

TAX INCREMENT FINANCING AGREEMENT
(Alternatively, the “Agreement”)
BETWEEN

THE TOWN OF AYER
(Alternatively, the “Town”)

CATANIA-SPAGNA CORPORATION
(Alternatively, the “Company”)
AND ITS AFFILIATE

JAR REALTY CORP.
(Alternatively, the “Property Owner”)

DRAFT TIF AGREEMENT
(Subject to Approval of the Ayer Annual Town Meeting on April 26, 2021)

This Agreement is made as of this [REDACTED]th day of [REDACTED] 2021 by and between The Town, the Company, and the Property Owner

WHEREAS the Company is a Massachusetts corporation having its principal office at 3 Nemco Way, Ayer, Massachusetts 01432 and is authorized to do business in Massachusetts; and

WHEREAS the Property Owner is a Massachusetts corporation having its principal office at 3 Nemco Way, Ayer, Massachusetts 01432 and is authorized to do business in Massachusetts; and

WHEREAS the Town is a Massachusetts municipal corporation acting through its Select Board, having its principal office at 1 Main Street, Ayer Massachusetts, 01432; and

WHEREAS the Property Owner owns property located at 1 Nemco Way, Ayer, MA which contains an estimated 96,063 square foot building which is shown on the Town Assessors as Map 17 Lot 21 (hereinafter the “Property”) and which parcel is shown on the map attached to this Agreement as Exhibit A; and

WHEREAS the Property Owner intends to lease the Property to the Company in connection with the Project as defined below; and

WHEREAS the Property Owner plans to construct an estimated 51,500 square foot on-site expansion on the Property for the Company for its manufacturing operations (hereinafter the “Project”); and

WHEREAS the Project investment at the Property is an estimated \$14.4 million, including approximately \$6.3 million for hard and soft construction costs, approximately \$2.6 million for infrastructure costs paid for by the Property Owner and approximately \$5.5 million for new personal property paid for by the Company; and

WHEREAS the Company plans to retain 160 full-time jobs in the Town, consisting of 100 jobs at its manufacturing facility at 1 Nemco Way and 60 jobs as its corporate headquarters and distribution facility at 3 Nemco Way and create 30 new, permanent, full-time jobs at the Property over a five (5) year period: and

WHEREAS the Company and the Property Owner, jointly intend to apply for status as a Local Incentive-Only Project under the Massachusetts Economic Development Incentive Program (“EDIP”); and

WHEREAS the Town strongly supports increased economic development to provide additional jobs, expand business within Ayer and to develop a healthy economy and stronger tax base; and

WHEREAS, on March 16, 2021 Ayer Select Board voted to recommend approval this Agreement.

WHEREAS on _____, 2021, Ayer Town Meeting voted to approve this Agreement; and

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

A. THE TOWN'S OBLIGATIONS

1. A Tax Increment Financing (“TIF”) exemption (the “Exemption”) is hereby granted to the Company and the Property Owner by the Town in accordance with Massachusetts General Laws Chapter 23A, Sections 3A to 3F; Chapter 40, Section 59; and Chapter 59, Section 5, Clause 51 and the applicable regulations thereunder. The Exemption for real estate taxes shall be for a period of ten (10) years (the “Exemption Term”), commencing in the fiscal year for which the Town has increased the assessed value at the Property to the full assessed value of the Project at the Property (the first day of such fiscal year in which said full assessed valuation occurs is hereinafter referred to as the “Start Date”, which date shall be no earlier than the first day of the fiscal year following the date a certificate of occupancy has been issued to allow the Company to use and occupy the Project); and shall provide an exemption from real estate taxation of the new incremental value of the Property resulting from the Project, as determined by the Town Assessor, as follows:

Year	Exemption Percentage
Year 1	95%
Year 2	85%
Year 3	80%
Year 4	75%
Year 5	60%
Year 6	55%
Year 7	45%
Year 8	35%
Year 9	25%
Year 10	20%

2. The base assessed valuation of the Property, pursuant to this Agreement shall be \$7,001,600.
3. The base assessed valuation shall be adjusted annually by an adjustment factor which reflects increased commercial and industrial property values within the community, as provided in Massachusetts General Laws Chapter 40, Section 59.

4. The increased value or “increment” created by improvements to the Property will be the amount eligible for exemption from taxation, in accordance with the Exemption applicable to each year in the schedule in Section A.1, hereof.
5. The Company is a registered manufacturer by the Massachusetts Department of Revenue and is exempt from paying municipal personal property taxes.

