Collison & Meagher
1201 Monroe Street
P.O. Box 329
Endicott, New York 13761-0329

To the Company: ADEC Solutions USA, Inc.
56 Broome Corporate Parkway
Conklin, New York 13748

Attn: Marisel L. Arbolente

with a copy to: Cheryl I. Sacco, Esq.
Coughlin & Gerhart LLP
P.O. Box 2039
Binghamton, New York 13902-2039

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.

7. Governing Law. This 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. The parties hereto designate a court of proper jurisdiction located in Broome County, New York as the sole venue for resolution of any disputes, which may arise under or by reason of this Agreement.

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

BROOME COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Kevin McLaughlin, Executive Director

ADEC SOLUTIONS USA, INC.

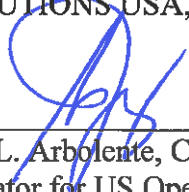
By: 
Marisel L. Arbolente, Comptroller and
Coordinator for US Operations

EXHIBIT A

INSURANCE REQUIREMENTS

(See Attached)

**INSURANCE REQUIREMENTS FOR A
BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY PROJECT**

- 1.1 **Insurance Required.** Effective as of the date of execution of the Agency Agreement and until the Agency consents in writing to a termination, at all times, including without limitation during any period of construction of the project facility, 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 paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:
- (a) 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.
 - (b) Worker's 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 (including the contractual liability assumed by the Company under Section 5.2 of the Lease Agreement) 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 Worker's Compensation Law; and a blanket excess liability policy in the amount not less than \$2,000,000, protecting the Company against any loss or liability or damage for personal injury or property damage.
- 1.2. **Additional Provisions Respecting Insurance.**
- (a) All insurance required by Section 1.1(a) hereof shall name the Agency as a named insured and all other insurance required by Section 1.1 shall name the Agency as an additional insured. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company (and reasonably satisfactory to the Agency) and authorized to write such insurance in the State. Such insurance may be written with deductible amounts not exceeding \$2,500.00. All policies evidencing such insurance shall provide for (i) payment of the losses of the Company and the Agency as their respective interest may appear, and (ii) at least thirty (30) days written notice of the cancellation thereof to the Company and the Agency.
 - (b) All such certificates of insurance of the insurers that such insurance is in force and effect shall be deposited with the Agency on or before the commencement of the term of the Agency Agreement. 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 Lease.

Type of Insurance	Amount	Broome County Industrial Development Agency Status	Deductible
Liability	\$1,000,000.00 + with \$2,000,000.00 blanket	Additional Insured	not exceeding \$2,500.00
Property Damage or Builder's Risk, if in construction	Full Replacement Value	Named Insured	not exceeding \$2,500.00

EXHIBIT B

SECTION 875 OF THE
NEW YORK STATE GENERAL MUNICIPAL LAW

(See Attached)



Effective: March 28, 2013

McKinney's Consolidated Laws of New York Annotated Currentness

General Municipal Law (Refs & Annos)

Chapter 24. Of the Consolidated Laws

Article 18-A. Industrial Development

Title 1. Agencies, Organization and Powers (Refs & Annos)

→→ § 875. Special provisions applicable to state sales and compensating use taxes and certain types of facilities

1. For purposes of this section: "state sales and use taxes" means sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight. "IDA" means an industrial development agency established by this article or an industrial development authority created by the public authorities law. "Commissioner" means the commissioner of taxation and finance.

2. An IDA shall keep records of the amount of state and local sales and use tax exemption benefits provided to each project and each agent or project operator and shall make such records available to the commissioner upon request. Such IDA shall also, within thirty days of providing financial assistance to a project that includes any amount of state sales and use tax exemption benefits, report to the commissioner the amount of such benefits for such project, the project to which they are being provided, together with such other information and such specificity and detail as the commissioner may prescribe. This report may be made in conjunction with the statement required by subdivision nine of section eight hundred seventy-four of this title or it may be made as a separate report, at the discretion of the commissioner. An IDA that fails to make such records available to the commissioner or to file such reports shall be prohibited from providing state sales and use tax exemption benefits for any project unless and until such IDA comes into compliance with all such requirements.

3. (a) An IDA shall include within its resolutions and project documents establishing any project or appointing an agent or project operator for any project the terms and conditions in this subdivision, and every agent, project operator or other person or entity that shall enjoy state sales and use tax exemption benefits provided by an IDA shall agree to such terms as a condition precedent to receiving or benefiting from such state sales and use exemptions benefits.

(b) The IDA shall recover, recapture, receive, or otherwise obtain from an agent, project operator or other person or entity state sales and use exemptions benefits taken or purported to be taken by any such person to which the person is not entitled or which are in excess of the amounts authorized or which are for property or services not authorized

or taken in cases where such agent or project operator, or other person or entity failed to comply with a material term or condition to use property or services in the manner required by the person's agreement with the IDA. Such agent or project operator, or other person or entity shall cooperate with the IDA in its efforts to recover, recapture, receive, or otherwise obtain such state sales and use exemptions benefits and shall promptly pay over any such amounts to the IDA that it requests. The failure to pay over such amounts to the IDA shall be grounds for the commissioner to assess and determine state sales and use taxes due from the person under article twenty-eight of the tax law, together with any relevant penalties and interest due on such amounts.

