
NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY
as sublessor

AND

STEEL G, LLC
as sublessee

SUBLEASE AGREEMENT

DATED AS OF JULY 1, 2015

ADDRESS: 201 Grumman Road West
Bethpage
VILLAGE: --
TOWN: Oyster Bay
COUNTY: Nassau
STATE: New York
SECTION: 46
BLOCK: 323
LOT: 247

Prepared By:

Phillips Lytle LLP
1305 Franklin Avenue, Suite 200
Garden City, NY 11530
Attention: Paul V. O'Brien, Esq.

TABLE OF CONTENTS

ARTICLE I	DEFINITIONS.....	4
	SECTION 1.1	DEFINITIONS..... 4
	SECTION 1.2	INTERPRETATION..... 11
ARTICLE II	REPRESENTATIONS, WARRANTIES AND COVENANTS	12
	SECTION 2.1	REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE AGENCY..... 12
	SECTION 2.2	REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COMPANY. 13
ARTICLE III	CONVEYANCE AND USE OF PROJECT FACILITY	17
	SECTION 3.1	CONVEYANCE TO THE AGENCY. (A)..... 17
	SECTION 3.2	USE OF PROJECT FACILITY..... 17
	SECTION 3.3	HAZARDOUS MATERIALS. 18
	SECTION 3.4	NON-MERGER. 20
	SECTION 3.5	TITLE INSURANCE..... 20
ARTICLE IV	UNDERTAKING AND COMPLETION OF THE PROJECT	20
	SECTION 4.1	ACQUISITION, RENOVATION, INSTALLATION AND EQUIPPING OF THE PROJECT FACILITY.. 20
	SECTION 4.2	COMPLETION OF THE PROJECT FACILITY; FEES. 23
	SECTION 4.3	REMEDIES TO BE PURSUED AGAINST CONTRACTORS, SUBCONTRACTORS, MATERIALMEN AND THEIR SURETIES..... 24
ARTICLE V	DEMISE OF PROJECT FACILITY; RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE	24
	SECTION 5.1	SUBLEASE OF THE PROJECT FACILITY. 24
	SECTION 5.2	DURATION OF THE LEASE TERM; QUIET ENJOYMENT..... 25
	SECTION 5.3	RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE. 25
	SECTION 5.4	NATURE OF OBLIGATIONS OF THE COMPANY HEREUNDER. 26
	SECTION 5.5	GRANT OF SECURITY INTEREST 26
	SECTION 5.6	SUBLEASE 27
ARTICLE VI	MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE	27

SECTION 6.1	MAINTENANCE AND MODIFICATIONS OF THE PROJECT FACILITY.	28
SECTION 6.2	TAXES, ASSESSMENTS AND UTILITY CHARGES.....	30
SECTION 6.3	INSURANCE REQUIRED.	30
SECTION 6.4	ADDITIONAL PROVISIONS RESPECTING INSURANCE.....	32
SECTION 6.5	APPLICATION OF NET PROCEEDS OF INSURANCE.....	33
SECTION 6.6	PAYMENTS IN LIEU OF TAXES.....	33
ARTICLE VII	DAMAGE, DESTRUCTION AND CONDEMNATION.....	34
SECTION 7.1	DAMAGE OR DESTRUCTION.....	34
SECTION 7.2	CONDEMNATION.....	35
SECTION 7.3	ADDITIONS TO THE PROJECT FACILITY.....	36
ARTICLE VIII	SPECIAL COVENANTS	36
SECTION 8.1	NO WARRANTY OF CONDITION OR SUITABILITY BY THE AGENCY; ACCEPTANCE “AS IS”.	36
SECTION 8.2	HOLD HARMLESS PROVISIONS.	37
SECTION 8.3	RIGHT OF ACCESS TO THE PROJECT FACILITY.	38
SECTION 8.4	COMPANY NOT TO TERMINATE EXISTENCE OR DISPOSE OF ASSETS.....	38
SECTION 8.5	AGREEMENT TO PROVIDE INFORMATION.	38
SECTION 8.6	BOOKS OF RECORD AND ACCOUNT; COMPLIANCE CERTIFICATES.....	38
SECTION 8.7	COMPLIANCE WITH APPLICABLE LAWS.....	39
SECTION 8.8	DISCHARGE OF LIENS AND ENCUMBRANCES.....	39
SECTION 8.9	PERFORMANCE OF THE COMPANY’S OBLIGATIONS.....	40
SECTION 8.10	DEPRECIATION DEDUCTIONS AND TAX CREDITS.....	40
SECTION 8.11	EMPLOYMENT OPPORTUNITIES.....	40
SECTION 8.12	ANTI-TERRORISM LAWS.	41
SECTION 8.13	IDENTIFICATION OF THE EQUIPMENT.....	43
SECTION 8.14	FINANCIAL STATEMENTS.....	43
ARTICLE IX	ASSIGNMENTS; LEASING; MERGER OF THE AGENCY.....	43
SECTION 9.1	ASSIGNMENT OF THIS LEASE.	43
SECTION 9.2	MERGER OF THE AGENCY.	43
SECTION 9.3	SALE OR LEASE OF THE PROJECT FACILITY...	44

ARTICLE X	EVENTS OF DEFAULT AND REMEDIES	48
	SECTION 10.1	EVENTS OF DEFAULT DEFINED..... 48
	SECTION 10.2	REMEDIES ON DEFAULT..... 51
	SECTION 10.3	REMEDIES CUMULATIVE. 53
	SECTION 10.4	AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES..... 53
	SECTION 10.5	NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER..... 53
ARTICLE XI	OPTIONS TO TERMINATE	53
	SECTION 11.1	EARLY TERMINATION OF THE LEASE. 53
	SECTION 11.2	OBLIGATION TO TERMINATE THE LEASE. 54
	SECTION 11.3	RESERVED. 54
	SECTION 11.4	RECAPTURE OF AGENCY BENEFITS..... 55
ARTICLE XII	MISCELLANEOUS	57
	SECTION 12.1	NOTICES..... 57
	SECTION 12.2	BINDING EFFECT. 58
	SECTION 12.3	SEVERABILITY..... 58
	SECTION 12.4	AMENDMENT..... 58
	SECTION 12.5	EXECUTION OF COUNTERPARTS. 58
	SECTION 12.6	APPLICABLE LAW. 58
	SECTION 12.7	SURVIVAL OF OBLIGATIONS. 58
	SECTION 12.8	TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING. 59
	SECTION 12.9	NO RECOURSE; SPECIAL OBLIGATION..... 59
	SECTION 12.10	NET LEASE. 60
	SECTION 12.11	WAIVER OF JURY TRIAL..... 60
	SECTION 12.12	PRIOR AGREEMENTS. 60
	SECTION 12.13	SERVICE OF PROCESS. 60
	SECTION 12.14	THIRD PARTY BENEFICIARIES..... 61
	SECTION 12.15	NON-DISCRIMINATION. 61
	SECTION 12.16	DATE OF LEASE. 62
	SECTION 12.17	RECORDING AND FILING. 62
	SECTION 12.18	SUBORDINATION..... Error! Bookmark not defined.
	SECTION 12.19	BANK MORTGAGE Error! Bookmark not defined.

EXHIBIT A -Description of the Land
EXHIBIT B - Description of the Equipment
EXHIBIT C - Form of Termination of Company Lease
EXHIBIT D - Form of Bill of Sale to Company
EXHIBIT E - Reserved
EXHIBIT F - Form of Termination of Sublease Agreement
EXHIBIT G - Forms of Annual Employment Reports
EXHIBIT H - Reserved
EXHIBIT I - Approved Forms of Sublease Agreement
EXHIBIT J - Approved Form of Proposed Sublease Term Sheet
SCHEDULE A - List of Pre-Closing Leases
SCHEDULE B - Description of Initial Work

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT dated as of July 1, 2015 (this "Lease") by and between the NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at 1550 Franklin Avenue, Suite 235, Mineola, NY 11501 (the "Agency"), and STEEL G, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business as a foreign limited liability company in the State of New York, having an office at 700 Hicksville Road, Bethpage, NY 11714 (the "Company").

WITNESSETH:

WHEREAS, the Agency is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting 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 674 of the 1975 Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said Chapter and the Enabling Act, as in effect as of the date of this Lease, 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, among others, for the purpose of promoting, attracting and developing 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, to improve their 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 and install one or more "projects" (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, the Company submitted an application for financial assistance (the "Application") to the Agency requesting that the Agency consider undertaking a project (the "Project") consisting of the following: (A)(1) the acquisition of an interest in an approximately 16 acre parcel of land located at 201 Grumman Road West, Bethpage, Town of Oyster Bay, Nassau County, New York (Section: 46; Block: 323; Lot: 247) (the "Land"), (2) the renovation of the existing approximately 161,000 square foot building located on the Land (the "Existing Building"), (3) the construction of an approximately 39,000 square foot building on the Land (the "New Building" and together with the Existing Building, collectively, the "Building"), together with related improvements to the Land, and (4) the acquisition of certain furniture, fixtures, machinery and equipment necessary for the completion thereof (the "Equipment"), all of the foregoing for use as a multi-tenant office, warehouse and industrial facility (collectively, the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, in the form of potential exemptions or partial exemptions from real property taxes, mortgage recording taxes and sales and use taxes (collectively, the "Financial Assistance"); (C) the lease (with an

obligation to purchase), license or sale of the Project Facility to the Company or such other entity(ies) as may be designated by the Company and agreed upon by the Agency; and (D) the sublease of the New Building and certain portions of the Land to FedEx Freight, Inc. or such other entity(ies) as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency pursuant to Section 859-a of the Act (the "Public Hearing") to hear all persons interested in the Project and the Financial Assistance contemplated by the Agency with respect to the Project, to be mailed on October 10, 2014 to the chief executive officer of Nassau County, New York and of each other affected tax jurisdiction within which the Project Facility is or is to be located; (B) caused notice of the Public Hearing to be published on October 13, 2014 in the Nassau edition of *Newsday*, a newspaper of general circulation available to residents of the County of Nassau, New York; (C) conducted the Public Hearing on October 30, 2014 at 10:00 a.m., local time, at Oyster Bay Community Center, 59 Church Street, Oyster Bay, Town of Oyster Bay, Nassau County, New York; and (D) prepared a report of the Public Hearing (the "Report") which fairly summarizes the views presented at the Public Hearing and distributed the Report to the members of the Agency; and

WHEREAS, (A) the Executive Director of the Agency caused notice of a meeting of the Agency (the "IDA Meeting") with respect to the proposed deviation from the Agency's uniform tax exemption policy and guidelines to be mailed on January 26, 2015 to the chief executive officer of each affected tax jurisdiction; and (B) the Agency conducted the IDA Meeting on February 11, 2015 and reviewed any written comments or correspondence received from the affected tax jurisdictions at or before the IDA Meeting regarding the proposed deviation from the Agency's uniform tax exemption policy and approved the proposed deviation; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act"), and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), the appropriate personnel of the Agency reviewed the environmental assessment form and other materials submitted by the Company and made any necessary comments to the members of the Agency, and by resolution of the members of the Agency adopted on February 11, 2015, the Agency decided to conduct an uncoordinated review of the Project and determined that the Project will not have a significant adverse environmental impact and that an environmental impact statement will not be prepared; and

WHEREAS, by resolution adopted by the members of the Agency on February 11, 2015 (the "Authorizing Resolution"), the Agency, following a review of the Report, determined to proceed with the Project, to grant the Financial Assistance and to enter into the "straight lease transaction" (as such quoted term is defined in the Act) contemplated by this Lease and the other Transaction Documents (as hereinafter defined); and

WHEREAS, the Agency proposes to appoint the Company as agent of the Agency to undertake the acquisition, renovation, installation and equipping of the Project Facility as set forth in this Lease and to sublease the Project Facility to the Company, and the Company desires to act as agent of the Agency to undertake the acquisition, renovation, installation and equipping

of the Project Facility as set forth in this Lease and to sublease the Project Facility from the Agency, all pursuant to the terms and conditions hereinafter set forth in this Lease and in the other Transaction Documents; and

WHEREAS, the acquisition of an interest in the Project Facility, the straight lease of the Project Facility, and the granting of the Financial Assistance by the Agency to the Company are for proper purposes, including, without limitation, the advancement of the job opportunities, health, general prosperity and economic welfare of the inhabitants of the State of New York and the prevention of unemployment and economic deterioration pursuant to the provisions of the Act; and

WHEREAS, the granting of the Financial Assistance by the Agency to the Company has been determined by the Agency to be necessary to induce the Company to proceed with the Project; and

WHEREAS, immediately prior to the execution and delivery of this Lease, the Company will execute and deliver or cause to be executed and delivered to the Agency (A) a certain company lease agreement of even date herewith (the "Company Lease") between the Company and the Agency, which conveys to the Agency a leasehold interest in and to the Premises (as hereinafter defined), and (B) a bill of sale dated the Closing Date (the "Bill of Sale to Agency"), which conveys to the Agency all right, title and interest of the Company in and to the Equipment; and

WHEREAS, pursuant to a certain Payment in Lieu of Taxes Agreement of even date herewith (the "PILOT Agreement") between the Company and the Agency, the Company has agreed to make certain payments in lieu of real property taxes with respect to the Premises, and such obligation is secured by a Mortgage and Assignment of Leases and Rents of even date herewith (the "PILOT Mortgage") from the Company and the Agency, as mortgagor, to the County of Nassau, as mortgagee (the "PILOT Mortgagee"), pursuant to which the Agency and the Company grant a first mortgage on the Premises to the PILOT Mortgagee;

WHEREAS, in order to finance a portion of the costs of the Project, TD Bank, N.A. (the "Bank"), has made loans to the Company in the aggregate principal amount of up to \$22,895,000 (the "Bank Loan"), which Bank Loan is evidenced by one (1) or more promissory notes and/or loan agreements (together with all modifications, renewals and replacements therefore, collectively, the "Bank Note") made by the Company to the Bank in the aggregate principal amount of the Bank Loan; and

WHEREAS, in order to secure the obligations of the Company to the Bank under the Bank Note, the Company has executed and delivered one (1) or more mortgages in favor of the Bank in the maximum aggregate principal amount of the Bank Loan (collectively, the "Bank Mortgage"), which Bank Mortgage the Agency has executed for the sole purpose of subjecting to the lien thereof its interest in the Premises, and pursuant to which Bank Mortgage the Company and the Agency, as applicable, grant to the Bank a mortgage lien on the Premises;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS:

ARTICLE I DEFINITIONS

SECTION 1.1 DEFINITIONS. The following words and terms used in this Lease shall have the respective meanings set forth below, unless the context or use indicates another or different meaning or intent:

“Act” shall have the meaning assigned to such term in the recitals to this Lease.

“Affiliate” of a Person shall mean a Person who directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with, such Person. The term “control” means (i) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, or (ii) the ownership, either directly or indirectly, of at least fifty-one percent (51%) of the voting stock or other equity interest of such Person.

“Agency” means (A) the Nassau County Industrial Development Agency and its successors and assigns, and (B) any public benefit corporation or other public corporation resulting from or surviving any consolidation or merger to which the Nassau County Industrial Development Agency, or its successors or assigns, may be a party.

“Annual Fee” shall have the meaning assigned to such term in Section 5.3(C) of this Lease.

“Anti-Terrorism Laws” means any applicable laws relating to terrorism or money laundering, including Executive Order No. 13224, the USA Patriot Act, applicable laws comprising or implementing the Bank Secrecy Act, and applicable laws administered by the United States Treasury Department’s Office of Foreign Asset Control (as any of the foregoing may from time to time be amended, renewed, extended, or replaced).

“Applicable Law” or “Applicable Laws” means, individually or collectively as the context may require, all current and future statutes, codes, laws, acts, ordinances, treaties, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions, determinations and requirements, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to or affect the Project Facility or any part thereof or the conduct of work on the Project Facility or any part thereof or to the operation, use, manner of use or condition of the Project Facility or any part thereof (the applicability of the foregoing to be determined both as if the Agency were the owner of an interest in the Project Facility and as if the Company and not the Agency were the owner of an interest in the Project Facility), including but not limited to (1) applicable health, building, zoning, use, rent, accessibility, environmental, planning and subdivision laws, ordinances, rules and regulations of Governmental Authorities having jurisdiction over the Project Facility, (2) restrictions, conditions or other requirements applicable to any permits, licenses or other governmental authorizations issued with respect to the foregoing, (3) judgments, decrees, orders or injunctions issued by any court or other judicial

or quasi-judicial Governmental Authority, and (4) applicable covenants and restrictions relating in any way to the Project Facility.

“Application” shall have the meaning assigned to such term in the recitals to this Lease.

“Authorizing Resolution” shall have the meaning assigned to such term in the recitals to this Lease.

“Authorized Representative” means the Person or Persons at the time designated to act on behalf of the Agency, the Company, or a Sublessee, as the case may be, by written certificate furnished to the Agency, the Company, or a Sublessee, as the case may be, containing the specimen signature of each such Person and signed on behalf of (A) the Agency by its Chairman, Vice-Chairman, Secretary, Executive Director, Administrative Director or such other Person as may be authorized by resolution of the members of the Agency to act on behalf of the Agency, and (B) the Company, or a Sublessee, by its President or any Vice President, if a corporation, or a member or a manager, if a limited liability company, or a general partner, if a partnership, or such other Person as may be authorized in writing by the members of such limited liability company or by the board of directors of such corporation or by the general partner of such partnership, to act on behalf of the Company or a Sublessee, as the case may be.

“Bank” means TD Bank, N.A., a national banking association, together with its successors and/or assigns, provided that the Agency is given notice of any such succession or assignment in accordance with Section 12.1 of this Lease.

“Bank Loan” shall have the meaning assigned to such term in the recitals to this Lease.

“Bank Mortgage” shall have the meaning assigned to such term in the recitals to this Lease.

“Bank Note” shall have the meaning assigned to such term in the recitals to this Lease.

“Bill of Sale to Agency” shall have the meaning assigned to such term in the recitals to this Lease.

“Bill of Sale to Company” means the bill of sale from the Agency to the Company, pursuant to which the Agency conveys to the Company all of the Agency’s interest in the Equipment, substantially in the form attached as Exhibit D to this Lease.

“Building” shall have the meaning assigned to such term in the recitals to this Lease.

“Business Day” means a day on which banks located in the County are not required or authorized to remain closed and on which the New York Stock Exchange is not closed.

“Closing” means the closing at which this Lease and the other Transaction Documents are executed and delivered by the Company, the Agency and the other parties thereto.

“Closing Date” means the date of the Closing.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations of the United States Treasury Department promulgated thereunder.

“Collateral” shall have the meaning assigned to such term in Section 5.5 of this Lease.

“Commissioner” means the Commissioner of Taxation and Finance of the State of New York.

“Company” means Steel G, LLC, a limited liability company duly organized and existing under the laws of the State of Delaware and qualified to do business as a foreign limited liability company in the State of New York, and its successors and assigns, to the extent permitted pursuant to this Lease.

“Company Lease” shall have the meaning assigned to such term in the recitals to this Lease.

“Completion Date” means such date as shall be certified by the Company to the Agency (and accepted by the Agency in its reasonable discretion) as the date of completion of the Project pursuant to Section 4.2 of this Lease, or such earlier date as the Company shall notify the Agency as being the date of completion of the Project (subject to acceptance thereof by the Agency in its reasonable discretion).

“Compliance Report” shall have the meaning assigned to such term in Section 8.12 of this Lease.

“Condemnation” means the taking of title to, or the use of, Property under the exercise of the power of eminent domain by any Governmental Authority.

“County” means the County of Nassau, New York.

“Default Interest Rate” means a rate of interest equal to eighteen percent (18%) per annum or the maximum rate permitted by applicable law, whichever is less.

“Environmental Indemnification” means the Environmental Compliance and Indemnification Agreement of even date herewith from the Company and the Guarantors in favor of the Agency.

“Environmental Law” or “Environmental Laws” shall have the meaning assigned to such term in Section 3.3 of this Lease.

“Equipment” shall have the meaning assigned to such term in the recitals to this Lease and shall include all those materials, machinery, equipment, fixtures or furnishings intended to be acquired with the proceeds of any payment made by the Company pursuant to Section 4.1(H) of this Lease, and such substitutions and replacements therefor as may be made from time to time pursuant to this Lease, including without limitation, all the Property described in Exhibit B attached to this Lease. “Equipment” shall not include: (i) inventory, (ii) rolling stock, (iii) any item of personalty having a useful life of less than one (1) year or which shall not constitute a tangible capital asset, (iv) plants, shrubs, trees, flowers, lawns or plants, (v) fine art or other

similar decorative items, or (vi) motor vehicles, including any cars, trucks, vans or buses that are licensed by the Department of Motor Vehicles or similar agency for use on public highways or streets.

“Event of Default” means, with respect to any particular Transaction Document, any event specified as an Event of Default pursuant to the provisions thereof.

“FedEx” means FedEx Freight, Inc., an Arkansas corporation.

“Financial Assistance” shall have the meaning assigned to such term in the recitals to this Lease.

“Governmental Authority” means the United States of America, the State, any other state, the County, any political subdivision of any of the foregoing, and any court, tribunal, arbitrator, mediator, agency, department, commission, board, bureau, authority or instrumentality of any of them.

“Gross Proceeds” means one hundred percent (100%) of the proceeds of the transaction with respect to which such term is used, including, but not limited to, the settlement of any insurance or Condemnation award.

“Guarantor” or “Guarantors” means, individually or collectively, as the context may require, Joseph J. Lostritto and Glenn Lostritto, each a natural person.

“Guaranty” means the Guaranty dated of even date herewith from the Guarantors to the Agency.

“Hazardous Materials” means all hazardous materials including, without limitation, any explosives, radioactive materials, radon, asbestos-containing materials, urea formaldehyde foam insulation, polychlorinated biphenyls, lead based paints, petroleum, petroleum products, methane, hazardous materials, hazardous chemicals, hazardous wastes, extremely hazardous wastes, restricted hazardous wastes, hazardous or toxic substances, toxic pollutants, hazardous air pollutants, pollutants, contaminants, toxic chemicals, toxics, pesticides or related materials as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Clean Water Act, as amended (33 U.S.C. Section 1251 et seq.), the Safe Drinking Water Act, as amended (42 U.S.C. Section 300f, et seq.) the Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601, et seq.), Articles 15 or 27 of the New York State Environmental Conservation Law, or in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule or regulation of any Governmental Authority having jurisdiction.

