

NEXGEN POWER SYSTEMS, INC.
AUTHORIZATION RESOLUTION

At a regular meeting of the Onondaga County Industrial Development Agency convened in public session on March 13, 2018 at 8:15.a.m. at 333 West Washington Street, Syracuse, New York, the following members were:

PRESENT:

Patrick Hogan
Janice Herzog
Steve Morgan
Fanny Villarreal

ABSENT:

Victor Ianno
Susan Stanczyk
Kevin Ryan

ALSO PRESENT:

Julie Cerio, Executive Director (via conference call)
Anthony P. Rivizzigno, Esq., Agency Counsel

Upon motion duly made and seconded, the following Amended Resolution was duly adopted by the Agency with its members voting as follows:

Aye

Nay

Patrick Hogan
Janice Herzog
Steve Morgan
Fanny Villarreal

**RESOLUTION CONSENTING TO THE SYNCHRONIZATION OF THE
RECAPTURE TERMS AND DEFINITION OF A LEASE YEAR CONTAINED IN
THE THE LEASE AND PILOT AGREEMENTS FOR NEXGEN POWER
SYSTEMS, INC. (the "Company") WITH THE TERMS AGREED TO BY THE
COMPANY IN ITS GRANT DISBURSEMENT AGREEMENT WITH EMPIRE
STATE DEVELOPMENT**

WHEREAS, the Onondaga County Industrial Development Agency (the "Agency") is authorized and empowered by 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 1970 Laws of New York, 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 industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities, and continuing care retirement communities, among others, 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 of New York and 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 acquire, construct, reconstruct, improve, maintain, equip or furnish one or more "projects" (as defined in the Act); to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of said project; and to issue bonds and provide for the rights of the holders thereof; and

WHEREAS on February 6, 2018 the members of the Agency adopted a resolution (the "Inducement Resolution" Co.) whereby the Agency agreed to undertake a project (the "Project Facility") consisting of numerous actions including the acquisition and construction of the Project Facility on lands owned by Fort Schuyler Management Corporation to be leased to the Company in the town of DeWitt, New York (the "Property"); and

WHEREAS the Lease/Leaseback agreement and the PILOT agreement were executed by the agency in the Company on February __, 2018; and

WHEREAS, the Company has requested that the terms of the Lease/Leaseback agreement and the PILOT Agreement be amended to synchronize the job creation plan, the recapture provisions and the definitions of "Lease Year" and "Full-time Permanent Employee" with such information as contained in the Grant Disbursement Agreement executed by the Company and New York State Urban Development Corporation d.b.a. Empire State Development ("ESD") on or about February 28, 2018.

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

Section 1. The agency approves the synchronization of the job creation plan, the recapture provisions and the definitions of “Lease Year” and “Full-time Permanent Employee” all as more specifically identified on exhibit a to this resolution.

Section 2. The Chairman, Vice Chairman, Executive Director or Assistant Secretary of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things and perform such further acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 3. This Resolution shall take effect immediately.

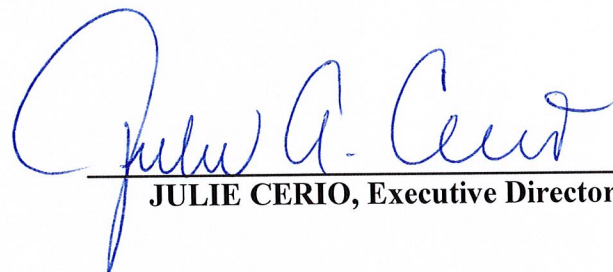
STATE OF NEW YORK)
) ss.:
COUNTY OF ONONDAGA)

I, the undersigned, Executive Director of the Onondaga County Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the forgoing extract of the minutes of the meeting of the members of the Agency, including the Amended Resolution contained therein, held on October 2, 2017 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 such Amended Resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of the meeting; (B) the meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), such 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 Amended 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 13th day of March, 2018.



