

**QUANTUM COOL, LLC & CRYOMECH, INC.**

**RESOLUTION APPROVING THE ASSIGNMENT OF THE RIGHT, TITLE AND INTEREST IN A CERTAIN COMPANY PROJECT FACILITY BY QUANTUM COOL, LLC TO KELVIN KOOL LLC AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS IN CONNECTION THEREWITH, INCLUDING MORTGAGES AND RELATED DOCUMENTS  
(3101-19-02A)**

A regular meeting of the Onondaga County Industrial Development Agency convened in public session on December 14, 2021, at 8:00 a.m., local time at 333 West Washington Street, Syracuse, New York.

The meeting was called to order by the (Vice) Chairman of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:** Patrick Hogan  
Janice Herzog  
Steve Morgan  
Sue Stanczyk  
Kevin Ryan  
Fanny Villarreal

**ABSENT:** Victor Ianno

**ALSO PRESENT:** Robert M. Petrovich, Executive Director  
Jeffrey W. Davis, Esq., Agency Counsel

The following resolution was offered by Kevin Ryan, seconded by Sue Stanczyk, to wit:

**RESOLUTION APPROVING THE SALE OF A CERTAIN COMPANY PROJECT FACILITY BY QUANTUM COOL, LLC TO KELVIN KOOL LLC AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN ASSIGNMENT AND ASSUMPTION AGREEMENT MORTGAGES AND RELATED DOCUMENTS IN CONNECTION THEREWITH.**

WHEREAS, Onondaga County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 435 of the Laws of 1970 of the State of New York and Chapter 676 of the Laws of 1975, as amended, constituting Section 895 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job

opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their 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 acquire, construct, reconstruct and install one or more “projects” (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, on or about September 26, 2019, the Agency undertook a project (the “Project”) on behalf of Quantum Cool, LLC (the “Company”) and Cryomech, Inc. (the “Sublessee”), said Project consisting of the following: (A)(1) acquisition of an interest in an approximately 14-acre portion of land located at 6682 Moore Road (tax map no. 022.-05-03.1) in the Town of Dewitt, Onondaga County, New York (the “Land”); (2) the construction on the Land of an approximately 76,000 square foot building (the “Facility”); (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the “Facility Equipment”) (the Land, the Facility and the Facility Equipment being collectively referred to as the “Company Project Facility”); and (4) the acquisition and installation of certain equipment and personal property (the “Equipment”, and together with the Company Project Facility, the “Project Facility”) by the Sublessee, such Project Facility to be used by the Sublessee as a manufacturing plant for high-performance cryogenic equipment and related office space; (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 and use taxes, real property taxes and transfer and mortgage recording taxes (subject to certain statutory limitations) (collectively, the “Financial Assistance”); and (C)(1) the lease (with an obligation to purchase) or sale of the Company Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and (2) and the lease (with an obligation to purchase) or sale of the Equipment to the Sublessee or such other person as may be designated by the Sublessee and agreed upon by the Agency; and

WHEREAS, in connection with the Project and the granting of the Financial Assistance, the Agency entered into the following documents (hereinafter collectively referred to as the “Company Documents”): (A) an underlying lease (and a memorandum thereof) dated as of September 1, 2019 (the “Underlying Lease”) by and between the Company and the Agency, pursuant to which, among other things, the Agency acquired a leasehold interest in the Land and the improvements now or hereafter located on the Land from the Company; (B) a lease agreement (and a memorandum thereof) dated as of September 1, 2019 (the “Lease Agreement”) by and between the Agency and the Company, pursuant to which, among other things, the Company agreed to undertake and complete the Project as agent of the Agency and the Company further agreed to lease the Company Project Facility from the Agency and, as rental thereunder, to pay the Agency’s administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (C) a company project agreement dated as of September 1, 2019, as amended by an Amendment to the Company Project Agreement dated as of August 1, 2020 (collectively, the “Project Agreement”), which sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; (D) a payment in lieu of tax agreement dated as of September 1, 2019 by and between the Agency and the Company (the “PILOT Agreement”) whereby the Company agreed to make certain

payments in lieu of real property taxes; and (E) various certificates relating to the Project (the "Certificates"); and

WHEREAS, the Lease Agreement permits the sale of the Company Project Facility to the Sublessee; and

WHEREAS, the Company has notified the Agency that it intends to sell all of its right, title and interest in and to the Company Project Facility to Kelvin Kool LLC, a real estate holding company of the Sublessee (the "Assignee"); and

WHEREAS, the Company has requested that the Agency consent to the sale by the Company of the Company Project Facility to the Assignee and the assignment by the Company and the assumption by the Assignee of the Company Documents and all covenants therein agreed to by the Company in connection with the Project (collectively, the "Assignment Transaction"); and

WHEREAS, the Assignee intends to finance its acquisition of the Company Project Facility with one or more loans from a lender or lenders to be determined and has requested that the Agency to join in the execution of one or more mortgages, assignments of leases and rents and such other loan documents satisfactory to the Agency, upon advice of counsel, in both form and substance (collectively, the "Loan Documents") in connection with such financing (the "Financing Transaction" and together with the Assignment Transaction, the "Transaction"); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the Agency must determine the potential environmental significance of the Transaction;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Pursuant to SEQRA, the Agency hereby finds and determines that:

(A) Pursuant to Section 617.5(c)(26) of the Regulations, the Transaction is a "Type II action" (as said quoted term is defined in the Regulations); and

(B) Therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations with respect to the Transaction.

Section 2. The Agency hereby finds and determines that by virtue of the Act, that:

(A) The Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(B) It is desirable and in the public interest for the Agency to consent to the Assignment Transaction.

Section 3. The Agency hereby consents to the Assignment Transaction.

Section 4. The Chairman (or Vice Chairman) and the Executive Director of the Agency, upon advice of counsel, are each hereby authorized and directed to negotiate, execute and deliver, on behalf of the Agency, upon advice of counsel, the necessary documents to effectuate the Assignment Transaction and the Financing Transaction, including but not limited to an assignment or assumption agreement or any necessary amendments to the Company Documents and the Loan Documents, the execution thereof by the Chairman, Vice Chairman and/or the Executive Director to constitute conclusive evidence of such approval, and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution; provided however, that as a condition precedent to the Assignment Transaction, the Company and the Assignee shall execute and deliver any and all necessary documents required by the Agency to effectuate the Assignment Transaction and counsel to the Assignee shall render such opinion as is required pursuant to the Company Documents; and the Company shall pay the Agency's related fees and costs associated with the Assignment Transaction, including but not limited to its legal fees.

Section 5. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or to effectuate the Assignment Transaction and the Financing Transaction, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Assignment Transaction and the Financing Transaction, respectively, binding upon the Agency.

Section 6. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein 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. Neither the members nor officers of the Agency, nor any person executing any 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 or delivery thereof.

Section 7. The Chairman (or Vice Chairman) and the Executive Director of the Agency are each hereby authorized to distribute copies of this Resolution to the Company and the Assignee and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 8. This Resolution shall take effect immediately upon adoption.

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

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Patrick Hogan	X		
Janice Herzog	X		
Victor Ianno			X
Steve Morgan	X		
Susan Stanczyk	X		
Kevin Ryan	X		
Fanny Villarreal	X		

The Resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of the Onondaga County Industrial Development Agency, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on December 14, 2021, with the original thereof on file in my office, and that the same is a true and correct copy of such proceedings of the Agency and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matter therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting, (B) said meeting was in all respects duly held, (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law, and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed, or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand this 21 day of December, 2021.

(SEAL)

  
Secretary