“IDA Meeting” shall have the meaning assigned to such term in the recitals to this Lease.

“Indebtedness” means (1) the monetary obligations of the Company to the Agency or to any of its members, officers, agents (other than the Company), attorneys, servants or employees,

past, present or future, under this Lease or any of the other Transaction Documents, and (2) all interest accrued on any of the foregoing.

“Initial Work” shall have the meaning assigned to such term in Section 4.1(A) of this Lease.

“Land” shall have the meaning assigned to such term in the recitals to this Lease and is more particularly described in Exhibit A to this Lease.

“Lien” means any interest in Property securing an obligation owed to a Person, whether such interest is based on the common law, statute or contract, and including but not limited to a security interest arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes or a judgment against the Company. The term “Lien” includes reservations, exceptions, encroachments, projections, easements, rights of way, covenants, conditions, restrictions, leases and other similar title exceptions and encumbrances, including, but not limited to, mechanics’, materialmen’s, landlord’s, warehousemen’s and carriers’ liens and other similar encumbrances affecting real property. For purposes of the Transaction Documents, a Person shall also be deemed to be the owner of any Property that it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the Property has been retained by or vested in some other Person for security purposes.

“Minimum Employment Requirement” shall have the meaning assigned to such term in Section 2.2 of this Lease.

“Net Proceeds” means so much of the Gross Proceeds with respect to which that term is used as remain after payment of all fees for services, expenses, costs and taxes (including attorneys’ fees) incurred in obtaining such Gross Proceeds.

“Permitted Encumbrances” means (A) utility, access and other easements, rights of way, restrictions, encroachments and exceptions that exist on the Closing Date and are identified on Schedule B to the Title Policy, (B) Liens for taxes, assessments and utility charges, to the extent permitted by this Lease, (C) any Lien or encumbrance on the Project Facility obtained through any Transaction Document, and (D) any Lien or encumbrance requested by the Company in writing and consented to by the Agency, which consent may be granted or denied in the Agency’s sole and absolute discretion.

“Person” means an individual, partnership, limited liability company, corporation, trust, unincorporated organization or Governmental Authority.

“PILOT Agreement” shall have the meaning assigned to such term in the recitals to this Lease.

“PILOT Mortgage” shall have the meaning assigned to such term in the recitals to this Lease.

“PILOT Mortgagee” means the County, on behalf of itself and such other instrumentalities to which amounts shall be due and owing pursuant to the PILOT Agreement, and its successors and/or assigns under the PILOT Mortgage.

“Pre-Closing Leases” shall have the meaning assigned to such term in Section 2.2(V) of this Lease.

“Premises” means the Land, together with the Building and all buildings, structures and other improvements now or hereafter located thereon, and all fixtures and appurtenances and additions thereto and substitutions and replacements thereof, now or hereafter attached to or contained in or located on the Land; provided, however, that nothing in this definition shall constitute the Agency’s consent to the construction of any new building or structure thereon or the construction of an addition to any existing building or structure thereon (other than the construction, installation and equipping of the New Building).

“Prohibited Person” means (i) any Person (A) that is in default or in breach, beyond any applicable grace or cure period, of its obligations under any written agreement with the Agency or the County, or (B) that directly or indirectly controls, is controlled by or is under common control with a Person that is in default or in breach, beyond any applicable grace or cure period, of its obligations under any written agreement with the Agency or the County, unless such default or breach has been waived in writing by the Agency or the County, as the case may be, and (ii) any Person (A) that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure, or (B) that directly or indirectly controls, is controlled by or is under common control with a Person that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure.

“Project” means that project being undertaken by the Agency consisting only of (A) the acquisition of an interest in the Premises, (B) the repair and restoration of the base building systems and infrastructure of the Existing Building, all as more particularly described in Section 4.1 of this Lease, (C) the construction of the New Building, (D) the acquisition and installation of the Equipment, (E) the granting of the Financial Assistance, and (F) the leasing of the Project Facility to the Company, all as more particularly described in the recitals to this Lease.

“Project Agreement” means that certain Project Agreement dated as March 1, 2015 between the Agency and the Company.

“Project Facility” shall have the meaning assigned to such term in the recitals to this Lease.

“Property” means any interest in any kind of property or asset, whether real, personal or mixed, tangible or intangible.

“Proposed Sublessee” shall have the meaning assigned to such term in Section 9.3 of this Lease.

“Public Hearing” shall have the meaning assigned to such term in the recitals to this Lease.

“Quarterly Sales Tax Report” shall have the meaning assigned to such term in Section 8.12(C) of this Lease.

“Real Property Tax Exemption Form” shall have the meaning assigned to such term in Section 6.6 of this Lease.

“Recapture Event” shall have the meaning assigned to such term in Section 11.4 of this Lease.

“Report” shall have the meaning assigned to such term in the recitals to this Lease.

“Restricted Party” means (a) any individual or entity: listed in the Annex to the Executive Order No. 13224 or is otherwise subject to the provisions of such Executive Order; (b) listed on the “Specially Designated Nationals and Blocked Persons” list maintained by the Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury, as updated or amended from time to time, or any similar list issued by OFAC; or (c) whose property has been blocked, or is subject to seizure, forfeiture or confiscation, by any order relating to terrorism or money laundering issued by the President, Attorney General, Secretary of State, Secretary of Defense, Secretary of the Treasury or any other U.S. State or Federal governmental official or entity.

“Scheduled Completion Date” shall have the meaning assigned to such term in Section 4.2(A) of this Lease.

“SEQRA” shall have the meaning assigned to such term in the recitals to this Lease.

“Special Counsel” means the law firm of Phillips Lytle LLP, Garden City, New York, or such other attorney or firm of attorneys located in the State whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and who are acceptable to the Agency.

“State” means the State of New York.

“Stated Expiration Date” shall have the meaning assigned to such term in Section 5.2(B) of this Lease.

“Sublease Agreement” or “Sublease Agreements” means, individually or collectively, as the context may require, a Sub-Sublease Agreement or License between the Company, as sub-lessor, and a Sublessee, as sub-sublessee, approved by the Agency pursuant to Section 9.3 of this Lease.

“Sublease Term Sheet” shall have the meaning assigned to such term in Section 9.3 of this Lease.

“Subleased Premises” shall have the meaning assigned to such term in Section 9.3 of this Lease.

“Sublessees” means, individually or collectively, as the context may require, each sub-tenant of all or any portion of the Project Facility approved by the Agency pursuant to this Lease, including, without limitation, FedEx.

“Taxing Entities” shall have the meaning assigned to such term in Section 6.6 of this Lease.

“Termination of Company Lease” means the termination of company lease agreement from the Agency to the Company, pursuant to which the Agency terminates the Company Lease, substantially in the form attached as Exhibit C to this Lease.

“Termination of Lease” means the termination of sublease agreement between the Company and the Agency, pursuant to which the Agency and the Company terminate this Lease, substantially in the form attached as Exhibit F to this Lease.

“Title Policy” shall have the meaning assigned to such term in Section 3.5 of this Lease.

“Transaction Documents” means the Company Lease, the Bill of Sale to Agency, the PILOT Agreement, the PILOT Mortgage, this Lease, the Guaranty, the Environmental Indemnification and all other instruments, agreements, certificates and documents related thereto and executed in connection therewith, and any other instrument, agreement, certificate or document supplemental thereto.

“UCC” shall have the meaning assigned to such term in Section 5.5 of this Lease.

“Unassigned Rights” means (A) the rights of the Agency granted pursuant to Sections 2.2, 3.1, 3.2, 3.3, 4.1(B), 4.1(D), 4.1(E), 4.1(F), 4.1(G), 5.2 (A), 5.3 (B) and (C), 5.4, 5.5, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 7.1, 7.2, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 8.12, 8.13, 8.14, 9.1, 9.3, 11.2, 11.4, 12.4, 12.7, 12.9 and 12.19 of this Lease, (B) the moneys due and to become due to the Agency for its own account or the members, officers, agents, servants and employees, past, present and future, of the Agency for their own account pursuant to Sections 2.2(G), 3.1, 3.3, 4.1, 5.3, 5.4, 6.4(B), 6.6, 8.2, 8.9, 8.12, 9.1, 9.3, 10.2, 10.4, 11.2 and 11.4 of this Lease, (C) the moneys due as payments in lieu of taxes pursuant to Section 6.6 of this Lease and as recapture of benefits pursuant to Section 11.4 of this Lease, (D) the right of the Agency in its own behalf to enforce the obligation of the Company to undertake and complete the Project and to confirm the qualification of the Project as a “project” under the Act, and (E) the right to enforce the foregoing pursuant to the PILOT Agreement, the PILOT Mortgage, and Section 5.5 and Article X of this Lease.

SECTION 1.2 INTERPRETATION. In this Lease, unless the context otherwise requires:

(A) the terms “hereby”, “hereof”, “herein”, “hereunder” and any similar terms as used in this Lease, refer to this Lease, and the term “heretofore” shall mean before, and the term “hereafter” shall mean after, the Closing Date;

(B) words of masculine gender shall mean and include correlative words of feminine and neuter genders;

(C) words importing the singular number shall mean and include the plural number, and vice versa;

(D) words importing persons shall include firms, associations, partnerships, trusts, corporations, limited liability companies and other legal entities, including public bodies, as well as natural persons;

(E) any certificates, letters or opinions required to be given pursuant to this Lease shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Lease; and

(F) references to documents, instruments or agreements shall mean such documents, instruments and agreements as they may be amended, modified, renewed, replaced or restated from time to time in accordance with the terms hereof.

ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 2.1 REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE AGENCY. The Agency makes the following representations, warranties and covenants as the basis for the undertakings on its part herein contained:

(A) The Agency is duly established under the provisions of the Act and has the power to enter into this Lease and the other Transaction Documents to which the Agency is a party and to carry out its obligations hereunder and thereunder. Based upon the representations of the Company, the Project will constitute a "project", as such quoted term is defined in the Act. By proper official action, the Agency has been duly authorized to execute, deliver and perform this Lease and the other Transaction Documents to which the Agency is a party.

(B) Neither the execution and delivery of this Lease or the other Transaction Documents to which the Agency is a party, the consummation of the transactions contemplated hereby or thereby, nor the fulfillment of or compliance with the provisions of this Lease or the other Transaction Documents to which the Agency is a party will conflict with or result in a breach by the Agency of any of the terms, conditions or provisions of the Act, the by-laws of the Agency or any order, judgment, agreement or instrument to which the Agency is a party or by which the Agency is bound, nor will constitute a default by the Agency under any of the foregoing.

(C) Except as provided in Articles IX, X and XI hereof, the Agency, to the extent of its interest therein, shall not sell, assign, transfer, encumber or pledge as security the Project Facility or any part thereof and shall maintain the Project Facility free and clear of all liens or encumbrances created by the Agency, except as contemplated or permitted by the terms of this Lease and the other Transaction Documents.

SECTION 2.2 REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE COMPANY. The Company makes the following representations, warranties and covenants as the basis for the undertakings on its part herein contained:

(A) The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, is qualified and authorized to do business as a foreign limited liability company in the State of New York and in all other jurisdictions in which its operations or ownership of its Properties so require, and has the power to enter into this Lease and the other Transaction Documents to which the Company is a party and to carry out its obligations hereunder and thereunder. By proper action of its members, the Company has been duly authorized to execute, deliver and perform this Lease and the other Transaction Documents to which the Company is a party. No other consent, approval or action by the members or managers of the Company or any other consent or approval (governmental or otherwise) or the taking of any other action is required as a condition to the validity or enforceability of this Lease or any of the other Transaction Documents.

(B) Neither the execution and delivery of this Lease or any of the other Transaction Documents to which the Company is a party, the consummation of the transactions contemplated hereby and thereby, nor the fulfillment of or compliance with the provisions of this Lease or the other Transaction Documents to which the Company is a party will (1) conflict with or result in a breach of any of the terms, conditions or provisions of the Company's certificate of formation or operating agreement or any other company restriction, order, judgment, agreement, document or instrument to which the Company is a party or by which the Company or any of its Property is bound, or constitute a default by the Company under any of the foregoing, or result in the creation or imposition of any Lien of any nature upon the Project Facility under the terms of any of the foregoing, other than Permitted Encumbrances, (2) conflict with or result in a violation of Applicable Laws, (3) require consent or approval (which has not been heretofore received and provided to the Agency) under any company restriction, agreement or instrument to which the Company is a party or by which the Company or any of its Property may be bound or affected, or (4) require consent or approval (which has not been heretofore obtained and provided to the Agency) under or conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any Governmental Authority having jurisdiction over the Company or any of the Property of the Company.

(C) Other than with respect to FedEx as set forth in the Project Agreement, the completion of the Project Facility by the Company as agent of the Agency, the sublease thereof by the Agency to the Company, and the operation thereof by the Company will not result in the removal of a facility or plant of the Company or any lessee, sublessee or other proposed occupant of the Project Facility, or any part thereof, from one area of the State to another area of the State (other than relocations within the County) or in the abandonment of one or more plants or facilities of the Company, or any lessee, sublessee or other proposed occupant of the Project Facility, or any part thereof, located in the State (other than in the County); provided, however, that nothing in this Section shall constitute an authorization by the Agency for the Company to lease, sublease, sub-sublease or permit any other occupancy arrangements with respect to the Project Facility or any part thereof without the prior written consent of the Agency, except as set forth in Section 9.3 of this Lease.

(D) Intentionally omitted.

(E) The Transaction Documents to which the Company is a party constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid, legal and binding obligations of the Company, enforceable in accordance with their respective terms.

(F) The Project constitutes a commercial facility and will advance the Agency's purposes by promoting employment opportunities and preventing economic deterioration in the County. The Project Facility is, and so long as this Lease shall remain in effect, the Project Facility will continue to be a "project", as such quoted term is defined in the Act, and the Company will not take any action (or omit to take any action), or allow any action to be taken or not taken, which action, inaction or omission would in any way cause the Project Facility not to constitute a "project", as such quoted term is defined in the Act.

(G) The Project Facility and the operation thereof will comply with all Applicable Laws in all material respects, and the Company will indemnify, defend (with counsel selected by the Agency and reasonably acceptable to the Company) and save the Agency and its officers, members, agents (other than the Company), attorneys, servants and employees, past, present and future, harmless from all claims, liabilities, damages, fees, expenses, fines and penalties due to failure, or alleged failure, to comply with all Applicable Laws. The Company shall cause all notices as required by all Applicable Laws to be given, and shall use commercially reasonable efforts to cause Sublessees and all others to comply with all Applicable Laws applying to or affecting the conduct of work on the Project or the operation of the Project Facility, and the Company will indemnify, defend (with counsel selected by the Agency and reasonably acceptable to the Company) and save the Agency and its officers, members, agents (other than the Company), attorneys, servants and employees, past, present and future harmless, from all claims, liabilities, damages, fees, expenses, fines and penalties due to failure, or alleged failure, to comply therewith; provided that such claims, liabilities, damages, fees, expenses, fines and penalties of the Agency are not incurred or do not result solely from the intentional wrongdoing of the Agency or any of its members, officers, agents (other than the Company), attorneys, servants or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its officers, members, agents (other than the Company), attorneys, servants or employees, and notwithstanding the breach of any statutory obligation or any rule of comparative or apportioned liability.

(H) The Project will not have a "significant adverse environmental impact" (as such term is used in SEQRA) and the Company hereby covenants to comply with all mitigating measures, requirements and conditions enumerated in the resolution adopted by the Agency on February 11, 2015 under SEQRA and the negative declaration issued by the Agency pursuant thereto applicable to the acquisition, renovation, installation, equipping and operation of the Project Facility contemplated by Section 4.1 of this Lease and in any other approvals issued by any other Governmental Authority with respect to the Project Facility. No material changes with respect to any aspect of the Project Facility have arisen from the date of adoption of such resolution and the issuance of such negative declaration which would cause the determinations contained therein to be untrue.

(I) Intentionally omitted.

(J) Intentionally omitted.

(K) There are no actions, suits, investigations or proceedings of or before any Governmental Authority, pending or, to the best of the Company's knowledge, threatened against the Company or any of its Property which (i) either in any case or in the aggregate, if adversely determined, would materially, adversely affect the business, operations or condition, financial or otherwise, of the Company, or (ii) question the validity of any of the Transaction Documents or any action to be taken in connection with the transactions contemplated thereby.

(L) To the best of its knowledge, the Company is not in default with respect to any order, writ, injunction or decree of any Governmental Authority, or in violation of any law, statute or regulation, domestic or foreign, to which the Company or any of its Property is subject, which would have a material adverse effect on the Company.

(M) The subleasing of the Project Facility by the Agency to the Company and the granting of the Financial Assistance have induced the Company to proceed with the Project. The granting of the Financial Assistance by the Agency with respect to the Project Facility will promote the job opportunities, health, general prosperity and economic welfare of the inhabitants of the County and the State and improve their prosperity and standard of living, and will prevent unemployment and economic deterioration and thereby serve the public purposes of the Act.

(N) The Company shall (i) cause FedEx to (a) relocate to the Project Facility, on or before April 1, 2016 (the "FedEx Completion Date"), not less than fifty-nine (59) full-time equivalent, private sector jobs, as described in the Application, and maintain all such jobs throughout the term of this Agreement, (b) create at least seventeen (17) new, full-time equivalent, private sector jobs at the Project Facility within one (1) year after the FedEx Completion Date as described in the Application, and maintain all such jobs throughout the term of this Agreement, and (c) create at least an additional ten (10) new, full-time equivalent, private sector jobs at the Project Facility within three (3) years after the FedEx Date as described in the Application, and maintain all such jobs throughout the term of this Agreement, and (ii) create or cause to be created at least two hundred (200) new, full-time equivalent, private sector construction jobs at the Project Facility during the period from the Closing Date until the Completion Date (collectively, the "Minimum Employment Requirement").

(O) The funds available to the Company are sufficient to pay all costs in connection with the acquisition, renovation, installation and equipping of the Project Facility contemplated by Section 4.1 of this Lease.

(P) The Company is not a Prohibited Person, no Guarantor is a Prohibited Person and no Affiliate of the Company or any Guarantor is a Prohibited Person and no member or shareholder, as the case may be, of the Company, is a Prohibited Person.

(Q) Neither this Lease nor any other Transaction Document nor any other document, certificate, agreement or instrument furnished to the Agency by or on behalf of the Company or any Guarantor contains any untrue statement of a material fact or omits to state a

material fact necessary in order to make the statements contained herein and therein not misleading.

(R) No funds of the Agency shall be used in connection with the transactions contemplated by this Lease for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given hereunder to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State.

(S) The Company is, and shall at all times during the term of this Lease, continue to be owned solely by Joseph J. Lostritto, Glenn Lostritto, and/or trusts for the benefit of their immediate family members; provided, however, that the aforementioned persons may transfer all or any part of their interests in the Company to members of their immediate family (or trusts for the benefit of such immediate family members) and/or to others approved in writing by the Agency in its reasonable discretion, provided that no such transfers shall result in a change in the day-to-day control of the management and operations of the Company, except as permitted under Section 10.1(A)(15) of this Lease. The Agency agrees to use reasonable efforts to respond to any such request within twenty (20) days after the Agency's receipt (or refusal of receipt) of such request in writing.

(T) The Project Facility is located entirely within the boundaries of the Town of Oyster Bay, Nassau County, New York, is not located in whole or in part within the boundaries of any incorporated village, and is located only within the Bethpage Union Free School District.

(U) The total cost of the Project is at least \$23,600,000.

(V) As of the Closing Date, no leases, licenses or other occupancy arrangements exist with respect to the Project Facility or any part thereof, and no Person (other than the Company) is in occupancy or possession of any portion of the Project Facility, except pursuant to the Company Lease, this Lease and the space leases set forth on Schedule A (collectively, the "Pre-Closing Leases"). The Company represents and warrants to the Agency that the Pre-Closing Leases are in all respects subject and subordinate to this Lease, the Company Lease, the PILOT Agreement, the PILOT Mortgage and all other Permitted Encumbrances, subject to the terms of any subordination, non-disturbance and attornment agreement executed by the Agency with respect thereto.

(W) The Company has not conveyed, assigned, transferred, mortgaged, hypothecated, pledged or granted a security interest in its interest in the Project Facility pursuant to a mortgage, security agreement, pledge or other agreement that prohibits the Company from executing and delivering the Company Lease, this Lease or any other Transaction Document. The Company covenants and agrees that it shall not enter into a mortgage, security agreement, pledge or other agreement pursuant to which the existence of the Company Lease, this Lease or any other Transaction Document would constitute a default or an event of default.

(X) Neither the Company nor any Guarantor nor any Affiliate of any of the foregoing has employed or retained any appointed or elected governmental official to solicit or secure the Agency's undertaking of the Project or its agreement to enter into this Lease or any other Transaction Document upon an agreement of understanding for a commission or percentage, brokerage or contingent fee.

(Y) The Project Facility does not and will not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project. For purposes of this representation, retail sales shall mean: (i) sales by a registered vendor under Article 28 of the New York Tax Law primarily engaged in the retail sale of tangible personal property, as defined in subparagraph (i) of paragraph four of subdivision (b) of section 1101 of the New York Tax Law; or (ii) sales of a service to such customers.

ARTICLE III CONVEYANCE AND USE OF PROJECT FACILITY

SECTION 3.1 CONVEYANCE TO THE AGENCY. (A) Pursuant to the Company Lease, the Company has conveyed or will convey to the Agency a leasehold interest in and to the Premises for the purpose of undertaking and completing the Project. The Company hereby represents and warrants that it has good and marketable title to the Premises, free and clear from all Liens except for Permitted Encumbrances, and agrees that the Company will defend (with counsel selected by the Agency and reasonably acceptable to the Company), indemnify and hold the Agency harmless from any expense or liability due to any defect in title thereto or due to any defect in the leasehold interest granted to the Agency pursuant to the Company Lease.

