ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

AND

AGRANA FRUIT US, INC.

PAYMENT IN LIEU OF TAX AGREEMENT

DATED AS OF FEBRUARY 19th, 2014

TOWN OF LYSANDER
TAX MAP PARCEL 079-01-10.1

PAYMENT IN LIEU OF TAX AGREEMENT

THIS PAYMENT IN LIEU OF TAX AGREEMENT dated as of February 19th, 2014 by and between **ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a New York public benefit corporation, having its office at 333 W. Washington Street, Syracuse, New York 13202 (the "Agency") and **AGRANA FRUIT US, INC.**, a domestic corporation, having an office at 6850 Southpointe Parkway, Brecksville, Ohio 44141 (the "Company").

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, being Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of the State, as amended (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, improve, maintain, equip, and furnish real and personal property, whether or not now in existence or under construction, which shall be suitable for, among other things, industrial, manufacturing, warehousing, commercial, research, and recreational purposes in order to advance the job opportunities, health, general prosperity, and economic welfare of the people of the State and to improve their recreation opportunities, prosperity, and standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease or sell its projects, to charge and collect rent or the purchase price therefor, to issue its bonds for the purpose of carrying out any of its corporate purposes and, as security for the payment of the principal and redemption price of and interest on any such bonds, to mortgage any or all of its facilities and to pledge the revenues and receipts therefrom to the payment of such bonds; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, Chapter 435 of the 1970 Laws of the State, as amended by Chapter 676 of the 1975 Laws of the State, as amended (collectively with the Enabling Act, the "Act"), created the Agency for the benefit of Onondaga County, New York, and the inhabitants thereof; and

WHEREAS, on March 27, 2013 the members of the Agency adopted a resolution (the "Inducement Resolution") whereby the Agency agreed, subject to numerous conditions, to undertake a project (the "Project") consisting of the following: (A) land acquisition, preparation and construction of an approximate 100,000 square foot manufacturing facility in the Lysander, Onondaga County (referred to herein as the "Facility" and/or "Project Facility"); (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, real property taxes (subject to entry into a Payment in Lieu of Taxes (PILOT) Agreement) transfer and mortgage recording taxes (the "Financial Assistance"); (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company; and (D) assisting the Company in the financing of the Project Facility; and

WHEREAS, the Agency has acquired from the Company a leasehold interest in the Project Facility and the Agency and the Company have entered into a Lease and Leaseback Agreement dated as of February 19th, 2014 (the "Project Agreement") specifying the terms and conditions pursuant to which the (i) Company agreed to lease the Project Facility to the Agency, and (ii) Agency agreed to lease the Project Facility back to the Company; and

WHEREAS, under the current provisions of the Act and Section 412-a of the Real Property Tax Law of the State, the Agency is required to pay no taxes upon any of the property acquired by it or under its jurisdiction or supervision or control; and

WHEREAS, in order to induce the Company to undertake the Project, the Agency agreed to acquire, construct, and install the Project Facility and retain a leasehold interest thereto during the term of this Payment in Lieu of Tax Agreement, and the Company is willing to enter into this Payment in Lieu of Tax Agreement in order to induce the Agency to retain an interest in the Project Facility during the term of this Payment in Lieu of Tax Agreement and to enter into this Payment in Lieu of Tax Agreement.

NOW, THEREFORE, in consideration of the matters above recited, the parties hereto formally covenant, agree, and bind themselves as follows:

SECTION 1. TAX-EXEMPT STATUS OF FACILITY.

(A) Assessment of Facility. Pursuant to Section 874 of the General Municipal Law of the State and Section 412-a of the Real Property Tax Law, the parties hereto understand that, for so long as the Agency shall own or have a leasehold interest in the Facility, the Facility shall be assessed by the Town of Lysander (the "Town") and by the various other taxing entities having jurisdiction over the Facility including, without limitation, Onondaga County (the "County"), the Baldwinsville Central School District (the "School District") and any other political unit or units wherein the Facility is located (the Town, the County, the School District and such other taxing entities being sometimes collectively referred to herein as the "Taxing Entities" and each of such Taxing Entities being sometimes individually referred to as a "Taxing Entity") as exempt upon the assessment rolls of the respective Taxing Entities prepared subsequent to the acquisition by the Agency of the Facility. Subject to the terms and conditions of this Agreement, the Agency will cooperate with the Company to preserve the tax-exempt status of the Facility.