(c) If an IDA recovers, recaptures, receives, or otherwise obtains, any amount of state sales and use tax exemption benefits from an agent, project operator or other person or entity, the IDA shall, within thirty days of coming into possession of such amount, remit it to the commissioner, together with such information and report that the commissioner deems necessary to administer payment over of such amount. An IDA shall join the commissioner as a party in any action or proceeding that the IDA commences to recover, recapture, obtain, or otherwise seek the return of, state sales and use tax exemption benefits from an agent, project operator or other person or entity.

(d) An IDA shall prepare an annual compliance report detailing its terms and conditions described in paragraph (a) of this subdivision and its activities and efforts to recover, recapture, receive, or otherwise obtain state sales and use exemptions benefits described in paragraph (b) of this subdivision, together with such other information as the commissioner and the commissioner of economic development may require. The report required by this subdivision shall be filed with the commissioner, the director of the division of the budget, the commissioner of economic development, the state comptroller, the governing body of the municipality for whose benefit the agency was created, and may be included with the annual financial statement required by paragraph (b) of subdivision one of section eight hundred fifty-nine of this title. Such report required by this subdivision shall be filed regardless of whether the IDA is required to file such financial statement described by such paragraph (b) of subdivision one of section eight hundred fifty-nine. The failure to file or substantially complete the report required by this subdivision shall be deemed to be the failure to file or substantially complete the statement required by such paragraph (b) of subdivision one of such section eight hundred fifty-nine, and the consequences shall be the same as provided in paragraph (e) of subdivision one of such section eight hundred fifty-nine.

(e) This subdivision shall apply to any amounts of state sales and use tax exemption benefits that an IDA recovers, recaptures, receives, or otherwise obtains, regardless of whether the IDA or the agent, project operator or other person or entity characterizes such benefits recovered, recaptured, received, or otherwise obtained, as a penalty or liquidated or contract damages or otherwise. The provisions of this subdivision shall also apply to any interest or penalty that the IDA imposes on any such amounts or that are imposed on such amounts by operation of law or by judicial order or otherwise. Any such amounts or payments that an IDA recovers, recaptures, receives, or otherwise obtains, together with any interest or penalties thereon, shall be deemed to be state sales and use taxes and the IDA shall receive any such amounts or payments, whether as a result of court action or otherwise, as trustee for and on account of the state.

4. The commissioner shall deposit and dispose of any amount of any payments or moneys received from or paid over by an IDA or from or by any person or entity, or received pursuant to an action or proceeding commenced by an IDA, together with any interest or penalties thereon, pursuant to subdivision three of this section, as state sales

and use taxes in accord with the provisions of article twenty-eight of the tax law. The amount of any such payments or moneys, together with any interest or penalties thereon, shall be attributed to the taxes imposed by sections eleven hundred five and eleven hundred ten, on the one hand, and section eleven hundred nine of the tax law, on the other hand, or to any like taxes or fees imposed by such article, based on the proportion that the rates of such taxes or fees bear to each other, unless there is evidence to show that only one or the other of such taxes or fees was imposed or received or paid over.

5. The statement that an IDA is required by subdivision nine of section eight hundred seventy-four of this article to file with the commissioner shall not be considered an exemption or other certificate or document under article twenty-eight or twenty-nine of the tax law. The IDA shall not represent to any agent, project operator, or other person or entity that a copy of such statement may serve as a sales or use tax exemption certificate or document. No agent or project operator may tender a copy of such statement to any person required to collect sales or use taxes as the basis to make any purchase exempt from tax. No such person required to collect sales or use taxes may accept such a statement in lieu of collecting any tax required to be collected. The civil and criminal penalties for misuse of a copy of such statement as an exemption certificate or document or for failure to pay or collect tax shall be as provided in the tax law. In addition, the use by an IDA or agent, project operator, or other person or entity of such statement, or the IDA's recommendation of the use or tendering of such statement, as such an exemption certificate or document shall be deemed to be, under articles twenty-eight and thirty-seven of the tax law, the issuance of a false or fraudulent exemption certificate or document with intent to evade tax.

6. The commissioner is hereby authorized to audit the records, actions, and proceedings of an IDA and of its agents and project operators to ensure that the IDA and its agents and project operators comply with all the requirements of this section. Any information the commissioner finds in the course of such audit may be used by the commissioner to assess and determine state and local taxes of the IDA's agent or project operator.

7. In addition to any other reporting or filing requirements an IDA has under this article or other law, an IDA shall also report and make available on the internet, without charge, copies of its resolutions and agreements appointing an agent or project operator or otherwise related to any project it establishes. It shall also provide, without charge, copies of all such reports and information to a person who asks for it in writing or in person. The IDA may, at the request of its agent or project operator delete from any such copies posted on the internet or provided to a person described in the prior sentence portions of its records that are specifically exempted from disclosure under article six of the public officers law.

8. In consultation with the commissioner of economic development, the commissioner of taxation and finance is hereby authorized to adopt rules and regulations and to issue publications and other guidance implementing the provisions of this section and of the other sections of this article relating to any state or local tax or fee, or exemption or exclusion therefrom, that the commissioner administers and that may be affected by any provision of this article, and any such rules and regulations of the commissioner shall have the same force and effect with respect to such taxes and fees, or amounts measured in respect of them, as if they had been adopted by the commissioner pursuant to the authority of the tax law.

9. To the extent that a provision of this section conflicts with a provision of any other section of this article, the pro-