(B) The Company and the Agency acknowledge that the Project Facility and the interest therein conveyed to the Agency from the Company and subleased by the Agency back to the Company are not "property" as defined in Title 5-A of the Public Authorities Law of the State because such property and the interests therein are security for the Company's obligations to the Agency under this Lease and the other Transaction Documents, including, without limitation, (i) the Company's obligation to acquire, renovate, install, equip and maintain the Project Facility on behalf of the Agency, and (ii) the performance by the Company to the Agency of the Company's other obligations under this Lease and the other Transaction Documents.

SECTION 3.2 USE OF PROJECT FACILITY. Subsequent to the Closing Date, the Company shall be entitled to use the Project Facility in any manner not otherwise prohibited by the Transaction Documents, provided that such use causes the Project Facility to qualify and continue to qualify as a "project" under the Act and does not tend, in the reasonable judgment of the Agency, to bring the Project into disrepute as a public project; provided, further, however, that at no time shall any such use be other than as an office, warehouse and industrial facility for lease to and the exclusive use of FedEx and the other Sublessees, together with uses incidental thereto, except with the prior written consent of the Agency, which consent may be withheld in the Agency's sole and absolute discretion. The Company shall not occupy, use or operate the Project Facility, or any part thereof, or permit or suffer the Project Facility, or any part thereof, to

be occupied, used or operated (1) for any unlawful purpose, or (2) in violation of any certificate of occupancy affecting the Project Facility, or (3) for any use which may constitute a nuisance, public or private, or (4) for any use that would make void or voidable any insurance then in force with respect thereto, or (5) by any tenant, subtenant or occupant whose use, occupancy or operation of the Project Facility would be in violation of Applicable Laws. All permits and licenses necessary for the operation of the Project Facility as contemplated by this Section 3.2 shall be procured promptly by the Company. Any provision of this Lease to the contrary notwithstanding, the Company shall be liable at all times for all risk, loss and damage with respect to the Project Facility.

Nothing in this Section shall constitute an authorization by the Agency for the Company to lease, license, sublease, sub-sublease or permit any other occupancy arrangements with respect to the Project Facility or any part thereof, except in accordance with Section 9.3 of this Lease.

SECTION 3.3 HAZARDOUS MATERIALS.

(A) The Company represents, warrants and covenants that, (i) the Company has not used Hazardous Materials on, from or affecting the Project Facility in any manner that violates any Applicable Law, including, but not limited to, those governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials (each, an "Environmental Law" and, collectively, the "Environmental Laws"), (ii) the environmental and ecological condition of the Project Facility is not in violation of any Applicable Law, including, without limitation, any Environmental Law, (iii) the Company has all Environmental Permits required to renovate and operate the Project Facility and is in compliance with their requirements, (iv) the Premises is not listed in CERCLIS, the NPL or any similar state or local listing nor is it included in an area included in such a list, and the Company has no knowledge that such a listing is pending or contemplated, (v) no event has occurred which, with the passage of time or the giving of notice or both, would constitute a violation of any Environmental Law, (vi) to the best of the Company's knowledge, there are not now, nor have there ever been, underground storage tanks on or under the Premises, (vii) there are no actions, suits, claims or proceedings seeking money damages, injunctive relief, remedial action or any other remedy pending or, to the Company's knowledge, threatened relating to a violation of Environmental Law or the disposal, discharge or release of Hazardous Materials, and (viii) to the best of the Company's knowledge, no prior owner of the Project Facility or any tenant, subtenant, user, occupant, prior tenant, prior subtenant, prior user or prior occupant, has used Hazardous Materials on, from or affecting the Project Facility in any manner which violates any Environmental Law.

(B) The Company shall keep and shall cause the Project Facility to be kept free of Hazardous Materials except in compliance with Environmental Laws. Without limiting the foregoing, the Company shall not cause or knowingly permit the Project Facility to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all Environmental Laws, nor shall the Company cause or permit, as a result of any intentional or unintentional act or omission on the part of the Company, or any tenant, subtenant, user or occupant of the Project Facility, or any part thereof, an unlawful release of Hazardous Materials onto, under or from the Project Facility or onto any other property. The Company shall not cause or knowingly permit, as a result of any

intentional or unintentional act or omission on the part of the Company or its members, managers, shareholders, directors, officers, agents, servants, employees or representatives, a release of Hazardous Materials on, under or from the Project Facility.

(C) The Company shall comply with and cause all tenants, subtenants, users and occupants of the Project Facility, or any part thereof, to comply with, all Environmental Laws whenever and by whomever triggered, and shall obtain and comply with, and shall cause all tenants, subtenants, users and occupants of the Project Facility to obtain and comply with, any and all approvals, registrations or permits required thereunder. The Company agrees to provide the Agency with copies of any notifications given by the Company to any Governmental Authorities or received by the Company from any Governmental Authorities with respect to the environmental or ecological condition of the Project Facility. The Company hereby agrees that at all times during which it owns, leases or operates the Project Facility, and whether or not this Lease or any other Transaction Document is in effect, to comply with, and to use reasonable efforts to cause compliance by all tenants, subtenants, users and occupants of the Project Facility with, the provisions of the Environmental Indemnification.

(D) The Company shall (1) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up, remove or contain all Hazardous Materials on, from or affecting the Project Facility, if any, (a) in accordance with all Environmental Laws, (b) to the satisfaction of the Agency, and (c) in accordance with the orders and directives of all Governmental Authorities, and (2) defend (with counsel selected by the Agency and reasonably acceptable to the Company), indemnify, and hold harmless the Agency and its employees, agents, officers, attorneys, servants and members, past, present and future, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to: (a) the presence, disposal, release or threatened release of any Hazardous Materials on, from, under or affecting the Project Facility, (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (c) any lawsuit brought or threatened, settlement reached, or any government order relating to such Hazardous Materials, and/or (d) any violations of Environmental Laws which are based upon or in any way related to such Hazardous Materials, including, without limitation, consultant fees, costs of remediation, investigation and laboratory fees, court costs, reasonable attorney fees and litigation expenses. Costs under this subsection (D) will be repaid upon demand with interest at the Default Interest Rate commencing fifteen (15) days after such demand.

(E) In the event this Lease is terminated, the Company shall deliver the Project Facility to the Agency free of any and all Hazardous Materials (except Hazardous Materials the presence of which do not violate any Environmental Laws), so that the condition of the Project Facility shall conform with all Environmental Laws affecting the Project Facility.

(F) The Company agrees that the Agency and its officers, agents, employees, members, servants or representatives, may at any reasonable time on reasonable advance notice (except in the event of an emergency for which no such advance notice is required), and at the Company's expense inspect the Company's books and records and inspect and conduct any tests

on the Project Facility, including taking soil samples, in order to determine that the Company is in compliance with all Environmental Laws.

(G) The Company shall obtain and keep in full force and effect at all times during the term of this Lease insurance at a reasonable cost to cover the Company's obligations under this Section 3.3.

SECTION 3.4 NON-MERGER. During the term of this Lease, there shall be no merger of this Lease or the Company Lease nor of the leasehold estate created by the Company Lease or the subleasehold estate created by this Lease with the fee estate in the Premises or any part thereof by reason of the fact that the same person, firm, corporation or other entity may acquire or own or hold, directly or indirectly, (1) this Lease or the Company Lease or the subleasehold estate created by this Lease or the leasehold estate created by the Company Lease or any interest in this Lease or the Company Lease or in any such leasehold or subleasehold estate and (2) the fee estate in the Premises or any part thereof or any interest in such fee estate, and no such merger shall occur unless and until all corporations, firms and other entities, including any mortgagee having any interest in (x) this Lease or the Company Lease or the subleasehold estate created by this Lease or the leasehold estate created by the Company Lease and (y) the fee estate in the Premises or any part thereof or any interest in such fee estate, shall join in a written instrument effecting such merger and shall duly record the same.

SECTION 3.5 TITLE INSURANCE. On or prior to the Closing Date, the Company will obtain and deliver to the Agency, in form, amount and substance satisfactory to the Agency, (a) an owner's title insurance policy (the "Title Policy") insuring the Agency's leasehold interest in the Premises against loss as a result of defects in title, subject only to Permitted Encumbrances, (b) a mortgagee title insurance policy insuring the PILOT Mortgagee's mortgage interest in the Premises against loss as a result of defects in title, subject only to Permitted Encumbrances, and (c) a current survey of the Premises certified to the Agency, the Company, the PILOT Mortgagee and the title insurance company issuing the Title Policy. Any proceeds of the Title Policy shall be paid to the Company and applied by the Company to remedy the applicable defect in title. If not so capable of being applied or if a balance remains after such application, the Net Proceeds or the remaining balance of the Net Proceeds, as the case may be, shall be applied to the payment of any sums due the Agency under this Lease or under any other Transaction Document, and any balance thereafter may be used by the Company for any lawful corporate purpose.

ARTICLE IV UNDERTAKING AND COMPLETION OF THE PROJECT

SECTION 4.1 ACQUISITION, RENOVATION, INSTALLATION AND EQUIPPING OF THE PROJECT FACILITY.

(A) Notwithstanding the third Whereas clause hereto, the Company shall, on behalf of the Agency, promptly undertake and thereafter diligently and continuously prosecute to completion the initial acquisition, renovation, installation and equipping of the Project Facility, as more particularly described on Schedule B to this Lease (collectively, the "Initial Work").

The Company shall perform the Initial Work or cause the Initial Work to be performed in a first-class, workmanlike manner using high grade materials, free of defects in materials and workmanship. The Company acknowledges and agrees that the Initial Work shall not mean or include tenant improvement work other than the construction of the new building for occupancy by FedEx.

(B) No material change in the Initial Work shall be made unless the Agency shall have consented thereto in writing (which consent shall not be unreasonably withheld or delayed). If the Agency fails to respond to the Company's written request for such consent within twenty (20) days after delivery of such request to the Agency, then the Agency shall be deemed to have consented; provided, however, that if such request requires the approval of the members of the Agency (as determined by the Agency and communicated to the Company within said twenty (20) day period), the Agency shall have such reasonable additional period of time as may be required to convene a meeting of the members of the Agency to consider such request; provided that any delay of more than twenty (20) days after delivery of such written request to the Agency shall extend the Scheduled Completion Date by the number of days in excess of twenty (20) days.

(C) Title to all materials, equipment, machinery and other items of Property presently incorporated or installed in and which are a part of the Project Facility shall vest in the Agency immediately upon execution of the Bill of Sale to Agency. Title to all materials, equipment, machinery and other items of Property acquired subsequent to the Closing Date and intended to be incorporated or installed in and to become part of the Project Facility shall vest in the Agency immediately upon deposit on the Premises or incorporation or installation in the Project Facility, whichever shall first occur. The Company shall execute, deliver and record or file all instruments necessary or appropriate to vest title to the above in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third Persons.

(D) The Agency shall enter into, and accept the assignment of, such contracts as the Company may request in order to effectuate the purposes of this Section 4.1; provided, however, that the liability of the Agency thereunder shall be limited to the moneys of the Company available therefor and advanced by the Company for such purpose pursuant to Section 4.1(H) of this Lease.

(E) The Agency hereby appoints the Company, and the Company hereby accepts such appointment, as its true and lawful agent to perform the following in compliance with the terms, purposes and intent of the Transaction Documents: (1) to acquire, renovate, install and equip the Project Facility as contemplated by this Lease, (2) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other Persons, and in general to do all things which may be required or proper, all for such acquisition, renovation, installation and equipping of the Project Facility, with the same powers and with the same validity as the Agency could do if acting in its own behalf, provided that the liability of the Agency thereunder shall be limited to the moneys made available therefore by the Company and advanced for such purposes by the Company pursuant to Section 4.1(H) of this Lease, (3) to pay all fees, costs and expenses incurred in such acquisition, renovation, installation and equipping of the Project Facility from funds made available therefor in accordance with this Lease, and (4) to ask, demand, sue for, levy, recover and receive all such sums of money, debts, dues and other

demands whatsoever which may be due, owing and payable to the Agency under the terms of any contract, order, receipt, writing or instruction entered into by the Company in connection with such acquisition, renovation, installation and equipping of the Project Facility and to enforce the provisions of any contract, agreement, obligation, bond or other performance security in connection with the same.

(F) The Company has given or will give or cause to be given all notices and has complied and will comply or cause compliance with all Applicable Laws applying to or affecting the conduct of work on the Project Facility, and the Company will defend (with counsel selected by the Agency and reasonably acceptable to the Company), indemnify and save the Agency and its officers, members, agents, attorneys, servants and employees, past, present and future, harmless from all fees, expenses, fines and penalties due to failure to comply therewith. All permits and licenses necessary for the prosecution of work on the Project Facility shall be procured promptly by the Company.

(G) The Company shall not take any action, or neglect to take any action, including, without limitation, the employment of any contractor, if such action or inaction results in jurisdictional disputes or strikes or labor disharmony in connection with the Project.

(H) The Company agrees, for the benefit of the Agency, to undertake and complete the Project and to pay all such sums as may be required in connection therewith. Title to or a leasehold interest, as applicable, in portions of the Project Facility acquired, renovated and installed at the Company's cost shall immediately upon such acquisition, renovation or installation vest in the Agency. The Company shall execute, deliver and record or file such instruments as the Agency may reasonably request in order to perfect or protect the Agency's interest in such portions of the Project Facility.

(I) No payment by the Company pursuant to this Section 4.1 shall entitle the Company to any reimbursement for any such expenditure from the Agency or to any diminution or abatement of any amounts payable by the Company under this Lease.

(J) The Company agrees, (i) at the sole expense of the Company, to erect signage at the Project Facility during the renovation, installation and equipping of the Project Facility, which signage shall be in form and content reasonably satisfactory to the Agency and shall identify the Agency and its role in the Project, (ii) at the option of the Agency and at the sole expense of the Company, to install within the Project Facility a sign or plaque permanently memorializing the Agency's role in the Project, which sign or plaque shall be in form, content and placed in a location reasonably satisfactory to the Agency, and (iii) that the Agency may otherwise publicize the Agency's role in the Project; provided that the Agency shall not disclose proprietary information concerning the Company or Sublessees, including the business terms and conditions of any Sublease Agreement related to the Project Facility, except as required by Applicable Law.

(K) The Company agrees to solicit bids from at least one (1) contractor or vendor based in the County for each contract the Company (or any Affiliate thereof) proposes to enter into with respect to the Project Facility, including, without limitation, contracts for construction (including, without limitation, the Initial Work and for buildout of approved

subtenant premises), renovation, alteration, management, purchase of goods or services, maintenance and repair. Further, the Company covenants to use its best efforts to let such contracts, where practicable, to contractors or vendors based in the County.

(L) W/MBE Contractors.

(1) The Company will use its best efforts to take "affirmative steps" (as defined below) to assure that qualified women-owned and/or minority-owned business enterprises ("W/MBE's") are used, when possible, for each contract the Company (or any Affiliate thereof) proposes to enter into with respect to the Project Facility, including, without limitation, contracts for construction (including, without limitation, the Initial Work and for buildout of approved subtenant premises), renovation, demolition, replacement, alteration, management, purchase of goods and services, maintenance and repair.

(2) For purposes of this subsection, the term "affirmative steps" shall mean: (a) placing qualified W/MBE's on solicitation lists; (b) assuring that qualified W/MBE's are solicited whenever they are potential sources; (c) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by qualified W/MBE's; (d) establishing delivery schedules, where the requirement permits, that encourage participation by qualified W/MBE's; and (e) requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in clauses (a) through (d).

(3) For purposes of this subsection, the term "qualified W/MBE's" shall mean those women-owned and/or minority-owned business enterprises designated as such by New York State.

(M) The Company shall furnish to the Agency all information and/or documentation requested by the Agency pursuant to this Section 4.1 and will cooperate with the Agency for the purposes of investigation to ascertain compliance with this Section 4.1.

(N) Notwithstanding any provision of this Lease to the contrary, the Company acknowledges that no sales and use tax exemption is granted pursuant to this Lease or the other Transaction Documents other than the Project Agreement.

SECTION 4.2 COMPLETION OF THE PROJECT FACILITY; FEES.

(A) The Company will proceed with due diligence to commence the Initial Work in accordance with Section 4.1 of this Lease within thirty (30) days after the Closing Date and shall proceed with due diligence to complete the Initial Work, on or before April 1, 2016, as such date may be extended in accordance with this Lease (the "Scheduled Completion Date"). The Company covenants to diligently prosecute its application for any required building permits for the Project Facility. Completion of the Initial Work shall be evidenced by a certificate signed by an Authorized Representative of the Company delivered to the Agency stating (A) the date of such completion, (B) that all labor, services, materials and supplies used therefor and all costs and expenses in connection therewith have been paid, (C) that the Initial Work contemplated by Section 4.1 of this Lease has been completed in a good and workmanlike manner, (D) that the

Company and the Agency have good and valid interests in and to all Property constituting a portion of the Project Facility, free and clear of all Liens and encumbrances except Permitted Encumbrances, and (E) that the Project Facility or the applicable portion thereof, as the case may be, is ready for occupancy, use and operation for its intended purposes. Such certificate shall be accompanied by a certificate of occupancy for the Project Facility and/or all appropriate permissions, licenses or consents required of Governmental Authorities for the occupancy, operation and use of the Project Facility for its intended purposes (other than any such permissions, licenses or consents required with respect to the specific occupancy of the Project Facility, or a portion thereof, by an occupant thereof).

(B) The Company shall pay within the time periods required by applicable Governmental Authorities, all construction related and other fees for the Project, including, without limitation, building permit fees, plumbing fixture permit fees, recreation fees, site planning fees, municipal consultant review fees, special use fees, variance fees, sewer hook up fees, water service installation fees and fire line fees, if any.

SECTION 4.3 REMEDIES TO BE PURSUED AGAINST CONTRACTORS, SUBCONTRACTORS, MATERIALMEN AND THEIR SURETIES. In the event of a default by any contractor, subcontractor or materialman under any contract made by it in connection with the acquisition, renovation, installation and equipping of the Project Facility or in the event of a breach of warranty or other liability with respect to any materials, workmanship or performance guaranty, the Company shall proceed, either separately or in conjunction with others, to exhaust the remedies of the Company and the Agency against the contractor, subcontractor or materialman so in default and against each surety for the performance of such contract. The Company may, in its own name or, with the prior written consent of the Agency, which consent shall not be unreasonably withheld, in the name of the Agency, prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, materialman or surety which the Company deems reasonably necessary, and in such event the Agency hereby agrees, at the Company's sole expense, to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the Agency in any such action or proceeding. The Company shall advise the Agency of any actions or proceedings taken hereunder. The Net Proceeds of any recovery secured by the Company as a result of any action pursued against a contractor, subcontractor, materialman or their sureties pursuant to this Section 4.3 shall be used to the extent necessary to complete the Project Facility then to pay all reasonable costs and expenses incurred by the Agency in connection therewith, and thereafter be paid to the Company for its own use.

ARTICLE V DEMISE OF PROJECT FACILITY; RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE

SECTION 5.1 SUBLEASE OF THE PROJECT FACILITY. In consideration of the Company's covenant herein to make rental payments hereunder, and in consideration of the other covenants of the Company contained herein, including the covenant to make additional and other payments required hereby, the Agency hereby agrees to demise and sublease to the Company, and the Company hereby agrees to rent and sublease from the Agency, a subleasehold interest in the Project Facility, subject only to the Permitted Encumbrances.

SECTION 5.2 DURATION OF THE LEASE TERM; QUIET ENJOYMENT.

(A) The Agency shall deliver to the Company possession of the Project Facility, subject to the provisions of this Lease, and the subleasehold estate created hereby shall commence, on the Closing Date, and the Company shall accept possession of the Project Facility on the Closing Date.

(B) Provided that all amounts, costs and expenses payable by the Company to the Agency under this Lease and all other Transaction Documents are paid in full, the subleasehold estate created hereby shall terminate at 12:00 a.m. on the earlier to occur of (1) December 31, 2036 (the "Stated Expiration Date"), or (2) the date that this Lease shall terminate pursuant to Article X or Article XI hereof.

(C) The Agency shall take no action, other than pursuant to Article X or Article XI of this Lease, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project Facility during the term of this Lease and will, at the request of the Company and at the Company's reasonable expense, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Project Facility.

SECTION 5.3 RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE.

(A) The Company shall pay on the date of execution and delivery of this Lease, as the basic sublease payments due hereunder: (1) the sum of \$1.00, (2) all reasonable fees and expenses of counsel to the Agency and Special Counsel to date with respect to the Project, and (3) all other reasonable costs and expenses incurred by the Agency in connection with the transactions contemplated by this Lease and the other Transaction Documents.

(B) Intentionally omitted.

(C) The Company agrees to pay to the Agency an annual administrative fee in the amount of \$1,000.00 (the "Annual Fee"). The Annual Fee for the first year of the lease term or part thereof (i.e., 2015) shall be due and payable on the Closing Date and the Annual Fee for each year thereafter (i.e., 2016 and thereafter) shall be due and payable, in advance, on January 1 of each year.

(D) Within fifteen (15) days after receipt of a demand therefor from the Agency, the Company shall pay to the Agency the sum of the reasonable costs and expenses of the Agency and the officers, members, agents, attorneys, servants and employees thereof, past, present and future, incurred by reason of the Agency's ownership, leasing, subleasing, sub-subleasing or sale of the Project Facility or in connection with the carrying out of the Agency's duties and obligations under this Lease or any of the other Transaction Documents, and any other reasonable fee or expense of the Agency with respect to the Project Facility, the leasing, subleasing or sale of the Project Facility to the Company, the sub-subleasing of the Project Facility to FedEx and the other Sublessees, or any of the other Transaction Documents, the payment of which is not otherwise provided for under this Lease.

(E) The Company agrees to make the above-mentioned payments in immediately available funds, without any further notice or demand, by wire transfer or other

form of payment satisfactory to the Agency, in lawful money of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. In the event the Company shall fail to make any payment required by this Section 5.3 within ten (10) days of the date such payment is due, the Company shall pay the same, together with interest thereon at the Default Interest Rate, from the date on which such payment was due until the date on which such payment is received by the Agency.

SECTION 5.4 NATURE OF OBLIGATIONS OF THE COMPANY HEREUNDER.

