

LOAN AGREEMENT

Borrower: ***WISTRON GREENTECH (TEXAS) CORP.***
2101 Couch Drive
McKinney, Texas 75069

Lender: ***MCKINNEY ECONOMIC DEVELOPMENT CORPORATION***
5900 Lake Forest Drive, Suite 110
McKinney, Texas 75070

THIS LOAN AGREEMENT between ***WISTRON GREENTECH (TEXAS) CORP.***, a Texas corporation (“Borrower”), and the ***MCKINNEY ECONOMIC DEVELOPMENT CORPORATION***, a Texas non-profit corporation, (“Lender”) is made and executed on the following recitals, terms and conditions:

WHEREAS, Borrower has applied to Lender for a loan or loans and other financial accommodations to enable it to relocate its manufacturing facility to McKinney, Texas, including those loans and advances which are described in this Agreement and those which may be described on any exhibit or schedule attached to this Agreement; and

WHEREAS, Lender approved a loan of certain financial incentives to Borrower at its September 2012 Board meeting which approval would allow Borrower to construct an expansion to its manufacturing facility on Borrower’s real property in McKinney, Texas; and

WHEREAS, Borrower understands and agrees that:

- a. in granting, renewing, or extending any Loan, Lender is relying upon Borrower’s representations, warranties, and agreements, as set forth and provided for in this Agreement;
- b. all such Loans shall be and shall remain subject to the terms and conditions as set forth in this Agreement.

SECTION 1. TERM.

This Agreement shall be effective as of October 31, 2012 and shall continue thereafter until all obligations of Borrower to Lender have been performed in full and the parties terminate this Agreement in writing, or on the Loan Maturity Date, unless terminated sooner under the provisions hereof.

SECTION 2. DEFINITIONS.

The following words shall have the following meanings when used in this Agreement. Terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Texas Uniform Commercial Code.

- a. **Agreement.** The word "Agreement" means this Loan Agreement, together with all exhibits and schedules attached to this Loan Agreement from time to time, if any.
- b. **Borrower.** The word "Borrower" means WISTRON GREENTECH (TEXAS) CORP., a Texas corporation.
- c. **CCAD.** The initials "CCAD" mean the Collin Central Appraisal District.
- d. **City.** The word "City" means the City of McKinney, Collin County, Texas.
- e. **Event of Default.** The words "Event of Default" mean and include any of the Events of Default set forth below in the section entitled "Events of Default."
- f. **Facility.** The word "Facility" means the manufacturing facility located at 2101 Couch Drive, McKinney, Texas 75069.
- g. **Indebtedness.** The word "Indebtedness" means and includes without limitation all Loans, together with all other obligations, debts and liabilities of Borrower to Lender, or any one or more of them, as well as all claims by Lender against Borrower, or any one or more of them; whether now or hereafter existing, voluntary or involuntary, due or not due, absolute or contingent, liquidated or unliquidated; whether Borrower may be liable corporately or jointly with others; whether Borrower may be obligated as a guarantor, surety, or otherwise; whether recovery upon such Indebtedness may be or hereafter may become otherwise unenforceable.
- h. **Lender.** The word "Lender" means the *MCKINNEY ECONOMIC DEVELOPMENT CORPORATION*, a Texas non-profit corporation, its successors and assigns.

- i. **Loan.** The word "Loan" or "Loans" means and includes any and all loans and financial accommodations from Lender to Borrower, whether now or hereafter existing, and however evidenced, including without limitation those loans and financial accommodations described in this Agreement and described on any exhibit or schedule attached to this Agreement.
- j. **Loan Maturity Date.** The word "Loan Maturity Date" means August 1, 2014.
- k. **Note.** The word "Note" means the non-interest bearing Promissory Note of even date herewith executed by and between the parties hereto in the principal amount of **FOUR HUNDRED, FIFTY THOUSAND and No/100 Dollars (\$450,000.00)**, due upon demand and payable on or before the Loan Maturity Date.
- l. **Property.** The word "Property" means the facility located at 2101 Couch Drive, McKinney, Texas 75069.
- m. **Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments and documents, whether now or hereafter existing, executed in connection with Borrower's Indebtedness to Lender.
- n. **Taxing Entities.** The words "Taxing Entities" mean the City of McKinney, Texas, the McKinney Independent School District, the Collin County Community College District and the County of Collin.
- o. **TCEQ.** The initials "TCEQ" mean Texas Commission on Environmental Quality.