B. THE COMPANY and PROPERTY OWNER’S OBLIGATIONS

1. The Property Owner shall construct an estimated 51,500 square foot on-site expansion on the Property for the Company for its manufacturing operations.
2. The Project investment at the Property shall be an estimated \$14.4 million, including approximately \$6.3 million for hard and soft construction costs, approximately \$2.6 million for infrastructure costs paid for by the Property Owner and approximately \$5.5 million for new personal property paid for by the Company; and
3. The Company shall retain 160 full-time jobs in the Town, consisting of 100 jobs at its manufacturing facility at 1 Nemco Way and 60 jobs at its corporate headquarters and distribution facility at 3 Nemco Way and create 30 new, permanent, full-time jobs at the Property over a five (5) year period.
4. The Company’s job retention and creation plans are outlined in the Employment & Job Creation section of the EDIP Local Incentive-Only Application to be submitted to the State in connection with the request for the TIF exemption.
5. The Company shall submit an annual report pursuant to Massachusetts General Laws Chapter 23A, Section 3F to the Massachusetts Economic Assistance Coordinating Council (“EACC”) through the Commonwealth’s on-line portal for each year of the Application designation. The annual report shall include the number of jobs retained and created, and value of the Property capital investments and other related items with respect to the Property annually and on a cumulative basis. The Company shall also submit a report as required by Massachusetts General Laws Chapter 40, Section 59(viii) to the Town and the EACC.
6. The Company plans to use reasonable efforts, to the extent permitted by law and assuming equal qualifications, to give priority to qualified Ayer residents in its hiring of new employees for the Project.
7. The Company plans to use reasonable efforts, to the extent permitted by law and assuming equal qualifications, to give priority to qualified local vendors for the Project.
8. If the Company and the Property Owner fail to meet the obligations specified in Section B.1 through B.5 above, the Town, acting by and through its Select Board, may take action to notify the EACC and/or request decertification of the Project by the EACC. Upon decertification, the Town shall discontinue the Tax Increment Financing benefits provided to the Company and the Property Owner commencing with the first fiscal year in which the Project is decertified, or if such benefits have already been received by the Company for the fiscal year in which the Project has been decertified, commencing as of the fiscal year immediately following that fiscal year.
9. Prior to taking any action to request decertification of the Project by the EACC pursuant to Paragraph B.8, the Town shall give written notice of the alleged material default to the Company and the Property

Owner and provide the Company and Property Owner an opportunity to meet with Ayer officials having the relevant authority under this Agreement to discuss a remedy for the alleged default. The Company and Property Owner shall have sixty (60) days from the receipt of such written notice to respond to the Town regarding any alleged default and one hundred twenty (120) days from the receipt of such written notice to remedy such alleged default, or, with respect to alleged defaults which by mutual agreement of the Parties cannot be remedied within such one-hundred-twenty (120) day period, within such additional period of time as is required to reasonably remedy such alleged default, provided the Company and Property Owner exercise due diligence in the remedying of such alleged default.

10. If the Company plans to move from the Property during the Exemption Term, the Company shall give the Town thirty days (30) days advance written notice, to the attention of its Select Board, with a courtesy copy to its Town Manager.

C. OTHER CONSIDERATIONS

1. Pursuant to Massachusetts General Laws Chapter 40, Section 59 (v), this Agreement shall be binding upon the Company, its successors and assigns, the Property Owner, and subsequent owners of the Property.
2. The matters described above as obligations of the Company and Property Owner are only conditions to the eligibility for tax exemptions under this Agreement and do not create any other enforceable obligation or covenants of the Company and Property Owner. The Town's sole remedy for failure by the Company to satisfy any of its respective obligations and conditions are set forth in Paragraphs B.8 through B.10 of this Agreement.
3. This Agreement is subject to Massachusetts General Laws Chapter 23A, Section 3A to 3F, Chapter 40, Section 59, and Chapter 59, Section 5, Clause 51, and the applicable regulations thereunder
4. The Property Owner shall pass on all real estate tax savings resulting from this Agreement to the Company, which may be accomplished through adjustments to rent under the lease or other reasonable arrangements mutually agreeable to the Property Owner and the Company.
5. Should any provision of the Agreement be declared or determined by a court of competent jurisdiction to be illegal or invalid, the validity of the remaining parts, terms, and provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of the Agreement.
6. The time within which the Company and/or the Property Owner shall be required to perform any of the respective acts or obligations under this Agreement shall be extended to the extent that the performance of such acts or obligations shall be delayed by a Force Majeure Event and only for so long as said Force Majeure Event has continued. A Force Majeure Event means any supervening events or occurrences, such as acts of God, earthquakes, fire, acts of terrorism, pandemic, war, labor disputes, delays or restrictions by government bodies, or other causes that are beyond the reasonable control of the Company and/or the Property Owner.
7. This Agreement is subject for approval by the EACC pursuant to Section 3E of chapter 23A and the applicable regulations thereunder and this Agreement cannot be modified unless approved by the EACC.

8. Each person executing this Agreement represents and warrants that he or she has been duly authorized to execute and deliver this Agreement by the entity for which he or she is signing, and this Agreement is the valid and binding agreement of such entity, enforceable in accordance with its terms.
9. This Agreement may be executed in separate counterparts, each of which when so executed shall be an original; but all of such counterparts shall together constitute but one and the same instrument.

Signatures Follow on Next Page

DRAFT

WITNESSETH the execution and delivery of this Agreement by the Town, the Company and the Property Owner, as an instrument under seal, as of the date first above written.

AGREED TO:

Catania-Spagna Corporation

Town of Ayer

By: _____

Printed Name: Shaun C. Copeland
Select Board, Chair

Name: _____

Title: _____

Print Name: Scott A. Houde
Select Board

Date of Signature

Printed Name: Jannice L. Livingston
Select Board

JAR Realty Corp.

By: _____

Name: _____

Title: _____

Date of Signature

EXHIBIT A PROPERTY MAP