(B) Special Assessments. The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the General Municipal Law and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies. Accordingly, the Company shall pay when due all special assessments and special ad valorem levies lawfully levied and/or assessed against the Facility.

SECTION 2. PAYMENTS IN LIEU OF TAX.

(A) Agreement to Make Payments. The Company agrees to make annual payments in lieu of taxes ("Pilot Payments") to the Agency in the amounts and on the terms hereinafter provided, in accordance with Agency's PILOT provisions.

(B) Amount of Payments in Lieu of Tax. On or before January 31 of each calendar year during the term of this Payment in Lieu of Tax Agreement, the Company agrees to make annual payments in lieu of taxes to the Agency with respect to the Facility. The amount of such annual payments in lieu of taxes in any particular calendar year shall be in such amounts as are set forth opposite such calendar year in table below.

PILOT Payment by Taxing Jurisdiction					
		Baldwinsville School District	Town of Lysander	Onondaga County	Total PILOT
1	2015	$33,361	$3,001	$7,521	**$43,883**
2	2016	$33,695	$3,031	$7,596	**$44,322**
3	2017	$34,032	$3,061	$7,672	**$44,765**
4	2018	$34,372	$3,092	$7,749	**$45,213**
5	2019	$34,716	$3,123	$7,826	**$45,665**
6	2020	$70,126	$6,308	$15,809	**$92,244**
7	2021	$70,828	$6,371	$15,967	**$93,166**
8	2022	$71,536	$6,435	$16,127	**$94,098**
9	2023	$72,251	$6,499	$16,288	**$95,039**
10	2024	$72,974	$6,564	$16,451	**$95,989**
11	2025	$103,185	$9,282	$23,262	**$135,729**
12	2026	$104,217	$9,375	$23,495	**$137,086**
13	2027	$105,259	$9,468	$23,730	**$138,457**
14	2028	$106,312	$9,563	$23,967	**$139,842**
15	2029	$107,375	$9,659	$24,207	**$141,240**
16	2030	$116,195	$10,452	$26,195	**$152,842**
17	2031	$117,357	$10,557	$26,457	**$154,370**
18	2032	$118,530	$10,662	$26,722	**$155,914**
19	2033	$119,716	$10,769	$26,989	**$157,473**
20	2034	$120,913	$10,876	$27,259	**$159,048**
	Total	**$1,646,949**	**$148,147**	**$371,291**	**$2,166,387**

* The Percentage Abatement referenced in the table above has already been factored into the PILOT Payments set forth below the columns of the School District, Town and County.

(1) PILOT Payments. The Company acknowledges that the 2015 Pilot Payment is in lieu of the taxes levied by the School District for the 2015 to 2016 fiscal tax year and the taxes levied by the Town and County for the 2015 calendar tax year and that all subsequent Pilot Payments are in lieu of taxes for such corresponding fiscal and calendar tax years. The 2015 Pilot Payment is in lieu of taxes levied by the School District for the 2015 to 2016 fiscal tax year

and the Town and County taxes for the 2015 calendar tax year. In the event this Payment in Lieu of Tax Agreement terminates on a date between 2015 and 2034, the Company shall pay to the Agency a Pilot Payment in an amount equal to the amount the Company would pay in school taxes if the Project Facility and the Additional Facilities were privately owned by the Company and not deemed owned or under the jurisdiction, control or supervision of the Agency, pro rated for the period from July 1 through the date of termination.