(A) The obligations of the Company to make the payments required by this Lease and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be general obligations of the Company and shall be absolute and unconditional irrespective of any defense or any right of setoff, recoupment, counterclaim or abatement that the Company may otherwise have against the Agency. The Company agrees that it will not suspend, discontinue or abate any payment required by, or fail to observe any of its other covenants or agreements contained in, this Lease, or terminate this Lease (except as set forth in Section 11.1 hereof), for any cause whatsoever, including, without limiting the generality of the foregoing, failure to complete the Project, any defect in the title, design, operation, merchantability, fitness or condition of the Project Facility or any part thereof or in the suitability of the Project Facility or any part thereof for the Company's purposes or needs, failure of consideration for, destruction of or damage to, Condemnation of or the use of all or any part of the Project Facility, any change in the tax or other laws of the United States of America or of the State or any political subdivision thereof, or any failure of the Agency to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Lease.

(B) Nothing contained in this Section 5.4 shall be construed to release the Agency from the performance of any of the agreements on its part expressly contained in this Lease, and, in the event the Agency should fail to perform any such agreement, the Company may institute such action against the Agency as the Company may deem necessary to compel performance or recover damages for non-performance (subject to the provisions of Section 12.9 hereof); provided, however, that the Company shall look solely to the Agency's estate and interest in the Project Facility for the satisfaction of any right or remedy of the Company for the collection of a judgment (or other judicial process) requiring the payment of money by the Agency in the event of any liability on the part of the Agency, and no other Property or assets of the Agency or of the members, officers, agents (other than the Company), servants or employees, past, present and future, of the Agency shall be subject to levy, execution, attachment or other enforcement procedure for the satisfaction of the Company's remedies under or with respect to this Lease, the relationship of the Agency and the Company hereunder or the Company's or any Sublessee's use and occupancy to the Project Facility, or any other liability of the Agency to the Company.

SECTION 5.5 GRANT OF SECURITY INTEREST.

This Lease shall constitute a "security agreement", as such term is defined in the Uniform Commercial Code adopted in the State, as the same may from time to time be in effect

(the "UCC"). The Company hereby grants the Agency a first-priority security interest in all of the right, title and interest of the Company in the Project Facility and in all additions and accessions thereto, all replacements and substitutions therefor, all books, records and accounts of the Company pertaining to the Project Facility, and all proceeds and products thereof (collectively, the "Collateral"), as security for payment of the rental payments and all other payments and obligations of the Company hereunder, and the Agency is authorized to file financing statements with respect to such Collateral without the Company executing the same. If any default shall occur under this Lease or any of the other Transaction Documents, the Agency shall have, in addition to any and all other rights and remedies set forth in this Lease, and may exercise without demand, any and all rights and remedies granted to a secured party under the UCC, including, but not limited to, the right to take possession of the Equipment and any fixtures or other personal property that constitute part of the Collateral, and the right to advertise and sell the same, or any part thereof, pursuant to and in accordance with the UCC. The Company agrees that any notice of public or private sale with respect to such Collateral, or any part thereof, shall constitute reasonable notice if it is sent to the Company not less than ten (10) days prior to the date of any such sale. The Company hereby irrevocably appoints the Agency as its attorney-in-fact to execute, deliver and/or file any instruments or statements necessary or convenient to perfect and continue the security interest granted herein.

SECTION 5.6 SUBLEASE.

(A) The Company covenants and agrees to enforce each Sublease Agreement approved by the Agency in accordance with its terms for the benefit of the Agency.

(B) In order to further secure the payment and performance of the obligations of the Company under this Lease and the other Transaction Documents, the Company does hereby collaterally assign, transfer and set over to the Agency all of the Company's right, title and interest in and to all Sublease Agreements, including all sublease rentals, revenues and receipts therefrom, and the right to enforce all of the Company's rights and remedies thereunder.

(C) The Company agrees not to terminate, modify, amend or supplement any Sublease Agreement, or any of the terms thereof, or grant any concessions in connection therewith, either orally or in writing, or to accept a surrender thereof, without the prior written consent of the Agency, which consent shall not be unreasonably withheld or delayed, and any attempted termination, surrender, modification, amendment of or supplement to any Sublease Agreement without such written consent shall be null and void.

(D) In the exercise of the powers herein granted, no liability shall be asserted or enforced against the Agency, all such liability being hereby expressly waived and released by the Company. The Agency shall not be obligated to perform or discharge any obligation, duty or liability under any Sublease Agreement, or under or by reason of this assignment.

ARTICLE VI MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

SECTION 6.1
FACILITY.

MAINTENANCE AND MODIFICATIONS OF THE PROJECT

(A) The Company shall (1) keep the Project Facility in good condition and repair and preserve the same against waste, loss, damage and depreciation, ordinary wear and tear excepted, (2) occupy, use and operate the Project Facility, and shall cause the Project Facility to be occupied, used and operated, in the manner for which it was intended and contemplated by this Lease, (3) make all necessary repairs and replacements to the Project Facility or any part thereof (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen), (4) operate the Project Facility in a sound and economical manner, (5) not abandon the Project Facility, (6) perform or cause to be performed, for and on behalf of the Agency, each and every obligation of the Agency under and pursuant to the Mortgage, and (7) not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Project Facility, or any part thereof, or the interest of the Agency or the Company in the Project Facility or this Lease, except for Permitted Encumbrances. The Agency shall have no obligation to replace, maintain or effect replacements, renewals or repairs of the Project Facility, or to furnish any utilities or services for the Project Facility and the Company hereby agrees to assume full responsibility therefor.

(B) Upon prior written notice to the Agency, the Company may make alterations, modifications or improvements to the Project Facility, or any part thereof, provided:

(1) the Company shall (a) give or cause to be given all notices and comply or cause compliance with all Applicable Laws applying to or affecting the conduct of work on such modification or improvement to the Project Facility, or any part thereof, (b) indemnify, defend (with counsel selected by the Agency and reasonably acceptable to the Company) and save the Agency and its officers, members, agents (other than the Company), attorneys, servants and employees, past, present and future harmless from all fees, expenses, fines and penalties due to failure to comply therewith, (c) promptly procure all permits and licenses necessary for the prosecution of any work described in this Section 6.1(B), and (d) not be in default under this Lease or under any of the other Transaction Documents beyond applicable notice and cure periods;

(2) such alterations, modifications and improvements are effected with due diligence, in a good and workmanlike manner and in compliance with all Applicable Laws;

(3) the Company shall promptly and fully pay for such alterations, modifications and improvements in accordance with the terms of the applicable contract(s) therefor;

(4) the alteration, modification or improvement to the Project Facility shall not constitute or cause a default under any of the Transaction Documents;

(5) the Company shall furnish to the Agency, at least thirty (30) days prior to commencing such alteration, modification or improvement to the Project Facility, detailed plans and specifications therefor; provided, further, however, that such plans

need not be furnished to the Agency for nonstructural modifications or improvements to the Project Facility which do not exceed, at any one time, \$250,000.00 in value;

(6) as a result of such alterations, modifications or improvements, neither the usefulness, structural integrity nor operating efficiency of the Project Facility would be impaired in the reasonable judgment of the Agency;

(7) if the cost of such alterations, modifications or improvements is estimated to exceed \$500,000.00, such alterations, modifications or improvements shall be conducted only after the Company shall have furnished to the Agency a labor and materials payment bond, or other security, naming the Agency as dual obligee and otherwise in form and substance satisfactory to the Agency, or the Company shall have furnished to the Agency other evidence satisfactory to the Agency in its reasonable discretion of the availability of sufficient funding for such alterations, modifications or improvements;

(8) the Agency receives reasonably satisfactory evidence that such alterations, modifications and alterations do not change the nature of the Project Facility such that it would not comply with the terms of this Lease or such that it would not constitute a "project" (as such quoted term is defined in the Act);

(9) no such alterations, modifications or improvements shall be entitled to any "financial assistance" (as such quoted term is defined in the Act) from the Agency unless agreed to in writing by the Agency; however, it is expressly understood that any such alterations, modifications or improvements (including new structures) shall automatically become part of the Project Facility and shall be subject to the burdens and obligations of this Lease and the PILOT Agreement; and

(10) an Event of Default shall not have occurred and be continuing under this Lease or any other Transaction Document.

All such alterations, modifications and improvements shall constitute a part of the Project Facility and the Company shall deliver or cause to be delivered to the Agency appropriate documents to convey a leasehold interest in such property to the Agency, free and clear of all liens, charges, encumbrances, security interests or claims other than Permitted Encumbrances, and to subject such property to this Lease.

The provisions of this Subsection (B) shall not apply to the Initial Work contemplated by Section 4.1 of this Lease.

(C) The Company has given or will give or cause to be given all notices and has complied or will comply or cause compliance with all Applicable Laws applying to or affecting the operation of the Project Facility, and the Company will defend (with counsel selected by the Agency and reasonably acceptable to the Company), indemnify and save the Agency and its officers, members, agents (other than the Company), attorneys, servants and employees, past, present and future, harmless from all fees, expenses, fines and penalties due to failure to comply therewith.

(D) In the event that any such alterations, modifications or improvements (including the construction of new structures) undertaken pursuant to this Section 6.1 are made in connection with a Proposed Sublease, such alterations, modifications or improvements (including the construction of new structures) shall only be permitted with the consent of the Agency to such Proposed Sublease in accordance with Section 9.3 of this Lease. Any such alterations, modifications and improvements (including new structures) shall automatically become part of the Project Facility and shall be subject to the burdens and obligations of this Lease and the PILOT Agreement.

SECTION 6.2 TAXES, ASSESSMENTS AND UTILITY CHARGES.

(A) The Company shall pay or cause to be paid, as the same respectively become due: (1) all taxes and governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to the Project Facility (other than those taxes for which payments in lieu thereof are being paid pursuant to the PILOT Agreement), (2) all utility and other charges, including "service charges" and deposits, incurred or imposed for the operation, maintenance, use, occupancy, upkeep and improvement of the Project Facility, and (3) all assessments and charges of any kind whatsoever lawfully made against the Project Facility by any Governmental Authority for public improvements; provided that, with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Company shall be obligated hereunder to pay only such installments as are required to be paid during the term of this Lease.

(B) If the Company fails to pay any tax, assessment or charge required to be paid pursuant to this Section 6.2, the Agency may pay or cause to be paid such taxes, assessments or charges. The Company shall reimburse the Agency for any amount paid under this Section 6.2, together with interest thereon from the date of payment at the Default Interest Rate.

(C) Notwithstanding the provisions of this Section 6.2, the Company may withhold any such payment and the Company may in good faith actively contest the terms, amount, validity or the applicability of any payment referred to in such subsection (A), provided that (1) the Company shall have first notified the Agency in writing of such contest, (2) the Company is not in default under any of the Transaction Documents beyond applicable notice and cure periods, (3) the overall operating efficiency of the Project for the purposes for which it is intended is not materially impaired, (4) neither the Project Facility nor any part thereof or interest therein would be in any immediate danger of being sold, forfeited or lost by reason of such proceedings, (5) the Company shall have set aside on its books adequate reserves with respect thereto, and (6) the Company diligently prosecutes such contest to completion. Otherwise, the Company shall promptly take such action with respect thereto as shall be reasonably satisfactory to the Agency.

SECTION 6.3 INSURANCE REQUIRED. During the term of this Lease, the Company shall maintain insurance with respect to the Project Facility against such risks and liabilities and for such amounts as are, in the Agency's judgment, customarily insured against by businesses of like size and type, paying or causing to be paid, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(A) Insurance protecting the interests of the Company, the PILOT Mortgagee and the Agency as insureds, as their interests may appear, against loss or damage to the Project Facility by fire, lightning, vandalism, malicious mischief and other perils embraced by so-called "All Risks" insurance, in amounts sufficient to prevent the Company, the PILOT Mortgagee or the Agency from becoming a co-insurer under such policy and not less than 100% of the replacement cost of the Project Facility, without deduction for depreciation, and including coverage against acts of terrorism. Additionally, during any period in which construction work or alterations are being performed at the Project Facility, the Company shall maintain extended coverage casualty insurance in the form of a "Builder's Risk" completed value non-reporting policy in an amount satisfactory to the Agency and which contains a provision granting the insured permission to complete and/or occupy.

(B) To the extent applicable, workers' compensation insurance, disability benefits insurance and such other forms of insurance which the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project Facility or who are responsible for the acquisition, renovation, installation and equipping of the Project Facility.

(C) General liability insurance protecting the Company, the PILOT Mortgagee and the Agency against loss or losses from liabilities imposed by law or assumed in any written contract (including, without limitation, the contractual liability assumed by the Company under Section 8.2 of this Lease) or arising from personal injury or death or damage to the Property of others caused by any accident or occurrence, with limits of not less than \$1,000,000.00 per person per accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000.00 per accident or occurrence on account of damage to the Property of others, excluding liability imposed upon the Company by any applicable workers' compensation law, and a separate umbrella liability policy protecting the Company, the PILOT Mortgagee and the Agency with a limit of not less than \$100,000,000.00, as said amounts may be adjusted by the Agency from time to time in its sole and absolute discretion.

(D) During any period of construction, renovation, improvement or reconstruction, to the extent not covered by the general liability insurance set forth in Subsection (C) above, Owners & Contractors Liability insurance for the benefit of the Company, the PILOT Mortgagee and the Agency in a minimum amount of \$2,000,000.00 aggregate coverage for personal injury and property damage.

(E) Boiler and machine property damage insurance in respect of any steam and pressure boilers and similar apparatus, insuring risks normally insured against under boiler and machinery policies and in amounts and with deductibles customarily obtained for similar enterprises.

(F) A policy or policies of flood insurance in an amount not less than the maximum amount of flood insurance available with respect to the Project Facility under the Flood Disaster Protection Act of 1973, as amended. The requirements of this Subsection (F) shall be waived upon presentation of evidence satisfactory to the Agency that no portion of the Project Facility is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards.

(G) Such other insurance in such amounts and against such insurable hazards and risks as the Agency from time to time may reasonably require, including, without limitation, environmental hazard and liability insurance.

SECTION 6.4 ADDITIONAL PROVISIONS RESPECTING INSURANCE.

(A) All insurance required by Section 6.3 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company and authorized to write such insurance in the State and satisfactory and having an A.M. Best rating satisfactory to the Agency. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company is engaged and shall provide that such insurance shall be without any right of contribution from any other insurance carried by the Agency. All policies evidencing such insurance shall name the Company, the PILOT Mortgagee and the Agency as insureds, as their interests may appear, and naming the Agency as loss payee (subject to the insurance provisions of the Bank Mortgage) and the PILOT Mortgagee as mortgagee, and provide for at least thirty (30) days' written notice to the Company, the PILOT Mortgagee and the Agency prior to cancellation, lapse, reduction in policy limits or material change in coverage thereof. All insurance required hereunder shall be in form, content and coverage satisfactory to the Agency. Certificates satisfactory in form and substance to the Agency to evidence all insurance required hereby shall be delivered to the Agency on or before the Closing Date. The Company shall deliver or cause to be delivered to the Agency on or before the first Business Day of each calendar year thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance in the amounts and of the types required by Sections 6.3 hereof. At least thirty (30) days prior to the expiration of any such policy, the Company shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Lease.

(B) All premiums with respect to the insurance required by Section 6.3 hereof shall be paid by the Company; provided, however, that, if the premiums are not timely paid, the Agency may pay such premiums and the Company shall pay immediately upon demand all sums so expended by the Agency, together with interest thereon at the Default Interest Rate.

(C) In the event of construction, reconstruction, improvement or renovation of any part of the Project Facility, the Company shall require its contractors and subcontractors, if any, to name the Agency and the PILOT Mortgagee as an additional insured on liability policies carried by such contractors or subcontractors with respect to their operations at the Premises or with respect to the Project.

(D) Each of the policies evidencing the insurance required by Section 6.3 of this Lease shall provide that: (i) there shall be no recourse against the Agency or the PILOT Mortgagee for the payment of premiums or commissions or, if such policies provide for the payment thereof, additional premiums or assessments; (ii) in respect of the interest of the Agency or the PILOT Mortgagee in such policies, the insurance shall not be invalidated by any action or inaction of the Company or any other Person and shall insure the Agency and the PILOT Mortgagee regardless of, and any losses shall be payable notwithstanding, any such action or

inaction; (iii) if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or if there shall occur any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Agency or the PILOT Mortgagee until at least thirty (30) days after receipt by the Agency and the PILOT Mortgagee of written notice by such insurers of such cancellation, lapse, expiration, reduction or change; and (iv) the insurers waive subrogation thereunder against any Person insured under such policy, and waive any right of the insurers to any setoff or counterclaim or other deduction, in respect of any liability of any Person insured under such policy.

(E) THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE COMPANY'S BUSINESS OR INTEREST IN THE PROJECT FACILITY.

(F) Any provision of this Lease to the contrary notwithstanding, at any time during the term of this Lease that any portion of the Bank Loan is outstanding and the Bank Mortgage remains a Lien on the Project Facility, the Agency agrees that (i) the Bank shall be the loss payee with respect to the Net Proceeds of the insurance required by Sections 6.3(A) and (E) hereof, and (ii) the provisions of Sections 6.5(A) and 7.1(B) hereof shall be superseded and replaced by the applicable provisions of the Bank Mortgage.

SECTION 6.5 APPLICATION OF NET PROCEEDS OF INSURANCE. The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.3 hereof shall be applied as follows, subject to Section 6.4(F) of this Lease: (A) the Net Proceeds of the insurance required by Sections 6.3(A) and 6.3(E) hereof shall be applied as provided in Section 7.1 hereof, and (B) the Net Proceeds of the insurance required by Sections 6.3(B), 6.3(C) and 6.3(D) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

SECTION 6.6 PAYMENTS IN LIEU OF TAXES.

(A) It is recognized that, under the provisions of the Act, the Agency is not required to pay certain taxes or assessments upon the Property acquired by it or under its jurisdiction, control or supervision or upon its activities. It is the intention of the parties hereto that the Project Facility be treated as exempt from real property taxation to the extent set forth in the PILOT Agreement. Accordingly, the parties hereto acknowledge that the Agency shall file New York State Board of Real Property Services Form RP-412-a (a "Real Property Tax Exemption Form") with respect to the Project Facility. The Company hereby consents to any enforcement action provided to the Taxing Entities pursuant to law in the event that the Company should fail to pay any taxes not exempted as aforesaid and shall not object to any such enforcement action on the grounds that a leasehold interest in the Project Facility is held by the Agency or that the Project Facility is under the Agency's jurisdiction, control or supervision or subject to its activities.

(B) The Agency and the Company hereby agree that the Company shall be required to make or cause to be made payments in lieu of taxes to the school districts, cities,

towns, county, villages and other political unit(s) wherein the Project Facility is located having taxing powers (such political units are hereinafter collectively referred to as the "Taxing Entities"), in such amounts and at such times as are required by the PILOT Agreement.

ARTICLE VII DAMAGE, DESTRUCTION AND CONDEMNATION

SECTION 7.1 DAMAGE OR DESTRUCTION.

(A) If the Project Facility shall be damaged or destroyed, in whole or in part:

(1) the Agency shall have no obligation to replace, repair, rebuild or restore the Project Facility;

(2) there shall be no abatement or reduction in the amounts payable by the Company under this Lease or the PILOT Agreement (whether or not the Project Facility is replaced, repaired, rebuilt or restored) unless otherwise agreed to in writing by the Agency;

(3) the Company shall promptly give notice thereof to the Agency; and

(4) except as otherwise provided in subsection (B) of this Section 7.1, (a) the Company shall promptly replace, repair, rebuild or restore the Project Facility to substantially the same condition and value as existed prior to such damage or destruction, with such changes, alterations and modifications as may be desired by the Company and consented to in writing by the Agency, provided that such changes, alterations or modifications do not so change the nature of the Project Facility that it does not constitute a "project", as such quoted term is defined in the Act, or change the use of the Project Facility as specified in Section 3.2 hereof without the prior written consent of the Agency, and (b) (1) the Agency shall make available to the Company (solely from the Net Proceeds of any insurance settlement relating to the Project Facility, if any, on deposit with the Agency) such moneys as may be necessary to pay the costs of the replacement, repair, rebuilding or restoration of the Project Facility, and, subject to the provisions of Section 6.4(F) of this Lease, in the event that the funds from the Net Proceeds of any insurance settlement provided by the Agency to the Company, if any, are not sufficient to pay in full the costs of such replacement, repair, rebuilding or restoration, the Company shall nonetheless complete such work and shall pay from its own moneys that portion of the costs thereof in excess of such funds, and (2) any balance of such funds from the Net Proceeds of any insurance settlement, if any, remaining on deposit with the Agency after payment of all of the costs of such replacement, repair, rebuilding or restoration shall be paid to the Company for its own purposes.

(B) Notwithstanding anything to the contrary contained in subsection (A) of this Section 7.1, the Company shall not be obligated to replace, repair, rebuild or restore the Project Facility, and the Net Proceeds of any insurance settlement shall not be applied as provided in subsection (A) of this Section 7.1, if the Company shall notify the Agency that it elects to exercise its option under Article XI hereof to terminate this Lease. In such event, subject to the provisions of Section 6.4(F) of this Lease, the Net Proceeds collected by the

Agency under any and all policies of insurance covering the damage to or destruction of the Project Facility, after deducting the amount necessary to repay the Indebtedness, shall be paid to the Company for its own purposes. If the Net Proceeds collected under any and all policies of insurance are less than the amount necessary to repay the Indebtedness in full, the Company shall pay to the Agency the difference between the Net Proceeds of such insurance and the amount necessary to repay the Indebtedness in full.

(C) Unless an Event of Default under any of the Transaction Documents shall have occurred and be continuing, the Company may adjust all claims under any policies of insurance required by Section 6.3(A) and 6.3(C) hereof.

(D) The Company hereby waives the provisions of Section 227 of the Real Property Law of the State or any laws of like import, now or hereafter in effect.

SECTION 7.2 CONDEMNATION.

(A) To the best of the Company's knowledge, no Condemnation or eminent domain proceeding has been commenced or threatened against any part of the Project Facility or the Agency's or the Company's interest therein.