SECTION 3. AFFIRMATIVE COVENANTS.

Borrower covenants and agrees with Lender that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- a. **Loan Advances.** Upon receiving a certificate of occupancy under (1) below, Borrower shall receive a single loan advance of **FOUR HUNDRED, FIFTY THOUSAND AND NO/100 DOLLARS (\$450,000.00)**.
 - (1) **Certificate of Occupancy.** Borrower shall obtain a Certificate of Occupancy for the Office Area and a Temporary Certificate of Occupancy for the Warehouse Area on or before **July 1, 2013**.
- b. **Cash Incentive Payments.** Upon receipt of verification of draws paid to Borrower's contractor for the interior renovations made to the Facility, Borrower shall receive a Cash Incentive Payment of **ONE HUNDRED THOUSAND AND**

NO/100 DOLLARS (\$100,000.00). The Cash Incentive Payment shall be earned upon Borrower's satisfaction of this Section 3(b) and as such shall not be part of the Loan.

- c. **Contingent Incentive Payments.** Upon the event the Facility does not receive a permit from the TCEQ within two (2) years of the Facility's receipt of a Certificate of Occupancy for the contemplated use thereof, Borrower shall receive Contingent Incentive Payments distributed in equal installments of **TEN THOUSAND, FOUR HUNDRED SIXTEEN AND 66/100 DOLLARS (\$10,416.66)** for up to twenty-four (24) months with an aggregate incentive not to exceed **TWO HUNDRED, FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00)**. Contingent Incentive Payments shall begin, if at all, on **July 1, 2015**, and shall cease upon receipt of the above-referenced payment or the sale/lease of the Facility to a third-party. The Contingent Incentive Payments shall be earned upon Borrower's satisfaction of the conditions in this Section 3(c) and as such shall not be part of the Loan.
- d. **Additional Assurances.** Borrower agrees to make, execute and deliver to Lender such other promissory notes, instruments, documents and other agreements as Lender or its attorneys may reasonably request to evidence the Loans. Lender agrees to make, execute and deliver to Borrower such other documents and other agreements as Borrower or its attorneys may reasonably request to evidence the obligations of Lender under this Agreement.
- e. **Compliance Certificates.** As a further condition to the advances provided herein, Borrower shall provide Lender with compliance certificates when requested, such certificates specifying or reflecting:
 - 1. an existing and valid Certificate of Occupancy and Temporary Certificate of Occupancy in accordance with Section 3 (a) prior to July 1, 2013;
 - 2. that all ad valorem taxes and assessments levied or assessed upon the Facility and Borrower's business personal property are paid current. Borrower shall provide, upon Lender's request, any and all documents evidencing or in support of the compliance certificates.
- f. **Performance.** Borrower agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements between Borrower and Lender.

SECTION 4. CESSATION OF ADVANCES.

If Lender has made any commitment to make any Loan to Borrower, whether under this Agreement or under any other agreement, Lender shall have no obligation to advance or disburse Loan proceeds if:

- a. Borrower becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or
- b. during the pendency of an Event of Default.

SECTION 5. LOAN FORGIVENESS.

Notwithstanding the provisions hereof and the obligations contained in the Note executed incident hereto, provided Borrower is not in default as of the Loan Maturity Date, all advances shall be forgiven on the Loan Maturity Date.

SECTION 6. EVENTS OF DEFAULT.

Each of the following shall constitute an Event of Default under this Agreement.