(2) Additional Amounts in Lieu of Taxes. Commencing on January 31 of the first taxable year following completion of construction of any additional buildings or structures on the Land ("Additional Facilities") other than the Project Facility, the Company agrees to make annual additional Pilot Payments ("Additional Payments") to the Agency with respect to such Additional Facilities. The amount of such Additional Payments shall be equal the product of (i) an assessed value of the Additional Facilities equal to the Construction Costs (as hereinafter defined) multiplied by the equalization rates then in effect for the Taxing Entities, and (ii) the tax rates for the respective Taxing Entities in effect on the date the Additional Payment is made, reduced (x) by the amount of any tax exemptions that would be afforded to the Company by such Taxing Entity if such Additional Facilities were privately owned by the Company and not deemed owned by or under the jurisdiction, control or supervision of the Agency, and (y) in accordance with the Percentage Abatement set forth in the table above.

"Construction Costs" shall be defined as the actual costs of the building materials, equipment and labor incurred by the Company or the occupant of the Additional Facilities in connection with the construction of the foundations and structures compromising the Additional Facilities exclusive of movable materials and equipment. The Company agrees to promptly furnish copies of all construction contracts during all phases of the construction period to the Agency.

The provisions of this subsection (2) shall not apply in the event the Agency and the Company enter into a separate payment in lieu of tax agreement with respect to any Additional Facilities.

(3) Commencing February _____, 2014 and continuing thereafter until this Payment in Lieu of Tax Agreement is terminated, the Company agrees to make Pilot Payments to the Agency in such amounts as would result from taxes being levied on the Facility and any Additional Facilities by the Taxing Entities as if the Facility and the Additional Facilities were privately owned by the Company and not deemed owned by or under the jurisdiction, control or supervision of the Agency, but with the appropriate reductions similar to the tax exemptions and credits, if any, which would be afforded to the Company if the Facility and the Additional Facilities were privately owned by the Company and not deemed owned by or under the jurisdiction, control or supervision of the Agency.

(C) Receipts for Payments. The Company shall be entitled to receive receipts for all payments in lieu of taxes made hereunder.

(D) Method of Payment. Each payment by the Company hereunder shall be paid in lawful money of the United States of America.

SECTION 3. CREDIT FOR TAXES PAID.

(A) Credits. The parties hereto acknowledge and agree that the obligation of the Company to make the payments provided in Section 2 hereof shall be in addition to any and all other taxes and governmental charges of any kind whatsoever which the Company may be required to pay under the Project Agreement. It is understood and agreed, however, that should under any subsequently adopted state or local law the Company pay in any tax year to any Taxing Entity any amounts in the nature of general property taxes, general assessments, service charges or other general governmental charges of a similar nature levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company (but not including, by way of example, (1) sales and use taxes, and (2) special assessments of any nature, special ad valorem charges of any nature or governmental charges in the nature of utility charges, including, but not limited to, water, solid waste, sewage treatment or sewer rates and charges), then the Company's obligation hereunder to make Pilot Payments in such tax year shall be reduced by the amounts which the Company shall have so paid to such Taxing Entity in such tax year, but there shall be no cumulative or retroactive credit as to any Pilot Payment due in any other tax year.

(B) Method of Claiming Credits. If the Company desires to claim a credit against any particular Pilot Payment due hereunder, the Company shall give the appropriate Taxing Entity and the Agency prior written notice of its intention to claim any credit pursuant to the provision of this Section 3, said notice to be given by the Company at least ten (10) days prior to the final date on which such Pilot Payment is due pursuant to the provision of Section 2 hereof. In the event that the Taxing Entity desires to contest the Company's right to claim such credit, then the Taxing Entity may institute appropriate proceedings to determine whether the Company is entitled to claim any credit pursuant to the provisions of this Section 3 and, if so, the amount of the credit to which the Company is entitled. When the Company shall have given notice as provided herein, that it claims a credit, the amount of any Pilot Payment due hereunder which the credit may be claimed may be withheld (to the extent of the credit claimed by the Company, but only to the extent that such credit may be claimed against a Pilot Payment pursuant to the provisions of this Section 3) until a final decision of the appropriate court. After a final decision of the appropriate court is rendered, the Pilot Payment due with respect to any reduction or disallowance in the amount of the credit claimed by the Company shall, to the extent withheld as aforesaid, be immediately due and payable and shall be paid by the Company within thirty (30) days of said decision.