(B) If title to, or the use of, all or any part of the Project Facility shall be taken by Condemnation:

(1) the Agency shall have no obligation to restore the Project Facility, or any part thereof;

(2) there shall be no abatement or reduction in the amounts payable by the Company under this Lease or the PILOT Agreement (whether or not the Project Facility is restored) unless otherwise agreed to in writing by the Agency;

(3) the Company shall promptly give notice thereof to the Agency; and

(4) except as otherwise provided in subsection (C) of this Section 7.2, (a) the Company shall promptly restore the Project Facility (excluding any part of the Project Facility taken by Condemnation) as a complete architectural unit of substantially the same usefulness, design and construction as existed immediately prior to such Condemnation, with such changes, alterations and modifications as may be desired by the Company and consented to in writing by the Agency, provided that such changes, alterations or modifications do not so change the nature of the Project Facility that it does not constitute a "project" as such quoted term is defined in the Act, or change the use of the Project Facility as specified in Section 3.2 hereof without the prior written consent of the Agency, and (b)(1) subject to the provisions of Section 6.4(F) of this Lease, the Agency shall make available to the Company (solely from the Net Proceeds of any Condemnation award, if any, on deposit with the Agency) such moneys as may be necessary to pay the costs of the restoration of the Project Facility, and in the event that the funds from the Net Proceeds of any Condemnation award on deposit with the Agency provided by the Agency to the Company are not sufficient to pay in full the costs of such restoration, the Company shall nonetheless complete such restoration and shall pay from

its own moneys that portion of the costs thereof in excess of such funds, and (2) any balance of such funds from the Net Proceeds of any Condemnation award remaining on deposit with the Agency, if any, after payment of all of the costs of such restoration shall be paid to the Company for its own purposes.

(C) Notwithstanding anything to the contrary contained in subsection (B) of this Section 7.2, the Company shall not be obligated to restore the Project Facility and the Net Proceeds of any Condemnation award shall not be applied as provided in subsection (B) (4) of this Section 7.2, if the Company shall notify the Agency that it elects to exercise its option under Article XI hereof to terminate this Lease. In such event, subject to Section 6.4(F) of this Lease, the Net Proceeds of any Condemnation award collected by the Agency, if any, after deducting the amount necessary to repay the Indebtedness, shall be paid over to the Company for its own purposes. If the Net Proceeds collected under any and all Condemnation awards are less than the amount necessary to repay the Indebtedness in full, the Company shall pay to the Agency the difference between such amounts and the Net Proceeds of such Condemnation awards so that the Indebtedness shall be repaid in full.

(D) Unless an Event of Default under any of the Transaction Documents shall have occurred and be continuing, the Company shall have sole control of any Condemnation proceeding with respect to the Project Facility or any part thereof or any interest therein and may negotiate the settlement of any such proceeding. The Company shall notify the Agency of the institution of any Condemnation proceedings and, within seven (7) days after inquiry from the Agency, inform the Agency in writing of the status of such proceeding.

(E) The Agency shall, at the expense of the Company, cooperate fully with the Company in the handling and conduct of any such Condemnation proceeding. In no event shall the Agency voluntarily settle, or consent to the settlement of, any such Condemnation proceeding without the written consent of the Company, which consent shall not be unreasonably withheld or delayed.

SECTION 7.3 ADDITIONS TO THE PROJECT FACILITY. All replacements, repairs, rebuilding or restoration made pursuant to Sections 7.1 or 7.2, whether or not requiring the expenditure of the Company's own money, shall automatically become part of the Project Facility as if the same were specifically described herein and shall be subject to this Lease.

ARTICLE VIII SPECIAL COVENANTS

SECTION 8.1 NO WARRANTY OF CONDITION OR SUITABILITY BY THE AGENCY; ACCEPTANCE "AS IS". THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE PROJECT FACILITY OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE PROJECT FACILITY OR ANY PART THEREOF FOR THE COMPANY'S PURPOSES OR NEEDS. THE COMPANY SHALL ACCEPT THE PROJECT FACILITY "AS IS", WITHOUT RECOURSE OF ANY NATURE AGAINST THE AGENCY FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS

MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE AGENCY SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

SECTION 8.2 HOLD HARMLESS PROVISIONS.

(A) The Company hereby releases the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, from, agrees that the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, shall not be liable for and agrees to indemnify, defend (with counsel selected by the Agency and reasonably acceptable to the Company) and hold the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, harmless from and against any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses arising, directly or indirectly as a result of the Agency's undertaking the Project, including, but not limited to: (1) liability for loss or damage to Property or bodily injury to or death of any and all Persons that may be occasioned, directly or indirectly, by any cause whatsoever pertaining to the Project or the Project Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Project Facility, (2) liability arising from or expense incurred by the Agency's acquiring, renovating, equipping, installing, owning, leasing, subleasing, sub-subleasing or selling the Project Facility, including, without limiting the generality of the foregoing, any sales or use taxes which may be payable with respect to goods supplied or services rendered with respect to the Project Facility, all liabilities or claims arising as a result of the Agency's obligations under this Lease or any of the other Transaction Documents or the enforcement of or defense of validity of any provision of any of the Transaction Documents, (3) all claims arising from the exercise by the Company of the authority conferred on it pursuant to Section 4.1(E) hereof, and (4) all causes of action and attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing; provided that such claims, causes of action, judgments, liabilities, damages, losses, costs or expenses of the Agency are not incurred or do not result from the intentional wrongdoing of the Agency or any of its members, officers, agents (other than the Company), attorneys, servants or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its officers, members, agents (other than the Company), attorneys, servants or employees and notwithstanding the breach of any statutory obligation or any rule of comparative or apportioned liability.

(B) In the event of any claim against the Agency or its members, officers, agents (other than the Company), attorneys, servants or employees, past, present or future, by any employee of the Company or any contractor of the Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Company or such contractor under workers' compensation laws, disability benefits laws or other employee benefit laws.

(C) To effectuate the provisions of this Section 8.2, the Company agrees to provide for and insure its liabilities assumed pursuant to this Section 8.2 in the liability policies required by Section 6.3(C) of this Lease.

(D) Notwithstanding any other provisions of this Lease, the obligations of the Company pursuant to this Section 8.2 shall remain in full force and effect after the termination or expiration of this Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses, charges and costs incurred by the Agency or its members, agents (other than the Company), attorneys, servants or employees, past, present or future, relating thereto.

SECTION 8.3 RIGHT OF ACCESS TO THE PROJECT FACILITY. The Company agrees that the Agency and its duly authorized agents shall have the right at all reasonable times and upon reasonable advance notice to enter upon and to examine and inspect the Project Facility (except in cases of emergency for which advance notice shall not be required); provided, however, that no such notice shall be required in the event of an emergency or if an Event of Default has occurred and is continuing under this Lease. The Company further agrees that the Agency shall have such rights of access to the Project Facility as may be reasonably necessary to cause the proper maintenance of the Project Facility in the event of failure by the Company to perform its obligations hereunder, but the exercise of such right shall in no event be construed to mean that the Agency has assumed any obligation hereunder to perform such maintenance.

SECTION 8.4 COMPANY NOT TO TERMINATE EXISTENCE OR DISPOSE OF ASSETS. The Company agrees that, during the term of this Lease, it (A) will maintain its limited liability company existence as in effect on the Closing Date, (B) will not dissolve or otherwise dispose of all or substantially all of its assets, and (C) will not consolidate with or merge into another limited liability company or other Person, or permit one or more limited liability companies or other Persons to consolidate with or merge into it, without giving prior written notice to the Agency and obtaining the consent of the Agency. The Company agrees that it will not change its name or its state of formation without giving prior written notice to the Agency and obtaining the consent of the Agency, which consent shall not be unreasonably withheld or delayed.

SECTION 8.5 AGREEMENT TO PROVIDE INFORMATION. The Company agrees, whenever reasonably requested by the Agency, to promptly provide and certify or cause to be provided and certified such information concerning the Project Facility, the Company, the Guarantors or their respective finances, operations and affairs and other topics as the Agency from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Agency to make any reports required by Applicable Laws or other governmental regulation.

SECTION 8.6 BOOKS OF RECORD AND ACCOUNT; COMPLIANCE CERTIFICATES.

(A) The Company agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all business and affairs of the Company.

(B) Within thirty (30) days after the end of each fiscal year of the Company, the Company shall furnish to the Agency a certificate of an Authorized Representative of the Company stating that no Event of Default hereunder or under any other Transaction Document has occurred or is continuing or, if any Event of Default exists, specifying the nature and period of existence thereof and what action the Company has taken or proposes to take with respect thereto. The Company represents to the Agency that the Company's fiscal year ends on December 31st.

SECTION 8.7 COMPLIANCE WITH APPLICABLE LAWS.

(A) The Company agrees, for the benefit of the Agency, that it will, during the term of this Lease, promptly comply with all Applicable Laws.

(B) Notwithstanding the provisions of subsection (A) of this Section 8.7, the Company may in good faith actively contest the validity or the applicability of any Applicable Law, provided that the Company (1) first shall have notified the Agency in writing of such contest, (2) is not in default under any of the Transaction Documents beyond any applicable notice or cure period, (3) shall have set aside adequate reserves for any such requirement, (4) demonstrates to the reasonable satisfaction of the Agency that noncompliance with such Applicable Law will not subject the Project Facility or any part thereof to loss or forfeiture, (5) demonstrates to the reasonable satisfaction of the Agency that such contest shall not result in the Company or the Agency being in any danger of any civil or criminal liability for failure to comply therewith, and (6) diligently prosecutes such contest to completion. Otherwise, the Company shall promptly take such action with respect thereto as shall be reasonably satisfactory to the Agency.

(C) Notwithstanding the provisions of subsection (B) of this Section 8.7, if the Agency or any of its members, officers, agents (other than the Company), attorneys, servants or employees, past, present or future, may be liable for prosecution for failure to comply therewith, the Company shall promptly take such action with respect thereto as shall be reasonably satisfactory to the Agency.

SECTION 8.8 DISCHARGE OF LIENS AND ENCUMBRANCES.

(A) The Company hereby agrees not to create or suffer to be created any Lien on any Properties of the Agency or on any funds of the Agency applicable to or deriving from the Project Facility.

(B) If any Lien (other than a Permitted Encumbrance) is filed or asserted, or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim, whether or not valid, is made against the Project Facility or any part thereof or the interest therein of the Company or the Agency or against any funds of the Agency applicable to or deriving from the Project Facility, the Company, immediately upon receiving notice of the filing, assertion, entry or issuance thereof, shall give written notice thereof to the Agency and take all action (including, without limitation, the payment of money and/or securing of a bond) at its own cost and expense as may be necessary or appropriate to obtain the discharge in full thereof and remove or nullify the basis therefor. Nothing herein shall be construed as

constituting the consent to or permission of the Agency for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien against the Agency's interest in the Project Facility.

SECTION 8.9 PERFORMANCE OF THE COMPANY'S OBLIGATIONS.

Should the Company fail to make any payment or to do any act as herein provided, after any applicable notice and cure period, the Agency may, but shall not be obligated to, without notice to or demand on the Company and without releasing the Company from any obligation herein, make or do the same, including, without limitation, appearing in and defending any action purporting to affect the rights or powers of the Company or the Agency, and paying all fees, costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Agency in connection therewith; and the Company shall pay immediately upon demand all sums so incurred or expended by the Agency under the authority hereof, together with interest thereon, at the Default Interest Rate.

SECTION 8.10 DEPRECIATION DEDUCTIONS AND TAX CREDITS. The parties agree that as between them the Company shall be entitled to all depreciation deductions and accelerated cost recovery system deductions with respect to any portion of the Project Facility pursuant to Sections 167 and 168 of the Code and to any investment credit pursuant to Section 38 of the Code with respect to any portion of the Project Facility which constitutes "Section 38 Property" and to all other state and/or federal income tax deductions and credits which may be available with respect to the Project Facility.

SECTION 8.11 EMPLOYMENT OPPORTUNITIES.

(A) The Company shall ensure that all employees and applicants for employment with regard to the Project, including, without limitation, the employees of and applicants for employment with the Company or any Sublessee, are afforded equal employment opportunities without discrimination.

(B) Pursuant to Section 858-b of the Act, except as otherwise provided by collective bargaining contracts or agreements, the Company agrees (1) to list (and to use commercially reasonable efforts to cause the Sublessees to list) all new employment opportunities created as a result of the Project with the New York State Department of Labor, Community Services Division (the "NYSDOL") and with the administrative entity (collectively with NYSDOL, the "JTPA Referral Entities") of the service delivery area created by the federal Job Training Partnership Act (P.L. No. 97-300) (including any successor statute thereto, including, without limitation, the Workforce Investment Act of 1998 (P.L. No. 105-270), collectively, the "JTPA") in which the Project Facility is located, and (2) where practicable, to first consider (and to use commercially reasonable efforts to cause the Sublessees to first consider) for such new employment opportunities persons eligible to participate in federal JTPA programs who shall be referred by the JTPA Referral Entities.

(C) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, the Company agrees to file with the Agency, prior to the effective date of this Lease, an employment plan, in form and substance reasonably satisfactory to the Agency.

(D) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, the Company agrees to file with the Agency and to cause each Sublessee to file with the Agency, on an annual basis not later than February 11 of each year during the term of this Lease, reports regarding the number of people employed at the Project Facility (including the number of persons employed by the Sublessees at the Project Facility) as of December 31st of the immediately preceding year, and certain other matters, said annual employment reports to be in substantially the form promulgated from time to time by the Agency. The current forms of annual employment reports are annexed hereto as Exhibit G. The Agency shall have the right, at the Company's expense, to audit, confirm and/or require additional information with regard thereto and the Company agrees to cooperate with the Agency in connection therewith.

(E) The Company shall, at all times during the term of this Lease, maintain or cause to be maintained, as applicable, the Minimum Employment Requirement.

(F) Subject to (i) collective bargaining contracts or agreements and other existing contracts or agreements to which the Company is a party or by which the Company is bound and (ii) compliance with Applicable Laws, the Company agrees to list or cause to be listed all new employment opportunities created as a result of the Project on the Nassau County TweetMyJobs website or other website designated by the Agency from time to time, provided that such listing shall be at no cost to the Company.

(G) Subject to (i) collective bargaining contracts or agreements and other existing contracts or agreements to which the Company is a party or by which the Company is bound and (ii) compliance with Applicable Laws, the Company agrees that to the greatest extent possible all employment opportunities shall be provided to Nassau County or Suffolk County residents first.

SECTION 8.12 ANTI-TERRORISM LAWS.

(A) General. Neither the Company nor any director, officer, member, manager or shareholder of the Company, nor any Affiliate of any of the foregoing, is in violation of any Anti-Terrorism Law or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(B) Executive Order No. 13224. Neither the Company, nor any director, officer, member, manager or shareholder of the Company, nor any Affiliate of any of the foregoing, nor their respective agents acting or benefiting in any capacity in connection with the transactions contemplated by the Transaction Documents, is any of the following (each a "Blocked Person"):

(1) a Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224;

(2) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224;

(3) a Person or entity with which any lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(4) a Person or entity that commits, threatens or conspires to commit or supports “terrorism” as defined in Executive Order No. 13224;

(5) a Person or entity that is named as a “specially designated national” on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list, or

(6) a Person or entity who is affiliated or associated with a person or entity listed above.

(C) Blocked Person or Transactions. Neither the Company, nor any director, officer, member, manager or shareholder of the Company, nor any Affiliate of any of the foregoing, nor to the Company’s knowledge any of its agents acting in any capacity in connection with the transactions contemplated by the Transactions Documents (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224.

(D) Trading with the Enemy. The Company is not engaged, nor does it intend to engage, in any business or activity prohibited by the Trading with the Enemy Act.

(E) OFAC and Patriot Act. The Company represents, warrants, covenants and agrees as follows: (i) the Company, its directors, officers, members, shareholders and Affiliates are in compliance with all Anti-Terrorism Laws; (ii) the Company shall immediately notify the Agency if it obtains knowledge that it or any of its Affiliates has become or been listed as a Restricted Party or has been charged with or has engaged in any violation of any Anti-Terrorism Law; (iii) the Company shall not to receive any funds from a Restricted Party and, in any case, exclude any funds derived from any Restricted Party or from any person or entity involved in the violation of any Anti-Terrorism Law from being used to pay the Indebtedness or any part thereof; (iv) the Company shall not to transfer or permit the transfer of any legal or beneficial ownership interest of any kind in the Company to a Restricted Party or any person or entity involved in the violation of any Anti-Terrorism Law; (v) the Company shall not to acquire, directly or indirectly, ownership interest of any kind in any Restricted Party or any person or entity involved in the violation of any Anti-Terrorism Law, (vi) the Company shall not to form any partnership or joint venture or conduct any business with any Restricted Party or any person or entity involved in the violation of any Anti-Terrorism Law, (vii) the Company shall not to act, directly or indirectly, as the agent or representative of any Restricted Party or any person or entity involved in the violation of any Anti-Terrorism Law; and (viii) the Company shall

indemnify, defend (with counsel selected by the Agency) and hold harmless the Agency from and against any costs incurred by the Agency, and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, as a result of any violation of an Anti-Terrorism Law by the Company or any of its directors, officers, members, shareholders or Affiliates.

SECTION 8.13 IDENTIFICATION OF THE EQUIPMENT. All Equipment which is or may become part of the Project Facility pursuant to the provisions of this Lease shall be properly identified by the Company by such appropriate records, including computerized records, as may be approved by the Agency.

SECTION 8.14 FINANCIAL STATEMENTS. Within one hundred twenty (120) days after the end of each fiscal year, the Company shall deliver to the Agency the financial statements of the Company prepared and compiled by an independent certified public accountant, certified by the chief financial officer of the Company, including a balance sheet as of the last day of such period and an operating statement through the last day of such period.

ARTICLE IX ASSIGNMENTS; LEASING; MERGER OF THE AGENCY

SECTION 9.1 ASSIGNMENT OF THIS LEASE. This Lease may not be sold, assigned or otherwise transferred by the Company, in whole or in part, without the prior written consent of the Agency, which consent may be granted or withheld in the Agency's sole and absolute discretion (provided, however, that from and after the occurrence of the Completion Date, the Agency's consent shall not be unreasonably withheld, delayed or conditioned), and shall in all events be subject to and conditioned upon the payment of any required fees of the Agency and the satisfaction of all requirements of the Act. Any such sale, assignment or transfer made by the Company without the prior written consent of the Agency as aforesaid shall be null and void. Any such sale, assignment or transfer consented to by the Agency shall be made pursuant to documentation satisfactory to the Agency. The Company shall pay all reasonable and customary fees and expenses incurred by the Agency in connection with such sale, assignment or transfer.

SECTION 9.2 MERGER OF THE AGENCY.

(A) Nothing contained in this Lease shall prevent or prohibit the consolidation of the Agency with, or merger of the Agency into, or assignment by the Agency of its rights and interests hereunder to, any other public benefit corporation of the State or any political subdivision thereof which has the legal authority to perform the obligations of the Agency hereunder and under the other Transaction Documents; provided that upon any such consolidation, merger or assignment, the due and punctual performance and observance of all of the agreements and conditions of this Lease to be kept and performed by the Agency shall be expressly assumed in writing by the public benefit corporation or political subdivision resulting from such consolidation or surviving such merger or to which the Agency's rights and interests under this Lease shall be assigned.

(B) As of the date of any such consolidation, merger or assignment, the Agency shall endeavor to give notice thereof in reasonable detail to the Company. The Agency shall promptly furnish to the Company such additional information with respect to any such consolidation, merger or assignment as the Company may reasonably request.

SECTION 9.3 SALE OR LEASE OF THE PROJECT FACILITY.

(A) The Company shall not lease, sublease, sub-sublease, license (except for the Pre-Closing Leases), or otherwise permit others to use or occupy the Project Facility or any portion thereof without the prior written consent of the Agency, which consent may be granted or withheld in the Agency's sole and absolute discretion (provided, however, that from and after the occurrence of the Completion Date, the Agency's consent shall not be unreasonably withheld, delayed or conditioned), except for leases, subleases, sub-subleases, licenses and other occupancy arrangements approved by the Agency as set forth in Subsection (B) of this Section 9.3, if any; provided, however, in each case (1) the Company shall remain liable to the Agency for the payment of all rent and for the full performance of all of the terms, covenants and conditions of this Lease, and (2) any approved lease, sublease, sub-sublease, license or occupancy arrangement will not diminish or impair the obligation of the Company to carry the insurance required under Article VI hereof, and that such insurance coverage shall in no manner be limited by such lease, sublease, sub-sublease, license or occupancy arrangement.

(B) (1) (a) If at any time during the term of this Lease the Company shall request the Agency's consent to sub-sublet or otherwise permit the use or occupancy of the Project Facility (each, a "Proposed Sublease"), or any portion thereof, the Company shall include with such request (i) a copy of the proposed sub-sublease or other occupancy agreement, which agreement shall be substantially in the form or contain the provisions set forth in one of the sublease agreement forms attached hereto as Exhibits I-1 and I-2 (collectively, the "Sublease Forms"), which Sublease Forms are hereby approved by the Agency, (ii) a proposed sublease "term sheet" in the form attached hereto as Exhibit J (the "Sublease Term Sheet"), setting forth the deal-specific terms of the Proposed Sublease and specifically identifying any proposed changes to the standard terms set forth in the applicable Sublease Form or the exhibits thereto (any such deviations from the Sublease Form, the "Sublease Form Deviations"), and (iii) any other information reasonably requested by the Agency. The Sublease Form attached hereto as Exhibit I-2 shall only be used for proposed subleases or licenses with a duration of one (1) year or less (each such Proposed Sublease on an Exhibit I-2 form, a "Proposed Short-Term Sublease"). The Sublease Form attached hereto as Exhibit I-1 shall be used for all other Proposed Subleases.

(b) The Agency agrees to promptly review and respond to any such request for consent to a Proposed Sublease. If the Agency fails to respond to the Company's written request for such consent within twelve (12) Business Days (or five (5) Business Days with respect to a Proposed Short-Term Sublease) after delivery (or refusal of delivery) of the initial written request to the Agency, then the Agency shall be deemed to have consented to such Proposed Sublease; provided, however, that if such request requires the adoption of a consent resolution by the members of the Agency (as determined by the Agency within said twelve (12) Business Day (or five (5) Business Day) period) because such request involves the granting of additional Financial Assistance or because such request does not meet

all of the requirements of Subsection (2) below, then the Agency shall have such reasonable additional period of time as may be required to convene a meeting of the members of the Agency to consider such request.

