

PERFORMANCE AGREEMENT

This Performance Agreement (this "Agreement") is dated as of May __, 2013, and is entered into by and among Pflugerville Community Development Corporation (the "PCDC"), a Section 4B corporation incorporated under the Development Corporation Act, as amended from time to time (the "Act"), Thin-nology, Inc., a Texas Corporation ("THIN-NOLOGY")

RECITALS

PCDC has determined that it is in the best interests of PCDC and the City of Pflugerville, a Texas home rule municipal corporation in Travis County, Texas (the "City"), to facilitate THIN-NOLOGY in constructing a facility for their corporate headquarters and Data Center operation (the "THIN-NOLOGY Headquarters") to be located in the 130 Commerce Center Business Park, Pflugerville, Texas, on approximately 1 acre of land (43,560 square feet) described on Exhibit A attached hereto (the "THIN-NOLOGY Site").

PCDC has determined that the addition of the THIN-NOLOGY Headquarters within the City will provide significant economic benefits and will further economic development in the City. The economic benefits of the THIN-NOLOGY Site within the City will include, without limitation, the proceeds received by the City from the ad valorem taxes levied upon the THIN-NOLOGY Site and equipment located on the THIN-NOLOGY Site and the creation of high paying good jobs in the City.

PCDC, and THIN-NOLOGY have agreed to enter into this Agreement to define certain incentives to THIN-NOLOGY and to further define certain obligations of the parties to this Agreement with respect to such incentives.

This Agreement is being executed contemporaneously with that certain Purchase and Sale Agreement dated May __, 2013 herewith, by and between PCDC, as Seller, and , as Buyer, pertaining to the sale of the THIN-NOLOGY Site by PCDC to (the "Purchase Agreement").

AGREEMENT

I.

Performance Agreement

1. *Performance Agreement.* This Agreement serves as a performance agreement by the parties hereto in accordance with Section 501.158 of the Act.
2. *THIN-NOLOGY Headquarters Requirement.* THIN-NOLOGY hereby agrees that within 15 months after the conveyance of the THIN-NOLOGY Site from PCDC to THIN-NOLOGY pursuant to the Purchase Agreement,

THIN-NOLOGY shall complete construction of THIN-NOLOGY Headquarters and Data Center on the THIN-NOLOGY Site and shall obtain a certificate of occupancy for same from the City (provided that PCDC shall cause the City to not unreasonably withhold, condition or delay the issuance of the certificate of occupancy or any other approvals or permits and PCDC agrees to use commercially reasonable efforts to cause the City to diligently process any applications or submissions of THIN-NOLOGY and/or which are submitted to the City). After the completion of the construction of the THIN-NOLOGY Headquarters/Data Center and issuance of the certificate of occupancy, THIN-NOLOGY shall operate at the THIN-NOLOGY Site for at least 5 years. The foregoing shall be considered THIN-NOLOGY's Headquarters Requirement". Upon satisfaction of the Headquarters Requirement, this Agreement shall be considered fully performed by THIN-NOLOGY and THIN-NOLOGY shall not have any further obligations hereunder and the "clawback" provisions set forth in Article III and in Article IV under the "Undocumented Workers Section" shall terminate in all respects.

3. *Code Compliance.* THIN-NOLOGY agrees that the construction of the THIN-NOLOGY Headquarters shall follow all applicable City Codes and Regulations in all material respects.

II.

Benefit

1. *Reimbursement of Development Fees and Construction Costs.* In consideration for THIN-NOLOGY's agreement to satisfy the Headquarters Requirement, PCDC hereby agrees to reimburse THIN-NOLOGY (or its affiliate) for City related development fees, permitting fees, and impact fees (collectively, the "Development Fees") incurred by THIN-NOLOGY and/or up to \$20,000.00 (the "Development Fee Reimbursement Fund"). Reimbursement payments shall be paid within 30 days of THIN-NOLOGY (in its own name or on behalf of) presenting PCDC with a copy of the receipts for such expenses.
2. *Job Retention/Expansion Incentive.* PCDC shall pay THIN-NOLOGY \$4,000 for each full-time job created or relocated by THIN-NOLOGY to the THIN-NOLOGY Headquarters/Data Center (the "Job Relocation Incentive"). The Job Relocation Incentive shall be limited to a total of 10 jobs (i.e., the incentive shall not exceed \$40,000) and is subject to the qualifications in the next sentence. In order to qualify for the Job Relocation Incentive: (i) the retained or new job must be created or moved by THIN-NOLOGY to the City within three (3) years after the certificate of occupancy is issued for the THIN-NOLOGY Headquarters, (ii) each created or relocated job must include medical benefits, and (iii) THIN-NOLOGY must satisfy the company wide Salary Threshold (as hereinafter

defined) during the calendar quarter in which THIN-NOLOGY requests a Job Relocation Incentive. The "Salary Threshold" shall be equal to or greater than \$60,000 and shall be computed by dividing (x) the aggregate of the yearly gross salaries of all full-time THIN-NOLOGY employees then employed at the THIN-NOLOGY Site on an annualized basis, by (y) the number of full-time THIN-NOLOGY employees then employed full-time at the THIN-NOLOGY site. PCDC shall review THIN-NOLOGY's employment reports (which shall include information as reasonably necessary for PCDC to calculate the Salary Threshold) quarterly and shall make payments within 30 days of such quarterly review (as necessary) for each job created or relocated by THIN-NOLOGY during such calendar quarter in accordance with this paragraph.