- a. **Certificate of Occupancy.** Failure of Borrower to obtain a Certificate of Occupancy for the Office Areas and a Temporary Certificate of Occupancy for the Warehouse Area on or before July 1, 2013.
- b. **Value of New Business Personal Property.** Failure of Borrower to situate new business personal property at the Facility and having a valuation of at least TEN MILLION AND NO/100 DOLLARS (\$10,000,000.00) as determined by the CCAD on or before of **July 1, 2014**.
- c. **Verification of Renovation Expenses.** Failure of Borrower to verify to Lender the renovation expenses on the Facility, incurred prior to July 31, 2013, of at least ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00).
- d. **Certification of Employment.** Failure of Borrower to provide certification of Borrower employing at least eighty (80) employees with an annual aggregate payroll of THREE MILLION AND NO/100 DOLLARS (\$3,000,000.00) on or before **July 1, 2014**.
- e. **False Statements:** Any warranty, representation or statement made or furnished to Lender by or on behalf of Borrower under this Agreement or the Related Documents that is false or misleading in any material respect, either now or at the time made or furnished.
- f. **Insolvency.** Borrower's insolvency, appointment of receiver for any part of Borrower's property, any assignment for the benefit of creditors of Borrower, any type of creditor workout for Borrower, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.
- g. **Ad Valorem Taxes.** Failure of Borrower to pay, prior to delinquency, all taxes and assessments levied or assessed upon Borrower's real property improvements or business personal property.
- h. **Undocumented workers.** Borrower certifies that Borrower does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Borrower is convicted of a violation under 8 U.S.C. § 1324a (f), Borrower shall be in default hereunder.
- i. **Other Defaults.** Failure of Borrower after written notice and thirty (30) days opportunity to cure, to comply with or to perform any other term, obligation,

covenant or condition contained in this Agreement or in any of the Related Documents, or failure of Borrower to comply with or to perform any other term, obligation, covenant or condition contained in any other written agreement between Lender and Borrower, and specifically, should Borrower sublet or assign any of its interest in any portion of the Facility to any unrelated or unaffiliated entity without Lender's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 7. EFFECT OF AN EVENT OF DEFAULT.

If any Event of Default shall occur and upon thirty (30) days written notice and opportunity to cure Borrower has not cured such Event of Default within 30 days of written notice, then all commitments of Lender under this Agreement immediately shall terminate (including any obligation to make Loan advances), **and all amounts previously advanced under the Loan, not otherwise forgiven under Section 5, will become immediately due and payable**, all without notice of any kind to Borrower, at the option of Lender, except for an Event of Default described in the "Insolvency" subsection above, in which case such acceleration shall be automatic and not optional. Any Default which may be cured by the payment of money shall not extend beyond the 30-day period referenced herein.

SECTION 8. INDEMNIFICATION.

Borrower shall indemnify, save, and hold harmless Lender, its directors, officers, agents, attorneys, and employees (collectively, the "Indemnitees") from and against:

- a. any and all claims, demands, actions or causes of action that are asserted against any Indemnatee if the claim, demand, action or cause of action relates to tortious interference with contract or business interference, or wrongful or negligent use of Lender's loan advances by Borrower or its agents and employees;**
- b. any administrative or investigative proceeding by any governmental authority related to a claim, demand, action or cause of action involving Borrower;**
- c. any claim, demand, action or cause of action which contests or challenges the legal authority of Lender or Borrower to enter into this Agreement; and**
- d. any and all liabilities, losses, costs, or expenses (including reasonable attorneys' fees and disbursements) that any Indemnatee suffers or incurs as a result of any of the foregoing; provided, however, that Borrower shall have no obligation under this Section to Lender with respect to any of the foregoing to the extent that such claims or liabilities arise out of the negligence or willful misconduct of Lender or the breach by Lender of this Agreement.**

If any claim, demand, action or cause of action is asserted against any Indemnitee, such Indemnitee shall promptly notify Borrower, but the failure to so promptly notify Borrower shall not affect Borrower's obligations under this Section unless such failure materially prejudices Borrower's right to participate in the contest of such claim, demand, action or cause of action, as hereinafter provided. Indemnitee shall in good faith contest the validity, applicability and amount of such claim, demand, action or cause of action and shall permit Borrower to participate in such contest. Any Indemnitee that proposes to settle or compromise any claim, demand, action, cause of action or proceeding for which Borrower may be liable for payment of indemnity hereunder shall give Borrower written notice of the terms of such proposed settlement or compromise reasonably in advance of settling or compromising such claim or proceeding and shall obtain Borrower's concurrence thereto.

SECTION 9. BORROWER'S REPRESENTATIONS.

By execution hereof, the signatories warrant and represent that they have the requisite authority to execute this Agreement and the Related Documents and that the representations made herein, and in the Related Documents, are true and accurate in all respects.