(c) Notwithstanding anything in this Subsection (1) to the contrary, the Company shall have the right with respect to a request for the Agency's consent under this Subsection (B) to initially submit only the Sublease Term Sheet for the Agency's review and approval. The Agency agrees to promptly review any such Sublease Term Sheet. If the Agency fails to respond to the Company's written request for consent to the terms set forth in such Sublease Term Sheet within twelve (12) Business Days (or five (5) Business Days with respect to a Proposed Short-Term Sublease) after delivery (or refusal of delivery) of the initial written request accompanied by the Sublease Term Sheet, then the Agency shall be deemed to have consented to the terms set forth in such Sublease Term Sheet; provided, however, that if such request requires the adoption of a consent resolution by the members of the Agency (as determined by the Agency within said twelve (12) Business Day (or five (5) Business Day) period) because such request involves the granting of additional Financial Assistance or because such request does not meet all of the requirements of Subsection (2) below, then the Agency shall have such reasonable additional period of time as may be required to convene a meeting of the members of the Agency to consider such request. If the Agency consents (or is deemed to consent) to the terms of a Sublease Term Sheet pursuant to this Subsection, then the period for the Agency's review of the final form of the Proposed Sublease pursuant to Subsection (b) above shall be reduced to five (5) Business Days and the period for the Agency's review of the final form of the Proposed Short-Term Sublease pursuant to subsection (b) above, which shall be limited to a review of the Sublease Form Deviations, to the extent same might have a material adverse effect on the Agency (as determined by the Agency in its reasonable discretion) and incorporation of the Sublease Term Sheet terms, shall be reduced to three (3) Business Days. The Company shall deliver a copy of any such executed Sublease Agreement within three (3) days after execution thereof.

(2) If the Company does not request that additional Financial Assistance be granted simultaneously with or in connection with a Proposed Sublease, then the Agency agrees that, subject to satisfaction of the requirements of Subsection (C) below, the Executive Director or other Authorized Representative of the Agency shall, on behalf of the Agency, grant the consent of the Agency in writing to the Proposed Sublease, provided that:

(a) neither the Company nor any of its Affiliates nor any Guarantor is then in default, beyond applicable notice and cure periods, under this Lease or any document, instrument or agreement between the Company, such Affiliates or such Guarantor and either the Agency or the County;

(b) the Proposed Sublease will cause the Project Facility to qualify and continue to qualify as a "project" under the Act and will not tend, in the judgment of the Agency, to bring the Project into disrepute as a public project;

(c) the proposed use of the premises demised by the Proposed Sublease (the "Subleased Premises") is a permitted use under Section 3.2 of this Lease;

(d) the proposed lessee, sublessee or occupant (the "Proposed Sublessee") is not a Prohibited Person, no guarantor (if any) under the Proposed Sublease is a Prohibited Person and no Affiliate of the Proposed Sublessee or any such guarantor (if any) is a Prohibited Person and, if the Proposed Sublessee is not a publicly traded company, no partner, member or shareholder, as the case may be, of the Proposed Sublessee, is a Prohibited Person;

(e) the Agency determines, based on the record before it, that the Proposed Sublease will not result in the removal of a facility or plant of the Proposed Sublessee from one area of the State to another area of the State (other than relocations within the County) or in the abandonment of one or more plants or facilities of the Proposed Sublessee located in the State (other than in the County), unless the Agency shall first determine that the Proposed Sublease is reasonably necessary to discourage the Proposed Sublessee from removing its plant or facility to a location outside the State or is reasonably necessary to preserve the competitive position of the Proposed Sublessee in its respective industry;

(f) the Agency determines, based on the record before it, that the Proposed Sublease will not result in a relocation of the Proposed Sublessee within the County that would result in the creation of vacant space within the County, unless the Agency shall first determine that the Proposed Sublease is reasonably necessary to discourage the Proposed Sublessee from removing its plant or facility to a location outside the County;

(g) neither the Company, the Proposed Sublessee nor any Affiliate of either of them has employed or retained any appointed or elected governmental official to solicit or secure the Agency's consent to the Proposed Sublease upon an agreement of understanding for a commission or percentage, brokerage or contingent fee;

(h) no funds of the Agency shall, as a result of the Agency's consent to the Proposed Sublease, be given hereunder to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State; and

(i) the use of the Sublease Premises as contemplated by the Proposed Sublease would not cause the Project Facility or any part thereof or the operation thereof to be in violation of any Applicable Law.

If the Proposed Sublease does not satisfy each and every condition set forth in clauses (a) through and including (i) above, then the Proposed Sublease shall require the Agency's prior written consent, which consent may be granted or withheld in the Agency's sole and absolute discretion.

(3) If the Company requests that additional Financial Assistance (i.e., additional mortgage recording tax and/or additional sales and use tax exemptions) be granted simultaneously with or in connection with a Proposed Sublease, then the Proposed Sublease shall require the Agency's prior written consent, which consent may be granted or withheld in the Agency's sole and absolute discretion.

(C) The Agency shall not be required to grant its consent pursuant to Subsection (B) above unless and until the following conditions are satisfied:

(1) the Company shall have provided the Agency with all information and statements that may be reasonably required to ensure compliance by said entities with SEQRA and, if required, the Agency shall have adopted an appropriate finding or determination under SEQRA with respect to the Proposed Sublease, provided that in the event of a coordinated review of the Proposed Sublease by the Town of Oyster Bay or any other Governmental Authority, the Agency will not seek to become lead agency in said coordinated review;

(2) the Agency shall have complied with all applicable public hearing, notice and other procedural requirements required by Applicable Law with respect to the Proposed Sublease;

(3) the Company shall have provided all information reasonably required by the Agency with respect to the economic and fiscal impact of the Proposed Sublease and, if the Company or the Proposed Sublessee is requesting additional Financial Assistance simultaneously with or in connection with the Proposed Sublease, the Agency shall have obtained an addendum to its economic impact report reasonably satisfactory in form and substance to the Agency;

(4) the Proposed Sublease shall be substantially in the form of the applicable Sublease Form and shall provide that the Company (or an Affiliate thereof) shall provide all services and improvements, if any, as set forth in the applicable Sublease Form;

(5) intentionally omitted;

(6) intentionally omitted;

(7) the Company shall have paid the Agency's consent fee of \$750 and all reasonable and customary fees and expenses incurred by the Agency in connection with such lease, subletting, sub-subletting, license, transfer, conveyance or use or occupancy by others, including, without limitation, all reasonable attorneys' fees and expenses incurred by the Agency.

(D) Any consent by the Agency to a sale, lease, subletting, sub-subletting, licensing, transfer, conveyance or use or occupancy by others shall be held to apply only to the specific transaction thereby authorized and shall not constitute a waiver of necessity for such consent to any subsequent transaction, including but not limited to a subsequent transaction by any trustee, receiver or liquidator, or personal representative of the sub-subtenant or occupant nor shall the references anywhere in this Lease to subtenants, licensees and concessionaires be construed as a consent by Landlord to a sale, lease, subletting, sub-subletting, license, transfer, conveyance or use or occupancy by others.

(E) Intentionally omitted.

(F) Within thirty (30) days after the end of each fiscal quarter, the Company shall deliver to the Agency a current rent roll and a certificate, (i) listing all leases, subleases, sub-subleases and other occupancy agreements in effect with respect to the Project Facility, or any portion thereof, during the immediately preceding fiscal quarter, including, without limitation, the name of the tenant, subtenant, sub-subtenant or occupant, the square footage of the space leased, subleased or occupied, the rental and other consideration for such lease, sublease, sub-sublease or agreement, and such other information as the Agency may reasonably require from time to time, and (ii) certifying that such leases, subleases, sub-subleases or other occupancy agreements do not and shall not result in a violation of the terms of this Lease or any other Transaction Document. Notwithstanding the foregoing, failure by the Company to timely deliver the rent roll and certificate for the first, second and/or third fiscal quarters shall not constitute a default hereunder unless such failure continues for thirty (30) days after written notice of same from the Agency.

(G) Subject to Subsection (H) of this Lease, the Company shall not sell, transfer, convey or otherwise dispose of its interest in the Project Facility or any portion thereof without the prior written consent of the Agency, which consent may be granted or withheld in the Agency's sole and absolute discretion (provided, however, that from and after the occurrence of the Completion Date, the Agency's consent shall not be unreasonably withheld, delayed or conditioned). The standards set forth above shall also apply to any subsequent sale, transfer, conveyance or other disposal of the Project Facility or any portion thereof.

(H) Notwithstanding anything to the contrary contained in this Section 9.3, in any instance where the Company determines that any item constituting a portion of the Project Facility has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company may remove such portion of the Project Facility and may sell, trade in, exchange or otherwise dispose of the same, as a whole or in part, without the prior written consent of the Agency but, upon reasonable prior notice to the Agency, provided that such removal will not materially impair the value of the Project Facility as collateral and provided the same is forthwith replaced with items of similar quality and value as the items replaced as of the date of original installation of the replaced items. At the request of the Company, the Agency shall execute and deliver to the Company all instruments reasonably necessary or appropriate to enable the Company to sell or otherwise dispose of any such item of Property free from the Liens of the Transaction Documents. The Company shall pay all reasonable costs and expenses (including reasonable attorneys' fees and expenses) incurred in transferring title to and releasing from the Liens of the Transaction Documents any item of Property removed pursuant to this Section 9.3.

(I) The Company shall use its commercially reasonable efforts to market and lease space within the Project Facility.

ARTICLE X EVENTS OF DEFAULT AND REMEDIES

SECTION 10.1 EVENTS OF DEFAULT DEFINED.

(A) The following shall be “Events of Default” under this Lease, and the terms “Event of Default” or “default” shall mean, whenever they are used in this Lease, any one or more of the following events:

(1) A default by the Company in the due and punctual payment of any amount due under this Lease or under any other Transaction Document, and the continuance thereof for a period of fifteen (15) days after written notice thereof is given by the Agency to the Company.

(2) A default in the performance or observance of any covenant, condition or agreement on the part of the Company in this Lease (other than as set forth in subsection (1) above or in any other subsection of this Section 10.1(A)) and the continuance thereof for a period of thirty (30) days after written notice thereof is given by the Agency to the Company, or, if such covenant, condition or agreement is capable of cure but cannot be cured within such thirty (30) day period, the failure of the Company to commence to cure within such thirty (30) day period and to prosecute the cure to completion with due diligence.

(3) The occurrence of an “Event of Default” under any other Transaction Document.

(4) The Company shall generally not pay its debts as such debts become due or admits its inability to pay its debts as they become due.

(5) The Company shall conceal, remove or permit to be concealed or removed any part of its Property, with intent to hinder, delay or defraud its creditors, or any one of them, or shall make or suffer a transfer of any of its Property which is fraudulent under any bankruptcy, fraudulent conveyance or similar law; or shall make any transfer of its Property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or shall suffer or permit, while insolvent, any creditor to obtain a Lien upon any of its Property through legal proceedings or distraint which is not vacated within ten (10) days from the date thereof.

(6) (a) The filing by the Company (as debtor) of a voluntary petition under Title 11 of the United States Code or any other federal or state bankruptcy or insolvency statute; (b) the failure by the Company within thirty (30) days to lift any execution, garnishment or attachment of such consequence as will impair the Company’s ability to carry out its obligations hereunder; (c) the commencement of a case under Title 11 of the United States Code against the Company as the debtor or commencement under any other federal or state bankruptcy or insolvency statute of a case, action or proceeding against the Company and continuation of such case, action or proceeding without dismissal for a period of thirty (30) days; (d) the entry of an order for relief by a court of competent jurisdiction under Title 11 of the United States Code or any other federal or state bankruptcy statute with respect to the debts of the Company; or (e) in connection with any insolvency or bankruptcy case, action or proceeding, appointment by final order, judgment or decree of a court of competent jurisdiction of a receiver, liquidator or trustee of the whole or a substantial portion of the Property of the Company, unless such order,

judgment or decree is vacated, dismissed or dissolved within thirty (30) days of such appointment.

(7) If any interest in the Company shall be sold, assigned, transferred, conveyed, mortgaged, pledged, hypothecated or alienated, or if any member of the Company enters into an agreement or contract to do so, without the prior written consent of the Agency (except for transfers or other conveyances to immediate family members of the current members of the Company), which consent may be withheld in the Agency's reasonable discretion.

(8) The imposition of a Lien on the Project Facility other than a Permitted Encumbrance.

(9) The removal of the Project Facility, or any portion thereof, outside the County, without the prior written consent of the Agency, other than in connection with a removal permitted under Section 9.3(G) of this Lease.

(10) If any certificate, statement, representation, warranty or financial statement made to the Agency by or on behalf of the Company, any Sublessee or any Guarantor shall prove to have been false, misleading or incorrect in any material respect at the time as of which the facts therein set forth were made, or to have omitted any material liability or claim against the Company or any Guarantor, as the case may be.

(11) If the environmental or ecological condition of the Project Facility is in violation of any Environmental Law or any permit, license or approval related thereto or if the Project Facility, or any portion thereof, contains any Hazardous Materials (except Hazardous Materials which do not violate Environmental Laws and the Company is unable to comply with such Environmental Laws within thirty (30) days of the notification or discovery of such violation or complete all appropriate and lawful remedial containment and clean-up action within thirty (30) days of the notification or discovery of the existence of such Hazardous Materials.

(12) Any loss or impairment of the Agency's or the Company's respective interests in and to the Project Facility, or any portion thereof.

(13) The Company, any Guarantor or any Affiliate thereof or any director, member, manager or shareholder of the Company is or becomes a Prohibited Person.

(14) Any assignment of this Lease or the Company Lease, in whole or in part, or any sub-subletting of the Project Facility, or any portion thereof, in violation of the terms of this Lease.

(15) If both Joseph J. Lostritto and Glenn Lostritto cease to have day-to-day control of the management and operations of the Company for any reason; provided, however, that the Agency shall not unreasonably withhold its consent to a change of management of the Company after the Completion Date.

(16) A default or an Event of Default shall occur under the Company Lease or under any other Permitted Encumbrance.

(17) If any of the events enumerated in clauses (4) through (6) of this Section 10.1 shall happen to any Guarantor.

(18) If the Company shall fail to maintain or cause to be maintained the Minimum Employment Requirement at any time during the term of this Lease.

(19) The Company or any Guarantor defaults under or attempts to withdraw, renege, cancel or disclaim liability under any guaranty or indemnity made by such party in favor of the Agency.

(20) Failure by the Company at any time to keep in full force and effect any insurance policy or coverage required by Section 6.3 of this Lease.

(21) The Company shall fail (i) to commence the renovation, installation and equipping of the Project Facility as contemplated by Section 4.1 of this Lease within thirty (30) days after the Closing Date, or (ii) to continue with due diligence to renovate, install and equip the Project Facility as contemplated by Section 4.1 of this Lease, or (iii) to substantially complete such renovation, installation and equipping on or before the Scheduled Completion Date.

(22) A default or an Event of Default shall occur under the Project Agreement or under any document, instrument or agreement executed by the Company in connection with the Project Agreement.

(B) Notwithstanding the provisions of Section 10.1(A) hereof if by reason of force majeure (as hereinafter defined) either party hereto shall be unable, in whole or in part, to carry out its obligations under this Lease and if such party shall give notice and full particulars of such force majeure event or cause in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon, the obligations under this Lease of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of the inability to perform. The suspension of such obligations for such period pursuant to this subsection (B) shall not be deemed an Event of Default under this Section 10.1. Notwithstanding anything to the contrary in this subsection (B), an event of force majeure shall not excuse, delay or in any way diminish the obligations of the Company to make the payments required under this Lease, to obtain and continue in full force and effect the insurance required by Article VI hereof, to provide the indemnity required by Sections 2.2(G), 3.1, 3.3, 4.1(F), 6.1, 8.2 and 12.9(C) hereof and to comply with the provisions of Sections 2.2(G), 6.6, 8.2, 8.4, 8.5 and 8.7(C) hereof. The term "force majeure" as used herein shall include acts outside of the control of the Agency and the Company, including, but not limited to, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, restraint of government and people, civil disturbances, breakage or accident to transmission pipes or canals, and failure of utilities.

SECTION 10.2 REMEDIES ON DEFAULT.

(A) Whenever any Event of Default shall have occurred, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

(1) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable, (a) all amounts payable pursuant to Section 5.3 hereof, and (b) all other payments due under this Lease or any of the other Transaction Documents, including, without limitation, any resulting Recapture of Benefits under Section 11.4 of this Lease; or

(2) re-enter and take possession of the Project Facility, enforce or terminate this Lease, sell or assign the Agency's interest in the Project Facility, subject to Permitted Encumbrances, at public or private sale, as a whole or piecemeal, in whole or in part, for such consideration as may be deemed appropriate in the circumstances by the Agency, and hold the Company liable for the amount, if any, by which the aggregate unpaid amounts due hereunder exceed the Net Proceeds received upon such sale, or manage and operate the Project Facility, collect all or any rents accruing therefrom, let or relet the Project Facility or any part thereof for the Agency's own account or the account of the Company, holding the Company liable for payments due up to the effective date of such leasing and for the difference in the rent and other amounts paid by the lessee pursuant to such lease and the rental payments and other amounts payable by the Company hereunder, cancel or modify leases (including, without limitation, any Sublease Agreement), evict tenants (including, without limitation, any Sublessee), bring or defend any suits in connection with the possession of the Project Facility in its own name or in the Company's name, make repairs as the Agency deems appropriate, and perform such other acts in connection with the management, operation or disposition of the Project Facility, or any portion thereof, as the Agency, in its discretion, may deem proper; or

(3) terminate this Lease and/or terminate the Company Lease and/or convey to the Company all the Agency's right, title and interest in and to the Project Facility. The conveyance of the Agency's right, title and interest in and to the Project Facility shall be effected by the execution by the Agency of the Termination of Lease and/or the Termination of Company Lease and/or the delivery of the Bill of Sale to Company, as applicable. The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from any such termination and conveyance. The Company hereby waives delivery and acceptance of such termination and bill of sale as a condition to their validity, and appoints the Agency its true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest) with full power of substitution to file on its behalf all affidavits, questionnaires and other documentation necessary to accomplish the recording or filing of such documents; or

(4) bring an action for damages, injunction or specific performance; or

(5) suspend the right of the Company to act as agent for the Agency in connection with the Project, including, without limitation, as its agent for the purpose of the sales and use tax exemption afforded to the Company pursuant to the Project Agreement; or

(6) require the Company to make payments in lieu of real property taxes under the PILOT Agreement in amounts equal to the amounts the Company would otherwise be required to pay if it were the owner of the Project Facility (and the Agency did not hold an interest therein); or

(7) take any other action at law or in equity which may appear necessary or desirable to collect any amounts then due or thereafter to become due hereunder and to enforce the obligations, agreements or covenants of the Company under this Lease.

(B) No action taken pursuant to this Section 10.2 (including repossession of the Project Facility) shall relieve the Company from its obligations to make all payments required by this Lease and the other Transaction Documents.

SECTION 10.3 REMEDIES CUMULATIVE. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Article X, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

SECTION 10.4 AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES. In the event the Company should default under any of the provisions of this Lease or any other Transaction Document and the Agency should retain attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Agency such fees and expenses (including, without limitation, attorneys' fees and expenses) so incurred, whether an action is commenced or not.

SECTION 10.5 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER. In the event any agreement contained herein should be breached by either party and thereafter such breach be waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE XI OPTIONS TO TERMINATE

SECTION 11.1 EARLY TERMINATION OF THE LEASE. The Company shall have the option to terminate this Lease prior to the termination date specified in Section 5.2 hereof by filing with the Agency a certificate signed by an Authorized Representative of the Company stating the Company's intention to do so pursuant to this Section 11.1 and setting forth the effective date of such termination, which effective date shall not be less than thirty (30) days after the delivery of the certificate to the Agency. The exercise of the option to terminate pursuant to this Section 11.1 shall constitute a "Recapture Event" (as such term is defined in Section 11.4 hereof). The Company shall not, at any time, assign or transfer its option to

terminate this Lease and purchase the Agency's interest in the Project Facility as contained in this Section 11.1 separate and apart from a permitted sale, assignment or transfer of this Lease pursuant to Section 9.1 of this Lease.

SECTION 11.2 OBLIGATION TO TERMINATE THE LEASE.

(A) Contemporaneously with the termination of this Lease in accordance with Section 5.2 or Section 11.1 hereof, the Company shall pay all sums required to be paid to the Agency or any other Person pursuant to this Lease and the other Transaction Documents (including any applicable Recapture of Benefits). The obligation of the Agency under this Section 11.2 to convey its interest in the Project Facility to the Company will be subject to there being no Event of Default existing hereunder or under any other Transaction Document, and there being no other event which would, but for the passage of time or the giving of notice, or both, be such an Event of Default.

(B) The termination of this Lease and the conveyance of the Agency's right, title and interest in and to the Project Facility shall be effected by the execution and delivery by the Agency of (1) the Termination of Company Lease (an unexecuted copy of which is attached hereto as Exhibit C), (2) the Bill of Sale to Company (an unexecuted copy of which is attached hereto as Exhibit D) and (3) the Termination of Lease (an unexecuted copy of which is attached hereto as Exhibit F). The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from such termination, including, without limitation, all of the Agency's reasonable costs and expenses in connection therewith (including reasonable attorneys' fees and expenses).

(C) The Company agrees to prepare the Termination of Company Lease, the Bill of Sale to Company and/or the Termination of Lease, and all schedules thereto, together with all equalization and assessment forms and other necessary documentation, and to forward same to the Agency at least fifteen (15) days prior to the date that this Lease is to be terminated and the Agency's interest in the Project Facility or any portion thereof is to be conveyed to the Company. The Company hereby irrevocably appoints and designates the Agency as its attorney-in-fact for the purpose of executing, delivering and/or recording such documents and to take such other and further action as shall be necessary to terminate the Agency's interest in the Project Facility.