3. *Moving Expenses.* PCDC shall reimburse Thin-ology up to \$10,000 in moving expenses relating to the relocation of their Data Center and Corporate Headquarters in Pflugerville.
4. *Maximum Incentives.* PCDC's total payments to THIN-NOLOGY with respect to the Development Fee Reimbursement Fund, Job Relocation Incentive and New Job Incentive shall not exceed \$208,500.
5. *THIN-NOLOGY Site Purchase Price.* PCDC shall sell the THIN-NOLOGY Site for \$2.40 per square foot, reduced from \$3 per foot, in accordance with the terms of the Purchase Agreement (the "Purchase Price Reduction").
6. *Utilities.* In accordance with the Purchase Agreement, PCDC shall bring water, storm sewer, wastewater, cable television/internet, telephone and 3 phase electric power to the lot line of the THIN-NOLOGY Site, at no cost to THIN-NOLOGY, prior to closing of the transaction consummated under the Purchase Agreement.

III. PENALTY

In the event that (i) THIN-NOLOGY fails to fulfill the THIN-NOLOGY Headquarters or Data Center Requirement, or (ii) THIN-NOLOGY otherwise fails to comply with its obligations pursuant to this Agreement, and such failure is not cured within 30 days of written notice thereof from PCDC to THIN-NOLOGY (or if such failure cannot be reasonably cured within 30 days, but THIN-NOLOGY commences cure of such failure within such 30 day period and diligently pursues the cure thereof, an additional 90 days to cure such failure after the expiration of the initial 30 day period), then in any such event, THIN-NOLOGY will immediately pay to PCDC the amount of the

Development Fee Reimbursement Fund, Job Relocation Incentive, New Job Incentive and Purchase Price Reduction received by THIN-NOLOGY.

IV. MICELLANEOUS

Representations and Warranties. This Agreement is being entered into pursuant to Section 40 of the Act. PCDC hereby represents and warrants to THIN-NOLOGY that this Agreement is within its authority and that PCDC has been duly authorized and empowered to enter into this Agreement. THIN-NOLOGY hereby represents and warrants to PCDC that this Agreement is within its authority and that THIN-NOLOGY has been duly authorized and empowered to enter into this Agreement. THIN-NOLOGY acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

Mutual Assistance. PCDC and THIN-NOLOGY will each do all things reasonably necessary and appropriate to carry out the terms and provisions of this Agreement.

Successor and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective legal representatives, successors, assigns, heirs, and devisees of the parties. Neither party hereto may assign this Agreement without the prior written consent of the other party hereto; provided, however, that this Agreement may be wholly assigned by THIN-NOLOGY and without the consent of PCDC to the extent such assignment is in connection with the sale of substantially all of the assets of THIN-NOLOGY and and further provided that the acquirer assumes all of the respective obligations of THIN-NOLOGY and under this Agreement. For purposes of this paragraph, a merger or conversion of THIN-NOLOGY and/or shall not be considered an assignment. Additionally, in the event any lender of THIN-NOLOGY and/or 's requires that THIN-NOLOGY and/or collaterally assign this Agreement as security for a loan, PCDC agrees to execute and deliver a collateral assignment to such lender in a form reasonably acceptable to PCDC.

Representations and Warranties by THIN-NOLOGY. THIN-NOLOGY warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its formation and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of THIN-NOLOGY has been duly authorized to act for and bind THIN-NOLOGY . THIN-NOLOGY acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

Franchise Tax Certification. THIN-NOLOGY certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the *Texas Tax Code*, or that it is exempt from the payment of such taxes, or that it is an out-of-state entity that is not subject to the Texas Franchise Tax, whichever is applicable. THIN-NOLOGY

acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

Payment of Debt or Delinquency to the Local or State Government. THIN-NOLOGY agrees that any payments owing to THIN-NOLOGY under this Agreement with the City of Pflugerville may be applied directly toward any debt or delinquency that THIN-NOLOGY owes the State of Texas, Travis County, Williamson County the City of Pflugerville or any other political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

Child Support Certification. THIN-NOLOGY hereby certifies that none of the principals of the corporation is delinquent in their court ordered child support obligations and shall acknowledge that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

Severability. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible, the remainder of this Agreement shall be given the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall be deemed not to be a waiver of such party's right to enforce against the other party the same or any other such term or provision.