JULIE CERIO, Executive Director

Exhibit A
To
Resolution of the Onondaga County Industrial Development Agency
approved on March 13, 2018

The Lease/Leaseback Agreement and the Payment in Lieu of Tax Agreement both executed by NexGen Power Systems Inc. and OCIDA dated February 26, 2018 shall be amended to include the following recapture terms and the definitions of "Lease Year" and "Full-time Permanent Employee" to synchronize the Agency relationship with the Company with the Empire State Development relationship with the Company as memorialized in the Gant Disbursement Agreement between ESD and the Company

Recapture Terms

If the Full-time Permanent Employee Count for the Lease Year set forth in Column A of the table below is less than eighty-five percent (85%) of the Employment Goal set forth in Column B (an "Employment Shortfall"), then upon demand by ESD, Grantee shall be obligated to repay to ESD a portion of each disbursement of the Grant (the "Recapture Amount"), as set forth below.

If the Grantee fails to file an Employment Reporting Form by the following the end of the Lease Year during the term of this Agreement, reporting employment data as of the preceding Lease Year, it shall be deemed to have an Employment Shortfall. Failure by Grantee to submit the Employment Reporting Form shall also be subject to a late penalty of \$1,000 per day, payable by Grantee to ESD.

| | |
|---------------------|------------------|
| Baseline Employment | 0 |
| A | B |
| Lease Year | Employment Goals |
| First | 10 |
| Second | 30 |
| Third | 58 |
| Fourth | 69 |
| Fifth | 122 |
| Sixth | 231 |
| Seventh | 290 |

Recapture Amount

The Recapture Amount shall be equal to:

- (i) 15% of the disbursed amount if the Employment Shortfall occurred at the end of the First Lease Year;
- (ii) 15% of the disbursed amount if the Employment Shortfall occurred at the end of the Second Lease Year;
- (iii) 15% of the disbursed amount if the Employment Shortfall occurred at the end of the Third Lease Year;

- (iv) 15% of the disbursed amount if the Employment Shortfall occurred at the end of the Fourth Lease Year;
- (v) 15% of the disbursed amount if the Employment Shortfall occurred at the end of the Fifth Lease Year;
- (vi) 15% of the disbursed amount if the Employment Shortfall occurred at the end of the Sixth Lease Year;
- (vii) 10% of the disbursed amount if the Employment Shortfall occurred at the end of the Seventh Lease Year.

ESD shall not demand the Recapture Amounts listed above in sections (iii) through (vii) until two (2) years following the date on which the Employment Shortfall occurred, provided, however, that if on such date, Grantee has achieved the Employment Goal, ESD shall not demand and Grantee will not be obligated to pay such Recapture Amount. During any such two (2) year period, the Recapture Amount shall bear interest payable to ESD at the annual rate of two percent (2%) above the Prime Rate announcement from time to time by Bank of America, N.A., payable at the time the Recapture Amount is paid to ESD. ESD will consider, in good faith, crediting Grantee with other Full Time Permanent jobs created by Tenant for positions located elsewhere in New York State to satisfy the Full Time Permanent Employee Count.

A "Lease Year" shall mean the twelve month period from and after the first day of the first month following the earlier to occur of: (i) six (6) months from the Date of Commencement (as defined below), as extended for a period not to exceed ninety (90) days due to delays in the purchase, delivery, installation and/or qualification of the Manufacturing Equipment (as defined below) which is outside the reasonable control of Tenant or (ii) the date the Tenant occupies the Premises for the purpose of conducting revenue-producing commercial business therefrom (such date, the "Rent Commencement Date") and each succeeding twelve month period.

A "Full-time Permanent Employee" shall mean:

- (a) a full-time, permanent, private-sector employee on the Company's payroll, who has worked at the Project Location for a minimum of thirty hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by Company to other employees with comparable rank, duties and hours; or
- (b) two part-time, permanent, private-sector employees on Company's payroll, who have worked at the Project Location for a combined minimum of thirty hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by Company to other employees with comparable rank, duties and hours.