(D) This Lease shall survive the transfer of the Project Facility to the Company pursuant to this Section 11.2 and shall remain in full force and effect until ninety-one (91) days after all of the Indebtedness shall have been paid in full, and thereafter the obligations of the Company shall survive as set forth in Section 12.7 hereof.

(E) Upon the payment in full of all Indebtedness, and notwithstanding the survival of certain obligations of the Company as described in Section 12.7 hereof, the Agency shall upon the request of the Company execute and deliver to the Company such documents as the Company may reasonably request, in recordable form if so requested, to evidence the termination and release of all Liens granted to the Agency hereunder.

SECTION 11.3 RESERVED.

SECTION 11.4 RECAPTURE OF AGENCY BENEFITS.

(A) It is understood and agreed by the parties to this Lease that the Agency is entering into this Lease in order to provide the Financial Assistance to the Company for the Project and to accomplish the purposes of the Act. In consideration therefor, the Company hereby agrees that if there shall occur a Recapture Event (as hereinafter defined), then the Company shall pay to the Agency as a return of public benefits conferred by the Agency, an amount as follows (such amount, the "Recapture of Benefits"):

(1) one hundred percent (100%) of the Benefits (as defined below) if the Recapture Event occurs on or before the tenth (10th) anniversary of the Closing Date;

(2) eighty percent (80%) of the Benefits if the Recapture Event occurs after the tenth (10th) anniversary of the Closing Date but on or before the twelfth (12th) anniversary of the Closing Date;

(3) sixty percent (60%) of the Benefits if the Recapture Event occurs after the twelfth (12th) anniversary of the Closing Date but on or before the fourteenth (14th) anniversary of the Closing Date;

(4) forty percent (40%) of the Benefits if the Recapture Event occurs after the fourteenth (14th) anniversary of the Closing Date but on or before the sixteenth (16th) anniversary of the Closing Date;

(5) twenty percent (20%) of the Benefits if the Recapture Event occurs after the sixteenth (16th) anniversary of the Closing Date but on or before the eighteenth (18th) anniversary of the Closing Date;

(6) ten percent (10%) of the Benefits if the Recapture Event occurs after the eighteenth (18th) anniversary of the Closing Date but on or before the twentieth (20th) anniversary of the Closing Date; or

(7) zero percent (0%) of the Benefits thereafter.

(B) The term "Benefits" shall mean the Agency's calculation of, collectively:

(1) all real estate tax benefits which have accrued to the benefit of the Company during such time as the Agency held an interest in the Project Facility by reason of such interest, such tax benefits to be computed by subtracting the payments in lieu of taxes paid under the PILOT Agreement (through the date that the Project Facility is returned to the tax rolls as taxable property) from those payments which the Company would have been required to pay through such date had the Company been the owner of the Project Facility and the Agency not been involved in the Project, based on the records of the Nassau County Tax Assessor and any applicable village tax assessor, and treating any negative result as \$0; and

(2) all miscellaneous benefits derived from the Agency's participation in the transactions contemplated by this Lease, including, but not limited to, any exemption

from real property transfer taxes, any exemption from mortgage recording taxes and any exemption from applicable sales and use taxes pursuant to the Project Agreement; provided, however, that the recapture of the value of any exemption from sales and/or use taxes shall be in the full amount of any exemption taken and shall not be subject to the scheduled percentage reduction set forth in Subsection (A) above.

(C) For the purposes of this Section 11.4 the term “Recapture Event” shall mean the occurrence of any of the following events:

- (1) The Company shall have liquidated its operations and/or assets; or
- (2) The Company shall have ceased all or substantially all of its operations at the Project Facility (whether by closure or by relocation to another facility either within or outside of the County); or
- (3) The Company shall have transferred all or substantially all of its employees engaged in the renovation, maintenance or operation of the Project Facility to a location outside of the County; or
- (4) The occurrence of an Event of Default under this Lease or any other Transaction Document; or
- (5) The Company shall have effected a substantial change in the scope and nature of the operations of the Company at the Project Facility; or
- (6) The Company shall have sold, assigned, transferred or otherwise disposed of all or any part of its interest in the Project Facility in violation of this Lease; or
- (7) The Company shall have subleased, sub-subleased, licensed or otherwise granted an occupancy agreement with respect to any portion of the Project Facility in violation of this Lease; or
- (8) The Company shall fail to maintain or cause to be maintained, as the case may be, the Minimum Employment Requirement at any time during the term of this Lease; or
- (9) The Application, or documentation in support of the Application, contained a false or intentionally misleading statement as to any fact material to the Application or omitted any information which, if included, would have rendered any information in the Application or supporting documentation false or misleading in any material respect, and such false or misleading statement or omission was made knowingly and intentionally for the purpose of obtaining the Financial Assistance; or
- (10) The Company shall fail (i) to commence the Initial Work as contemplated by Section 4.1 of this Lease within thirty (30) days after the Closing Date, or (ii) to continue with due diligence to perform the Initial Work as contemplated by Section 4.1 of this Lease, or (iii) to substantially complete the Initial Work on or before the Scheduled Completion Date.

(11) The occurrence of a Recapture Event under the Project Agreement.

Notwithstanding the foregoing, a Recapture Event shall not be deemed to have occurred if the Recapture Event shall have arisen as a direct, immediate result of (i) a Condemnation by governmental authority of all or substantially all of the Project Facility or any interest therein, or (ii) the inability at law of the Company to rebuild, repair, restore or replace the Project Facility after the occurrence of a casualty to substantially its condition prior to such casualty, which inability shall have arisen in good faith through no fault on the part of the Company.

(D) The Company covenants and agrees to furnish the Agency with written notification upon the occurrence of any Recapture Event, which notification shall set forth the terms of such Recapture Event.

(E) In the event any payment owing by the Company under this Section 11.4 shall not be paid on demand by the Company, such payment shall bear interest from the date of such demand at the Default Interest Rate until the Company shall have paid such payment in full, together with such accrued interest to the date of payment, to the Agency.

ARTICLE XII MISCELLANEOUS

SECTION 12.1 NOTICES.

(A) All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given on the earlier of (1) three (3) Business Days after being sent to the applicable address stated below by registered or certified mail, return receipt requested, or two (2) Business Days after being sent by nationally recognized overnight courier service, or (2) the date on which delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE COMPANY:

Steel G, LLC
700 Hicksville Road
Bethpage, NY 11714
Attn: Joseph J. Lostritto

WITH A COPY TO:

Forchelli, Curto, Deegan, Schwartz, Mineo & Terrana, LLP
333 Earle Ovington Boulevard, Suite 1010
Uniondale, NY 11553
Attn: Daniel P. Deegan, Esq.

IF TO THE AGENCY:

Nassau County Industrial Development Agency
1550 Franklin Avenue, Suite 235
Mineola, NY 11501
Attn: Executive Director

WITH A COPY TO:

Phillips Lytle LLP
1305 Franklin Avenue, Suite 200
Garden City, NY 11530
Attn: Paul V. O'Brien, Esq.

(C) The Agency and the Company may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 12.2 BINDING EFFECT. This Lease shall inure to the benefit of the Agency and the Company and shall be binding upon the Agency, the Company and, as permitted by this Lease, their respective successors and assigns, but no assignment shall be effective to relieve the Company of any of its obligations hereunder unless expressly authorized and approved in writing by the Agency.

SECTION 12.3 SEVERABILITY. If any one or more of the covenants or agreements provided herein on the part of the Agency or the Company to be performed shall, for any reason, be held or shall, in fact, be inoperative, unenforceable or contrary to law in any particular case, such circumstance shall not render the provision in question inoperative or unenforceable in any other case or circumstance. Further, if any one or more of the phrases, sentences, clauses, paragraphs or sections herein shall be held void, voidable, invalid or unenforceable by a court of competent jurisdiction, then such covenant or covenants or agreement or agreements shall be deemed separable from the remaining covenants and agreements hereof and shall in no way affect the validity of the other provisions of this Lease.

SECTION 12.4 AMENDMENT. This Lease may not be amended, changed, modified, altered or terminated, except by an instrument in writing signed by the parties hereto.

SECTION 12.5 EXECUTION OF COUNTERPARTS. This Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 12.6 APPLICABLE LAW. This Lease shall be governed by and construed in accordance with the applicable laws of the State, as in effect from time to time, without regard to its principles of conflicts of law.

SECTION 12.7 SURVIVAL OF OBLIGATIONS.

(A) The obligations of the Company to make the payments required by Sections 2.2(G), 3.1, 3.3, 4.1, 5.3, 5.4, 6.4(B), 6.6, 8.2, 8.9, 8.12, 9.1, 9.3, 10.2 10.4, 11.2 and 11.4 hereof and to provide the indemnity required by Sections 2.2(G), 3.1, 3.3, 4.1(F), 6.1, 8.2

and 12.9(C) hereof and its obligations and those of the Guarantors under the Environmental Indemnification shall survive the termination of this Lease, and all such payments after such termination shall be made upon demand of the party to whom such payment is due.

(B) The obligations of the Company to the Agency with respect to the Unassigned Rights shall survive the termination or expiration of this Lease until the expiration of the period stated in the applicable statute of limitation during which a claim, cause of action or prosecution relating to the Unassigned Rights may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses and charges incurred by the Agency, or its officers, members, agents (other than the Company), attorneys, servants or employees, past, present or future, related thereto.

SECTION 12.8 TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING. The Table of Contents and the headings of the several Sections in this Lease have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Lease.

SECTION 12.9 NO RECOURSE; SPECIAL OBLIGATION.

(A) The obligations and agreements of the Agency contained herein and in the other Transaction Documents and any other instrument or document executed in connection therewith or herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other than the Company), servant or employee of the Agency in his individual capacity, and the members, officers, agents (other than the Company), servants and employees, past, present and future, of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

(B) The obligations and agreements of the Agency contained herein and therein shall not constitute or give rise to an obligation of the State or the County and neither the State nor the County shall be liable hereon or thereon, 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 Agency's interest in the Project Facility (except for revenues derived by the Agency with respect to the Unassigned Rights).

(C) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless (1) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) business days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) business days, shall have failed to institute and diligently pursue action to cause compliance with such request within such ten (10) business day period) or failed to respond within such notice period, (2) if the Agency refuses to comply with such request and the

Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such fees and expenses, and (3) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than the Company), servants or employees, past, present or future, shall be subject to potential liability, the party seeking such order or decree shall (a) agree to indemnify, defend (with counsel selected by the Agency and reasonably acceptable to the Company) and hold harmless the Agency and its members, officers, agents (other than the Company), attorneys, servants and employees, past, present and future, against any liability incurred as a result of its compliance with such demand, and (b) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents (other than the Company), servants and employees, past, present and future, against all liability expected to be incurred as a result of compliance with such request.

SECTION 12.10 NET LEASE. The obligation of the Company to make the payments specified in this Lease shall be absolutely net to the Agency without any abatement, recoupment, diminution, reduction, deduction, counterclaim, set-off or offset whatsoever, so that this Lease shall yield, net, to the Agency, the payments set forth herein.

SECTION 12.11 WAIVER OF JURY TRIAL. THE COMPANY AND THE AGENCY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS LEASE, ANY OTHER TRANSACTION DOCUMENT OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION WITH THIS LEASE.

SECTION 12.12 PRIOR AGREEMENTS. This Lease and the other Transaction Documents shall completely and fully supersede all other prior understandings or agreements, written or oral, between the Company and the Agency relating to the Project.

SECTION 12.13 SERVICE OF PROCESS.

(A) The Company represents that it is subject to service of process in the State of New York and covenants that it will remain so subject so long as this Lease shall be in effect. If for any reason the Company should cease to be so subject to service of process in the State of New York, the Company hereby designates and appoints, without power of revocation, Daniel P. Deegan, Esq., Forchelli Curto Deegan et al., 333 Earle Ovington Boulevard, Uniondale, NY 11553 and successor(s) as its agent for service of process, and if such agent shall cease to act or otherwise cease to be subject to service of process in the State of New York, the Secretary of State of the State of New York, as the agents of the Company upon whom may be served all process, pleadings, notices or other papers which may be served upon the Company as a result of any of its obligations under this Lease; provided, however, that the serving of such process, pleadings, notices or other papers shall not constitute a condition to the Company's obligations hereunder.

(B) The Company irrevocably and unconditionally (a) agrees that any suit, action or other legal proceeding arising out of this Lease or the other Transaction Documents may be brought in the courts of record of the State of New York in Nassau County or the courts of the United States, Eastern District of New York; (b) consents to the jurisdiction of each such court in any such suit, action or proceeding; and (c) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts. For such time as this Lease is in effect, the Company's agents designated above shall accept and acknowledge in the Company's behalf service of any and all process in any such suit, action or proceeding brought in any such court. The Company agrees and consents that any such service of process upon such agents and written notice of such service to the Company in the manner set forth in Section 12.1 hereof shall be taken and held to be valid personal service upon the Company whether or not the Company shall then be doing, or at any time shall have done, business within the State of New York and that any such service of process shall be of the same force and validity as if service were made upon the Company according to the laws governing the validity and requirements of such service in the State of New York, and waives all claim of error by reason of any such service. Such agents shall not have any power or authority to enter into any appearance or to file any pleadings in connection with any suit, action or other legal proceedings against the Company or to conduct the defense of any such suit, action or any other legal proceeding except as expressly authorized by the Company.

SECTION 12.14 THIRD PARTY BENEFICIARIES. Nothing herein is intended to be for, or to inure to, the benefit of any Person other than the parties hereto.

SECTION 12.15 NON-DISCRIMINATION.

(A) At all times during the term of this Lease, the Company shall not discriminate against any employee or applicant for employment because of race, color, creed, age, gender, sexual orientation or national origin. The Company shall use reasonable efforts to ensure that employees and applicants for employment with the Company or any tenant, subtenant or occupant of the Project Facility, or any part thereof, or any contractor or subcontractor with respect to the Project Facility, are treated without regard to their race, color, creed, age, gender, sexual orientation or national origin. As used herein, the term "treated" shall mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

(B) The Company shall, in all solicitations or advertisements for employees placed by or on behalf of the Company, state that all qualified applicants will be considered for employment without regard to race, color, creed, national origin, age, gender or sexual orientation.

(C) The Company shall furnish to the Agency all information required by the Agency pursuant to this Section 12.15 and will cooperate with the Agency for the purposes of investigation to ascertain compliance with this Section 12.15.

SECTION 12.16 DATE OF LEASE. The date of this Lease shall be for reference purposes only and shall not be construed to imply that this Lease was executed on the date first above written. This Lease was executed and delivered on July ~~10~~¹⁹, 2015.

SECTION 12.17 RECORDING AND FILING. This Lease or a memorandum hereof shall be recorded by the Company in the appropriate office of the Clerk of the County, or in such other office as may at the time be provided by law as the proper place for the recordation thereof.

SECTION 12.18 SUBORDINATION. This Lease and all of the Transaction Documents, except for the PILOT Agreement, the Agency's rights under Section 11.4 of this Lease and the Agency's rights with respect to the Unassigned Rights under this Lease, shall be subject and subordinate to the lien and the terms and conditions of the Bank Mortgage, including all amounts advanced thereunder and all renewals, modifications and replacements thereof. The Bank Mortgage (including all amounts advanced thereunder and all renewals, modifications and replacements thereof) shall be subject and subordinate to the PILOT Agreement, the Agency's rights under Section 11.4 of this Lease and the Agency's rights with respect to the Unassigned Rights under this Lease.

SECTION 12.19. BANK MORTGAGE. (A) The Company hereby directs the Agency to give and the Agency hereby agrees to give the Bank notice, in the manner set forth in Section 12.1 of this Lease, of any default by the Company under this Lease (including, without limitation, any Recapture Event) which the Agency is required to give to the Company pursuant to the terms of this Lease, and the Bank shall have the right (but not the obligation) to cure such default within the time period, if any, provided for such cure to be carried out by the Company pursuant to the terms of this Lease. The Agency shall accept such cure by the Bank as if such cure were performed by the Company. The Company acknowledges and agrees that the Agency may accept such cure by the Bank and waives any claims it may have against the Agency based upon, arising from or in connection with this Subsection (A).

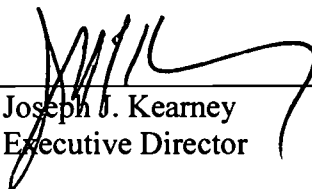
(B) The Agency and the Company agree that the Bank may exercise the Company's option to terminate this Lease in accordance with Section 11.1 of this Lease, whether in the name of the Company or the Bank, subject to compliance with the provisions of Article XI of this Lease. If the Bank shall exercise such option to terminate in accordance with the terms of Article XI of this Lease, the Agency agrees to perform its obligations under such Article XI at the direction and for the benefit of the Bank. The Company waives any claims it may have against the Agency based upon, arising from or in connection with Article XI of this Lease.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

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

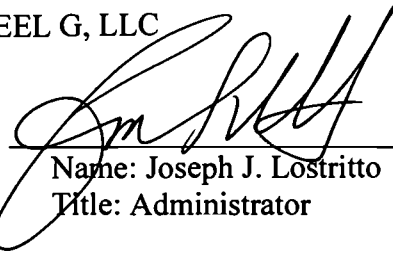
NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____


Joseph J. Kearney
Executive Director

STEEL G, LLC

By: _____


Name: Joseph J. Lostritto
Title: Administrator

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

On the 17th day of July, in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared Joseph J. Kearney, 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.

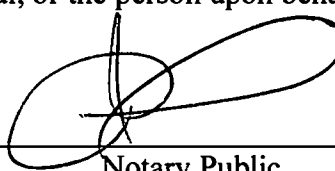


Notary Public

Paul V. O'Brien
Notary Public State of New York
No. 020B6235944
Qualified in Nassau County
Commission Expires February 14, 2019

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

On the 20 day of July, in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared Joseph J. Lostritto, 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

PATRICIA A. LAMB
Notary Public, State of New York
No. 01LA4677420
Qualified in Nassau County
Commission Expires Jan 31, 2019

EXHIBIT A
DESCRIPTION OF THE LAND

ALL that certain plot, piece or parcel of land, situate, lying and being at Bethpage, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

BEGINNING at a point on the northeasterly side of Grumman Road (proposed) distant 1,565.48 feet southeasterly, when measured along the northeasterly side of said Grumman Road, from the corner formed by the intersection of the northeasterly side of said Grumman Road and the easterly side of Old South Oyster Bay Road;

RUNNING THENCE North 40 degrees 18 minutes 24 seconds East, 675.60 feet to the southwesterly side of land of Long Island Railroad;

THENCE South 49 degrees 41 minutes 36 seconds East along said land of Long Island Railroad, 981.51 feet;

THENCE South 40 degrees 16 minutes 19 seconds West, 716.40 feet to the northeasterly side of Grumman Road (proposed);

THENCE northwesterly along the northeasterly side of said Grumman Road the following two (2) courses and distances:

1. North 49 degrees 43 minutes 41 seconds West, 499.22 feet;
2. Northwesterly on the arc of a curve bearing right, having a radius of 2,834.93 feet, a distance of 485.06 feet to the point or place of BEGINNING.

EXHIBIT B

DESCRIPTION OF THE EQUIPMENT

All equipment, fixtures, machines, building materials and items of personal property and all appurtenances (A) acquired, constructed and/or intended to be installed and/or to be acquired, constructed or installed in connection with the acquisition, renovation, installation and equipping of the 2015 Steel G Project (the "Project") of the Nassau County Industrial Development Agency (the "Agency") located on the real property described on Exhibit A hereto (the "Land"), said Project to be acquired, constructed, renovated and installed by Steel G, LLC (the "Company") as agent of the Agency pursuant to a sublease agreement dated as of July 1, 2015 (the "Lease Agreement") by and between the Agency and the Company and (B) now or hereafter attached to, contained in or used in connection with the Land or placed on any part thereof, though not attached thereto, including but not limited to the following:

(1) Pipes, screens, fixtures, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, ranges, refrigerators and other lunch room facilities, rugs, movable partitions, cleaning equipment, maintenance equipment, shelving, flagpoles, signs, waste containers, outdoor benches, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors and machinery; and

(2) Together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.

EXHIBIT C

FORM OF TERMINATION OF COMPANY LEASE

WHEREAS, Steel G, LLC (the "Company"), as landlord, and the Nassau County Industrial Development Agency (the "Agency"), as tenant, entered into a company lease agreement dated as of July 1, 2015 (the "Company Lease Agreement") pursuant to which, among other things, the Agency leased the Project Facility (as defined in the Lease Agreement) from the Company; and

WHEREAS, pursuant to the Company Lease Agreement, the Company and the Agency agreed that the Company Lease Agreement would terminate on the earlier to occur of (1) December 31, 2036 (as same may be extended pursuant to the terms thereof, the "Stated Expiration Date"), or (2) any earlier date the Company Lease Agreement would terminate pursuant to the terms thereof; and

WHEREAS, the Company and the Agency now desires to evidence the termination of the Company Lease Agreement;

NOW, THEREFORE, it is hereby agreed that the Company Lease Agreement has terminated as of the dated date hereof; provided, however, that, (i) as provided in the Company Lease Agreement, certain obligations of the Company shall survive the termination of the Company Lease Agreement, and the execution of this termination of company lease agreement by the Agency is not intended, and shall not be construed, as a waiver or alteration by the Agency or the Company of the provisions thereof that expressly survive such termination; and (ii) in the event the Company Lease Agreement is being terminated pursuant to Article X or XI of the Lease Agreement, the Company shall pay to the Agency on the date hereof all fees and expenses of the Agency set forth in the Company Lease Agreement, in the Lease and in the other Transaction Documents.

IN WITNESS WHEREOF, the Company and the Agency have signed this termination of company lease agreement and caused same to be dated as of the __ day of _____, ____.