SECTION 10. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- a. **Amendments.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment. Borrower shall be eligible for a one (1) year extension, at Lender's sole discretion upon a demonstration of good cause in failing to satisfy the conditions contained in Section 6 hereof.
- b. **Extraordinary Administrative Costs.** All extraordinary administrative costs incurred by Lender during any preparation, revision, modification or amendment of this Agreement and all extraordinary administrative costs incurred during the preparation or review of any proposed additional or Related Documents shall be at Borrower's sole cost and expense.
- c. **Applicable Law and Venue.** This Agreement has been delivered to Lender and accepted by Lender in the State of Texas. Borrower agrees to submit to the jurisdiction of the courts of Collin County, State of Texas, and that venue is proper in said County. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and applicable Federal laws.
- d. **Employee Hiring, Materials and Supplies Purchase.** Although not an Event of Default or a condition to any disbursement or advance of the Loan or any portion thereof, Lender requests that Borrower use good faith efforts to satisfy its need for all additional employees from McKinney residents and purchase all materials,

supplies and services necessary to affect the construction and subsequent occupancy of the Property from McKinney merchants and businesses.

- e. **Community Involvement.** Although not an Event of Default or a condition to any disbursement or advance of the Loan or any portion thereof, Borrower agrees to use good faith efforts to actively participate in community and charitable organizations and/or activities, the purpose of which are to improve the quality of life in McKinney, and to actively encourage its McKinney employees to be involved in such organizations and/or activities.
- f. **Borrower Audit.** Borrower agrees to allow Lender to audit at Lender's expense all of Borrower's records, documents, agreements and other instruments in furtherance of the following purposes: (i) to ensure Borrower's compliance with the affirmative covenants set forth in Section 3 herein; (ii) to determine the existence of an Event of Default set forth in Section 6 herein; and (iii) to ensure compliance with any other term or condition of this Agreement or any Related Document.
- g. **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- h. **Notices.** All notices required to be given under this Agreement shall be given in writing and shall be effective when actually delivered or when deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Borrower agrees to keep Lender informed at all times of Borrower's current address.
- i. **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.
- j. **Survival.** All warranties, representations, and covenants made by Borrower in this Agreement or in any certificate or other instrument delivered by Borrower to Lender under this Agreement shall be considered to have been relied upon by Lender and will survive the making of the Loan and delivery to Lender of the Related Documents, regardless of any investigation made by Lender or on Lender's behalf.
- k. **Attorneys' Fees and Costs.** In the event of any action at law or in equity between the parties to enforce any of the provisions hereof, to the extent allowed by law any unsuccessful party to such litigation shall pay to the successful party

all costs and expenses, including reasonable attorneys' fees (including costs and expenses incurred in connection with all appeals) incurred by the successful party, and these costs, expenses and attorneys' fees may be included in and as part of the judgment. A successful party shall be any party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment.

- l. **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- m. **Counterparts.** This Agreement may be executed in counterparts, and such counterparts together shall constitute but one original of the Agreement. Each counterpart shall be equally admissible in evidence, and each original shall fully bind each party who has executed it.
- n. **Waiver.** No failure or delay by a party to insist upon the strict performance of any term, condition or covenant of this Agreement, or to exercise any right, power or remedy hereunder shall constitute a waiver of the same or any other term of this Agreement or preclude such party from enforcing or exercising the same or any such other term, conditions, covenant, right, power or remedy at any later time.
- o. **Attorneys' Fees for Document Amendment.** All attorneys' fees incurred by Lender for preparation or review of any proposed revision, modification or amendment of this Agreement and all attorneys' fees incurred for preparation or review of other proposed additional or Related Documents shall be at Borrower's sole cost and expense.

BORROWER:

WISTRON GREENTECH (TEXAS) CORP.,
a Texas corporation,

By: _____
JOSEPH HSU
General Manager
Date Signed: _____

LENDER:

***MCKINNEY ECONOMIC DEVELOPMENT
CORPORATION,***
a Texas Non-Profit Corporation,

By: _____
KEITH CLIFTON
Chairman of the Board
Date Signed: _____

PREPARED IN THE OFFICES OF:

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