SECTION 4. INTEREST AND PENALTIES. If the Company shall fail to make any payment required by this Payment in Lieu of Tax Agreement when due, its obligation to make the payment so in default shall continue as an obligation of the Company until such payment in default shall have been made in full, and the Company shall pay the same together with interest thereon, to the extent permitted by law, at the rate per annum which would be payable if such amounts were delinquent taxes until paid. In addition, any payment required by Section 2 hereof which is not paid when due shall be subject to a late payment penalty of five (5%) percent of the amount due which shall be paid by the Company to the Agency. For each month, or part thereof, that the payment in lieu of taxes required by Section 2 hereof is delinquent beyond the first month, interest shall accrue and be paid to Agency on the total amount due plus a late payment penalty in the amount of one (1%) percent per month until the payment is made.

SECTION 5. RECAPTURE. In the event the Project Facility is sold (except by the Agency to the Company pursuant to the Project Agreement) or closed or the number of jobs is reduced below 75% of the employment projections provided by the Company to the Agency in its application, except as a result of a Material Change of Circumstance (each, a "Recapture Event") and no substantial future economic benefit is likely to accrue to the community as determined by the Agency, the Company shall be required to pay to the Agency, based on the formula set forth below, a portion of the Aggregate Tax Savings, as hereinafter defined, which the Company realized as a result of the Project Facility being deemed owned by or under the jurisdiction, control or supervision of the Agency. For purposes of this Section, (x) a "Material Change of Circumstance" shall mean (a) any event including, without limitation, damage or destruction to the Facility, which materially interferes with the operation of the Facility; (b) any material change in the economy which requires the Company and its affiliates to downsize or otherwise reduce the operations conducted at the Facility; or (c) any other change of circumstance which, in the agreement of the parties, would warrant the reduction of employment at the Facility; and (y) "Aggregate Tax Savings" shall mean the amount by which the real property taxes which the Company would have paid if the Project Facility was privately owned by the Company and not deemed owned by or under the jurisdiction, control or supervision of the Agency exceeds the Pilot Payments actually paid by the Company.

Date of Recapture Event	**Percentage of Aggregate Tax Savings Recaptured**
Prior to 2018	75%
2019 -2023	50%
2024 - 2028	30%
2029 - 2033	25%
After 2034	0%

SECTION 6. TERM OF AGREEMENT. This Payment in Lieu of Tax Agreement shall become effective and the obligations of the Company shall arise absolutely and unconditionally upon the parties' execution and delivery of this Payment in Lieu of Tax Agreement. This Payment in Lieu of Tax Agreement shall continue to remain in effect until the date which title or an interest in the Facility is no longer held by the Agency pursuant to the Project Agreement.

SECTION 7. AMENDMENT OF AGREEMENT. This Payment in Lieu of Tax Agreement may not be amended, changed, modified, altered or terminated by either party except pursuant to a written instrument executed by the Agency and the Company.

SECTION 8. BINDING EFFECT. This Payment in Lieu of Tax Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Company and their respective permitted successors and assigns. The provisions of this Payment in Lieu of Tax Agreement are intended to be for the benefit of the Taxing Entities. Notwithstanding the foregoing, the Company shall not assign its right or delegate its duties under this Payment in Lieu of Tax Agreement without the prior written consent of the Agency.

SECTION 9. DEFAULT.

(A) In the event of any Pilot Payment is not received by the Agency when due, the Agency may, in addition to collecting the interest and late payment penalties provided for in Section 4 above, and subject to subsection (B) below, take any action at law or in equity as it deems appropriate to collect the amounts due hereunder.

(B) In the event any payment due hereunder is not received by the Agency by its due date, the Agency shall notify the Company in writing of its failure to timely make payment hereunder and in such event the Company shall have a thirty (30) day period after receipt of such notice to cure the same. In the event the Company fails to then so cure the payment default, the Agency may terminate this Payment of Lieu of Tax Agreement by written notice to the Company and terminate the Project Agreement.