Governing Law. This Agreement shall be governed, construed, applied, and enforced in accordance with the laws of the State of Texas, and shall be performable with venue in Travis County, Texas.

Third Party Beneficiaries. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary.

Amendments. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

Time. Time is of the essence in the performance of this Agreement.

Attorneys Fees. Should any party employ attorneys to enforce any of the provisions hereof, the party losing in any final judgment agrees to pay the prevailing party all reasonable costs, charges and expenses, including reasonable attorneys' fees, expended or incurred in connection therewith.

Notice and Payments. All notices hereunder must be in writing and shall be deemed delivered on the day personally delivered on the third day from the day sent by registered mail or certified mail, return receipt requested with the U.S. Postal Service, or on the day after the day sent by national overnight courier, to the parties at the following addresses, or at such other addresses as shall be specified by notice.

If notice or payment to the PCDC:

Pflugerville Community Development Corporation
Attention: Executive Director
203 West Main Street, Suite E
P.O. BOX 1160
Pflugerville, Texas 78691

If notice or payment to THIN-NOLOGY:

Kathryn Grona
President
Thin-nology, Inc.

Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto. PCDC, THIN-NOLOGY and are referred to herein sometimes as the “parties.” THIN-NOLOGY and shall be considered collectively as a “party” and PCDC shall be considered a “party.

Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute one Agreement.

Performance. Performance by PCDC under the Agreement is dependent upon the approval of the City Council of the City of Pflugerville (Council). If the Council fails to approve this Agreement within forty-five (45) days of the date hereof, then either party may terminate the Agreement without further duty or obligation hereunder (the “Council Approval Period”). THIN-NOLOGY acknowledges that the approval of this document is beyond the control of PCDC. In the event PCDC obtains approval of this Agreement within the Council Approval Period, PCDC shall provide a copy of such approval to THIN-NOLOGY and the right of either party to terminate this Agreement pursuant to this paragraph shall terminate.

Undocumented Workers. Pursuant to Chapter 2264 of the Texas Government Code, THIN-NOLOGY certifies that they will not knowingly employ any undocumented workers. THIN-NOLOGY further agrees that if the business, or a branch, division, or department of the business, is convicted of a violation under 8 U.S.C. Section 1324a(f), THIN-NOLOGY shall repay the amount of the public subsidy with interest, at the rate of ten percent (10%) per annum from the date this agreement is entered into, not later than the 120th day after the date the public agency, state or local taxing jurisdiction, or economic development corporation notifies the business of the violation.

Force Majeure. Any provision in this Agreement to the contrary notwithstanding, if a party is delayed in the performance of an obligation under this agreement due to an event of Force Majeure, that party will be given an extension of one day for each day in which the party was unable to perform its obligation due to the event of Force Majeure. "Force Majeure" means act of war, civil disobedience, insurrection, act of terrorism, act of God, strike, prolonged drought, or prolonged or extreme weather conditions, delay by governmental authorities in issuing permits or approvals or other event beyond the reasonable control of a party giving rise to a delay in performance that was not foreseeable and that could not have been avoided through the exercise of reasonable care.

Conditioned Upon Purchase Agreement. The effectiveness of this Agreement is conditioned upon execution and delivery of the Purchase Agreement by and between PCDC and Thin-nology. In the event the Purchase Agreement is terminated, this Agreement shall be terminated in all respects without any further obligation of the parties.

Legal Description. The parties agree that the legal description is sufficient for describing the THIN-NOLOGY Site. At such time as the final plat is recorded pursuant to the terms of the Purchase Agreement, the legal description in this Agreement shall automatically be replaced with the platted legal description.

[Signature Page Follows]

DATED this ____ day of May, 2013.

Thin-nology, Inc.

By: _____
Name: Kathryn Grona
Title: President

PFLUGERVILLE COMMUNITY DEVELOPMENT CORPORATION
A Texas Economic Development Corporation

By: _____
Name: Omar Pena
Title: President

STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared Kathryn Grona, President of Thin-nology, Inc., a Texas Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and sworn and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated and as the act and deed of the corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 2013.

Notary Public in and for
The State of Texas

STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared Omar Pena, President of the Pflugerville Community Development Corporation, a Section 4B corporation incorporated under the Development Corporation Act of 1979, known to me to be the person whose name is subscribed to the foregoing instrument, and swore and acknowledged to me that he executed the same for the purpose and consideration therein expressed, and in the capacity therein stated and as the act and deed of the Pflugerville Community Development Corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 2013.

Notary Public in and for
The State of Texas

EXHIBIT A

**Legal Description
[See Attached]**