SECTION 10. COSTS AND EXPENSES. In the event that the Company shall fail, after the expiration of any applicable notice and cure periods, to make any payment required hereunder when due and the Agency refers to an attorney collection of such amounts due under this Payment in Lieu of Tax Agreement, the Company shall pay to the Agency all costs and expenses, including reasonable attorneys' fees, incurred with respect thereto. An affected Taxing Entity which has not received a payment due to it in accordance with Section 2 hereof may commence legal action against the Company, if the Company has failed to make such payment to the Agency. In such action, the Taxing Entity shall be entitled to recover the amount due, the late payment penalties, interest, and its expenses, together with reasonable attorneys' fees necessary to prosecute such action.

SECTION 11. NOTICES.

(A) All notices, certificates, and other communications hereunder shall be in writing and shall be sufficiently deemed given when sent to the applicable address stated below by registered or certified mail, return receipt requested, or by such other method as shall provide the sender with documentary evidence of such delivery, including, without limitation overnight delivery. The addresses to which notices, certificates or other communications hereunder shall be delivered are as follows:

If to the Company:

Agrana Fruit US, Inc.
6850 Southpointe Parkway
Brecksville, New York 44141
Attention: Carl P Bock, VP Finance

With a copy to:	Benesch Friedlander Coplan & Aronoff 200 Public Square, Suite 2300 Cleveland, Ohio 44114 Attention: Chair of Corporate & Securities Group
If to the Agency:	Onondaga County Industrial Development Agency 333 W. Washington Street, Suite 130 Syracuse, New York 13202 Attention: Mary Beth Primo, Executive Director
With a copy to:	Gilberti Stinziano Heintz & Smith, P.C. 555 E. Genesee Street Syracuse, New York 13204 Attention: Anthony P. Rivizzigno, Esq.

(B) Any person entitled to notice may, by notice given hereunder, designate any different address to which subsequent notices, certificates, and other communications shall be sent.

SECTION 12. SEVERABILITY. In the event any provision of this Payment in Lieu of Tax Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, and the invalid or unenforceable provision shall be fully severed from this Payment in Lieu of Tax Agreement and there shall be automatically added in lieu thereof a provision as similar in terms and intent to such severed provision as may be legal, valid and enforceable.

SECTION 13. COUNTERPARTS. This Payment in Lieu of Tax Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 14. APPLICABLE LAW. This Payment in Lieu of Tax Agreement shall be exclusively governed by and construed in accordance with the laws of the State of New York without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York.

SECTION 15. NO RECOURSE; SPECIAL OBLIGATION. The obligations and agreements of each party named herein shall be deemed the obligations and agreements of each such party, and not of any member, officer, agent (other than the Company as agent for the Agnecy) or employee of each such party in his individual capacity, and the members, officers, agents (other than the Company as agent for the Agency) and employees of each such party shall not be liable personally hereon or be subject to any personal liability or accountability based upon or in respect hereof or of any transaction contemplated hereby. The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or of the County of Onondaga, and neither the State nor the County of

Onondaga shall be liable hereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived and to be derived from the lease, sale or other disposition of the Facility.

SECTION 16. THIRD PARTY BENEFICIARIES. The provisions of this Agreement are intended to be for the benefit of the Agency and the respective Taxing Entities.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the Agency and the Company have caused this Payment in Lieu of Tax Agreement to be executed in their respective names by their respective authorized officers, all as of the day and year first above written.

ONONDAGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

By: Mary Beth Primo

MARY BETH PRIMO, Executive Director

AGRANA FRUIT US, INC.

By: ____________________

CARL P. BOCK, Vice President of Finance

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

On the 19th day of February, in the year 2014, before me, the undersigned, personally appeared MARY BETH PRIMO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

ANTHONY P. RIVIZZIGNO
Notary Public, State of New York
No. 8589435
Qualified in Onondaga County
Commission Expires May 31, ____

STATE OF Ohio)
) ss.:
COUNTY OF Cuyahoga)

On the 14 day of February, in the year 2014, before me, the undersigned, personally appeared Agrana Fruit US, Inc., by Carl P. Bock, its Vice President of Finance, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

NOTARIAL SEAL
STATE OF OHIO

Donna K. Runevitch
Notary Public
State of Ohio
My Commission Exp.
April 16, 2014