STEEL G, LLC

By: _____
Authorized Officer

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Authorized Officer

STATE OF)
) ss.:
COUNTY OF)

On the ____ day of _____, in the year _____, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

STATE OF)
) ss.:
COUNTY OF)

On the ____ day of _____, in the year _____, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

EXHIBIT D

FORM OF BILL OF SALE TO COMPANY

NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York having an office for the transaction of business located at 1550 Franklin Avenue, Suite 235, Mineola, NY 11501 (the "Grantor"), for the consideration of One Dollar (\$ 1.00), cash in hand paid, and other good and valuable consideration received by the Grantor from, STEEL G, LLC, a limited liability company organized and existing under the laws of the State of Delaware, having an office for the transaction of business at 700 Hicksville Road, Bethpage, NY 11714 (the "Grantee"), the receipt of which is hereby acknowledged by the Grantor, hereby sells, transfers and delivers unto the Grantee, and its successors and assigns, any and all of Grantor's right, title and interest, if any, in and to those materials, machinery, equipment, fixtures or furnishings which are described in Exhibit B attached hereto (the "Equipment") now owned or hereafter acquired by the Grantor, which Equipment is located or intended to be located on a parcel of land (the "Land") located at 201 Grumman Road West, Bethpage, Town of Oyster Bay, Nassau County, New York, which Land is more particularly described on Exhibit A attached hereto.

TO HAVE AND TO HOLD the same unto the Grantee, and its successors and assigns, forever.

THE GRANTOR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE EQUIPMENT OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE EQUIPMENT OR ANY PART THEREOF FOR THE GRANTEE'S PURPOSES OR NEEDS. THE GRANTEE SHALL ACCEPT TITLE TO THE EQUIPMENT "AS IS", WITHOUT RECOURSE OF ANY NATURE AGAINST THE GRANTOR FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE GRANTOR SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

IN WITNESS WHEREOF, the Grantor has caused this bill of sale to be executed in its name by the officer described below on the date indicated beneath the signature of such officer and dated as of the day of the ____ day of _____, 20__.

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____

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

On the ____ day of _____, in the year _____, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures) on the instrument, the individuals), or the person upon behalf of which the individuals) acted, executed the instrument.

Notary Public

EXHIBIT A

DESCRIPTION OF THE LAND

ALL that certain plot, piece or parcel of land, situate, lying and being at Bethpage, Town of Oyster Bay, County of Nassau and State of New York, bounded and described as follows:

BEGINNING at a point on the northeasterly side of Grumman Road (proposed) distant 1,565.48 feet southeasterly, when measured along the northeasterly side of said Grumman Road, from the corner formed by the intersection of the northeasterly side of said Grumman Road and the easterly side of Old South Oyster Bay Road;

RUNNING THENCE North 40 degrees 18 minutes 24 seconds East, 675.60 feet to the southwesterly side of land of Long Island Railroad;

THENCE South 49 degrees 41 minutes 36 seconds East along said land of Long Island Railroad, 981.51 feet;

THENCE South 40 degrees 16 minutes 19 seconds West, 716.40 feet to the northeasterly side of Grumman Road (proposed);

THENCE northwesterly along the northeasterly side of said Grumman Road the following two (2) courses and distances:

1. North 49 degrees 43 minutes 41 seconds West, 499.22 feet;
2. Northwesterly on the arc of a curve bearing right, having a radius of 2,834.93 feet, a distance of 485.06 feet to the point or place of BEGINNING.

EXHIBIT B

DESCRIPTION OF THE EQUIPMENT

All equipment, fixtures, machines, building materials and items of personal property and all appurtenances (A) acquired, constructed and/or intended to be installed and/or to be acquired, constructed or installed in connection with the acquisition, renovation, installation and equipping of the 2015 Steel G Project (the "Project") of the Nassau County Industrial Development Agency (the "Agency") located on the real property described on Exhibit A hereto (the "Land"), said Project to be acquired, constructed, renovated and installed by Steel G, LLC (the "Company") as agent of the Agency pursuant to a sublease agreement dated as of July 1, 2015 (the "Lease Agreement") by and between the Agency and the Company and (B) now or hereafter attached to, contained in or used in connection with the Land or placed on any part thereof, though not attached thereto, including but not limited to the following:

(1) Pipes, screens, fixtures, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, ranges, refrigerators and other lunch room facilities, rugs, movable partitions, cleaning equipment, maintenance equipment, shelving, flagpoles, signs, waste containers, outdoor benches, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors and machinery; and

(2) Together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.

EXHIBIT E
RESERVED

EXHIBIT F

TERMINATION OF SUBLEASE AGREEMENT

WHEREAS, Steel G, LLC (the "Company"), as subtenant, and the Nassau County Industrial Development Agency (the "Agency"), as sublandlord, entered into a sublease agreement dated as of July 1, 2015 (the "Lease Agreement") pursuant to which, among other things, the Agency subleased the Project Facility (as defined in the Lease Agreement) to the Company; and

WHEREAS, pursuant to the Lease Agreement, the Company and the Agency agreed that the Lease Agreement would terminate on the earlier to occur of (1) December 31, 2036 (as such date may be extended pursuant to the terms thereof) or (2) the date the Lease Agreement would terminate pursuant to Article X or Article XI of the Lease Agreement; and

WHEREAS, the Company and the Agency now desires to evidence the termination of the Lease Agreement;

NOW, THEREFORE, it is hereby agreed that the Lease Agreement has terminated as of the dated date hereof; provided, however, that, as provided in Section 12.7 of the Lease Agreement, certain obligations of the Company shall survive the termination of the Lease Agreement, and the execution of this termination of lease agreement by the Agency is not intended, and shall not be construed, as a waiver or alteration by the Agency or the Company of the provisions of Sections 11.4 and 12.7 of the Lease Agreement.

IN WITNESS WHEREOF, the Company and the Agency have signed this termination of lease agreement and caused same to be dated as of the __ day of _____, ____.

STEEL G, LLC

By: _____
Authorized Officer

NASSAU COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Authorized Officer

STATE OF)
) ss.:
COUNTY OF)

On the ____ day of _____, in the year _____, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

STATE OF)
) ss.:
COUNTY OF)

On the ____ day of _____, in the year _____, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

EXHIBIT G
FORM OF ANNUAL
EMPLOYMENT REPORT

EMPLOYMENT PLAN STATUS REPORT

COMPANY NAME: _____

ADDRESS: _____

TYPE OF BUSINESS: _____

CONTACT PERSON: _____

TELEPHONE NUMBER: _____

			Number Filled	
<u>Occupation</u>	<u>Number of New Jobs</u>	<u>Number Listed¹</u>	<u>Community Services Division Applicants</u>	<u>Job Training Partnership Act eligible persons</u>

^{1/} With local Jobs Service Division and local service delivery office created pursuant to the Job Training Partnership Act.

This information is reported to the Office of the New York State Comptrollers/Division of Municipal Affairs Office and as such the information is required to be accurate.

Contact Person:		Actual Number of Employees as of 12/31/___: Average Annual Salary of Employees Retained:	F/T/E \$	
Address of Home Office:		20__ Total Annual Payroll Dollar Amount:	\$	Construction Jobs Created During 20__: F/T/E
Phone & Fax:				
# of Employees before the IDA project:	F/T/E	Actual # of New Employees Hired in Fiscal Year 20__: Average Annual Salary of Employees Hired:	F/T/E \$	Average Annual Salary of 20__ Construction Jobs: \$

Please attach (1) the 20__ fourth quarter form NYS-45 filed with New York State Employment Taxation Department indicating number of employees, and (2) the Undersigned's annual payroll report for year ending 12/31/__. *It is not necessary to include Part C.* Undersigned, hereby confirms that no leases, subleases or other arrangements permitting the use or occupancy of the facilities subject to this report are in existence, except those expressly authorized in writing by the Nassau County Industrial Development Agency. Undersigned, hereby confirms that no Event of Default under the Transaction Document has occurred and is continuing.

Projects that received Sales Tax Benefits in 20__ are required to complete the attached ST-340 form and include a copy of it with this report upon return. The original ST-340 must be filed with the NYS Department of Taxation and Finance, by the undersigned, no later than February 11th.

Print Name & Title

Signature

Acknowledgement to be completed by a Notary Public
State of _____ County of _____, On the ___ day of ___ in the
year _____ before me the undersigned, personally appeared
_____ personally known to me or proved to me on the basis
of satisfactory evidence to be the individual(s) whose name(s) is (are)
subscribed to the within instrument and acknowledged to me that
he/she they executed the same in his/her/their, capacity(ies), and that
by his/her/their signature(s) on the instrument, the individual(s), or the
person upon behalf of which the individual(s) acted, executed the
instrument.

NOTARY PUBLIC (Please sign and affix stamp)

RETURN TO: NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY
1550 FRANKLIN AVENUE-SUITE 235
MINEOLA, NY 11501

Attn: Colleen Pereira
**due no later than February 11, 20__

EXHIBIT H

RESERVED

EXHIBIT I
APPROVED FORMS OF SUBLEASE AGREEMENT

See Attached

STEEL G, LLC,
as Landlord

and

[_____] ,
as Tenant

IDA TERMS SUB-SUBLEASE AGREEMENT

DATED AS OF [_____] , ____

ADDRESS: 201 Grumman Road West
VILLAGE: Bethpage
TOWN: Oyster Bay
COUNTY: Nassau
STATE: New York
SECTION:
BLOCK:
LOT:

IDA TERMS SUB-SUBLEASE AGREEMENT

THIS IDA TERMS SUB-SUBLEASE AGREEMENT, dated as of [____],
____ (this "Agreement"), by and between STEEL G, LLC, a limited liability company duly
organized and existing under the laws of the State of Delaware and qualified to do business as a
foreign limited liability company in the State of New York, having an office at 700 Hicksville
Road, Bethpage, New York 11714 (the "Landlord"), and
[____], a [____] duly organized and existing under
the laws of the State of [____], having an office at [____]
(the "Tenant").

WITNESSETH:

WHEREAS, the Nassau County Industrial Development Agency (the "Agency") is
authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York,
constituting 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 674 of the 1975
Laws of New York, as amended, constituting Section 922 of said General Municipal Law (said
Chapter and the Enabling Act, as amended from time to time, 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, among others, for the purpose of
promoting, attracting and developing 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, to improve their prosperity and standard of living, and to prevent unemployment and
economic deterioration; and

WHEREAS, to accomplish the purposes of the Act, the Landlord proposed to the
Agency that the Agency enter into a "Project" consisting of: (A)(1) the acquisition of an interest
in a parcel of land located at 201 Grumman Road West, Bethpage, Town of Oyster Bay, County
of Nassau, New York (Section: ; Block: ; Lot) (the "Land"), (2) the renovation of existing
buildings together with related improvements to the Land (collectively, the "Building") and (3)
the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and
equipment, all of the foregoing for use as a multi-tenanted commercial office/industrial facility
(collectively, the "Project Facility"); (B) the granting of certain "financial assistance" (within the
meaning of Section 854(4) of the General Municipal Law) with respect to the foregoing,
including potential exemptions or partial exemptions from sales and use taxes, mortgage
recording taxes and real property taxes; and (C) the lease (with an obligation to purchase),
license or sale of the Project Facility by the Agency to the Landlord or such other entity as may
be designated by the Landlord and agreed upon by the Agency and the sublease of a portion
thereof by the Landlord to the Tenant (collectively, the "Project"); and

WHEREAS, the Agency authorized the Landlord to proceed with the Project in order to
prepare the Project Facility for the prospective occupancy by end-user tenants; and

WHEREAS, to facilitate the Project, (a) the Agency and the Landlord entered into the Company Lease, pursuant to which the Agency acquired a leasehold interest in and to the Project Facility; (b) the Agency and the Landlord entered into the Lease, pursuant to which the Agency subleased such leasehold interest back to the Landlord and, in connection therewith, the Agency granted certain “financial assistance” to the Project Facility; (c) the Agency authorized the undertaking of the Project; and (d) the Agency consented to the sub-sublease of a portion of the Project Facility (the “Premises”) to the Tenant, the terms and conditions of which are set forth in this Agreement and in the Business Lease annexed hereto as Exhibit A; and

WHEREAS, as part of the “financial assistance” granted to the Landlord, the Agency and the Landlord entered into a PILOT Agreement, whereupon the Landlord agreed to make certain payments in lieu of having to pay real estate taxes and assessments which are levied and/or assessed by the various taxing entities having jurisdiction over the Project Facility (which such obligation are secured by the PILOT Mortgage, pursuant to which the Agency and the Landlord granted a first mortgage on the Land and the improvements thereon to the County); and

WHEREAS, in order for Tenant, as the sub-sublessee of the Premises, to receive a portion of the financial assistance granted to the Landlord as set forth in the PILOT Agreement, the Agency Transaction Documents require Landlord cause Tenant to comply with certain terms and conditions imposed by the Agency;

WHEREAS, this Agreement and the Business Lease is authorized pursuant to Sections 5.6 and 9.3 of the Lease and has been consented to by the Agency;

NOW, THEREFORE, in consideration of the premises and the respective representations and agreements hereinafter contained, the parties hereto agree as follows:

Section 1. **Definitions.** Any term not defined herein shall have the meaning set forth for such term in Appendix A attached hereto and made a part hereof.

Section 2. **Representations, Warranties and Covenants by Tenant.** The Tenant makes the following representations, warranties and covenants to the Agency and the Landlord:

(a) The Tenant is a [corporation], duly organized, validly existing and in good standing under the laws of the State of _____, is not in violation of any provision of its [certificate of incorporation or by-laws], has the power and authority to own its property and assets, to carry on its business as now being conducted by it and to execute, deliver and perform this Agreement.

(b) The execution, delivery and performance of this Agreement and the Business Lease and the consummation of the transactions herein and therein contemplated have been duly authorized by all requisite [corporate] action on its part and will not violate any order of any court or agency of government, to the extent binding upon Tenant, or its [certificate of

incorporation or by-laws], or any indenture, agreement or other instrument to which it is a party or by which it or any of its property is subject to or bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever on the Project Facility other than Permitted Encumbrances (as defined in the Lease) and this Agreement and the Business Lease constitute the legal, valid and binding obligations of the Tenant enforceable against the Tenant in accordance with their respective terms.

(c) There is no action or proceeding pending or threatened by or against it by or before any court or administrative agency that would adversely affect its ability to perform its obligations under this Agreement and the Business Lease and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by it as of the date hereof in connection with the execution and delivery of this Agreement and the Business Lease or in connection with the performance of its obligations hereunder and thereunder have been obtained.

(d) The Tenant shall operate the Premises or cause the Premises to be operated, in accordance with this Agreement and the Business Lease. Tenant shall not operate the Premises, or cause the Premises to be operated, in any manner that would cause the Premises not to constitute a qualified "project" in accordance with and as defined under Section 854(4) of the Act (a copy of which is annexed hereto as Exhibit B), as same may be subsequently modified or amended and Tenant shall not use the Premises for any use that will tend to bring the Project Facility into disrepute.

(e) The Tenant is not a Prohibited Person (as defined in Appendix A hereof), no guarantor hereof, if any, is a Prohibited Person and no Affiliate (as defined in Appendix A hereof) of the Tenant or any such guarantor is a Prohibited Person and, if the Tenant is not a publicly traded company, no partner, member or shareholder, as the case may be, of the Tenant, is a Prohibited Person.

(f) No Person other than the Tenant and its affiliates, agents, employees and contractors, is or will be in use, occupancy or possession of any portion of the Premises, subject to Tenant's rights under this Agreement and the Business Lease.

(g) Neither the Tenant nor any Affiliate of the Tenant has employed or retained any appointed or elected governmental official to solicit or secure the Agency's consent to this Agreement or the Business Lease upon an agreement of understanding for a commission or percentage, brokerage or contingent fee.

(h) The Tenant shall ensure that all employees and applicants for employment with regard to the Premises are afforded equal employment opportunities without discrimination.

(i) The Tenant agrees, whenever requested by the Landlord or the Agency, to promptly provide and certify employment reports, in the form annexed hereto as Appendix B,

not later than February 1st of each year, regarding the number of people employed at the Premises as of December 31st of the immediately preceding year and any other information reasonably requested by the Landlord in connection therewith.

(j) Except as otherwise provided by collective bargaining contracts or agreements, the Tenant agrees (1) to list all new employment opportunities created as a result of the Premises with the New York State Department of Labor, Community Services Division (the “NYSDOL”) and with the administrative entity (collectively with the NYSDOL, the “JTPA Referral Entities”) of the service delivery area created by the federal Job Training Partnership Act (P.L. No. 97-300) (including any successor statute thereto, the “JTPA”) in which the Project Facility is located, and (2) where practicable, to first consider for such new employment opportunities persons eligible to participate in federal JTPA programs who shall be referred by the JTPA Referral Entities.

(k) This Agreement and the Business Lease will not result in the removal of a facility or plant of the Tenant from one area of the State to another area of the State (other than relocations within the County) or in the abandonment of one or more plants or facilities of the Tenant located in the State (other than in the County).

(l) This Agreement and the Business Lease will not result in a relocation of the Tenant within the County that would result in the creation of vacant space within the County.

(m) Except if resulting from the gross negligence or willful misconduct of the Agency, its members, directors, officers, agents and employees, the Tenant shall indemnify and hold the Agency, its members, directors, officers, agents and employees harmless from and against any claims, expenses, losses or liabilities paid, suffered or incurred for personal injury or property damage occurring (i) in the Premises, for any reason whatsoever, or (ii) in the Project Facility, if resulting from Tenant’s gross negligence or willful misconduct, or (iii) by reason of the Tenant’s breach of any covenant or condition of this Agreement or the Business Lease. The indemnity herein provided shall be for the exclusive benefit of the Agency and shall not inure to the benefit of any third party.

(n) No funds of the Agency shall, as a result of the Agency’s consent to this Agreement, be given to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State of New York.

(o) Intentionally Omitted. IN THE EVENT THE TENANT IS REQUESTING ADDITIONAL FINANCIAL ASSISTANCE, E.G. SALES AND USE TAX EXEMPTIONS, FROM THE AGENCY, THE FOLLOWING SHALL APPLY: The Tenant shall create at least ____ () new, full-time equivalent, private sector jobs in the State of New York (the “Minimum Employment Requirement”), on or before _____, and maintain such jobs throughout the term of this Lease, all of which shall, at all times during the term of this Lease, be located at the Project Facility.]

(p) The Tenant agrees to solicit bids from at least one (1) contractor or vendor based in the County for each contract the Tenant (or any Affiliate thereof) proposes to enter into with respect to the Premises, including, without limitation, contracts for construction, alteration, management, purchase of goods or services, maintenance and repair. Further, the Tenant covenants to use its best efforts to let such contracts, where practicable, to contractors or vendors based in the County.

(q) W/MBE Contractors.

(1) The Tenant will use its best efforts to take “affirmative steps” (as defined below) to assure that qualified women-owned and/or minority-owned business enterprises (“W/MBE’s”) are used, when possible, for each contract the Tenant (or any Affiliate thereof) proposes to enter into with respect to the Premises, including, without limitation, contracts for construction, renovation, demolition, replacement, alteration, management, purchase of goods and services, maintenance and repair.

(2) For purposes of this subsection, the term “affirmative steps” shall mean: (a) placing qualified W/MBE’s on solicitation lists; (b) assuring that qualified W/MBE’s are solicited whenever they are potential sources; (c) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by qualified W/MBE’s; (d) establishing delivery schedules, where the requirement permits, that encourage participation by qualified W/MBE’s; and (e) requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in clauses (a) through (d).

(3) For purposes of this subsection, the term “qualified W/MBE’s” shall mean those women-owned and/or minority-owned business enterprises designated as such by New York State.

(r) Non-Discrimination.

(1) At all times during the term of this Lease, the Tenant shall not discriminate against any employee or applicant for employment because of race, color, creed, age, gender, sexual orientation or national origin. The Tenant shall use reasonable efforts to ensure that employees and applicants for employment with the Tenant, or any contractor or subcontractor with respect to the Premises, are treated without regard to their race, color, creed, age, gender, sexual orientation or national origin. As used herein, the term “treated” shall mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

(2) The Tenant shall, in all solicitations or advertisements for employees placed by or on behalf of the Tenant, state that all qualified applicants will be considered for employment without regard to race, color, creed, national origin, age, gender or sexual orientation.

(4) The Tenant shall furnish to the Agency all information required by the Agency pursuant to this Section 2(r) and will cooperate with the Agency for the purposes of investigation to ascertain compliance with this Section 2(r).

(s) Upon written notice to the Agency, the Tenant may make alterations, modifications or improvements to the Premises, or any part thereof, subject to the requirements of Section 6.1(B) of the Lease, which requirements are set forth in Exhibit D attached hereto and made a part hereof.

(t) THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE PREMISES OR ANY PART THEREOF OR AS TO THE SUITABILITY OF THE PREMISES OR ANY PART THEREOF FOR THE TENANT'S PURPOSES OR NEEDS. THE TENANT SHALL ACCEPT THE PREMISES "AS IS", WITHOUT RECOURSE OF ANY NATURE AGAINST THE AGENCY FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE AGENCY SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

Section 3. **Lease of Facility.**

(a) The Landlord hereby sub-subleases to the Tenant and the Tenant hereby sub-subleases from the Landlord the Premises for and during the term herein provided and upon and subject to the terms and conditions herein set forth. Tenant, including its agents, employees and contractors, shall at all times during the term of this Agreement occupy, use and operate the Premises as a commercial facility to be used only for the purposes set forth in the Business Lease.

(b) The term of this Agreement shall commence on the date of the execution and delivery of the Business Lease and shall expire contemporaneously upon the expiration of the term of the Business Lease or such earlier date the Business Lease may expire or terminate by its terms.

(c) During the term of this Agreement, the Tenant agrees to pay rent to the Landlord as set forth in the Business Lease.

(d) The Landlord and the Tenant acknowledge and agree that the Business Lease and all rights of the parties under the Business Lease are, and shall remain, unconditionally subject and subordinate in all respects to this Agreement, and to all modifications and extensions thereof. To the extent of any conflict between the terms, conditions and covenants of this Agreement and the terms of the Business Lease, the terms,

conditions and covenants of this Agreement shall govern, it being specifically acknowledged and agreed that no term, condition or covenant in the Business Lease that is merely in addition to the terms, conditions and covenants in this Agreement (i.e., does not address a subject that is specifically addressed in this Agreement) shall be deemed or construed to “conflict” with any term, condition or covenant of this Agreement.

(e) The Landlord and the Tenant hereby acknowledge and agree that, anything in the Lease or this Agreement to the contrary notwithstanding, if, upon the expiration or sooner termination (whether as a result of an Event of Default by the Landlord under the Lease or otherwise) of the Lease, the Landlord shall acquire (reacquire) from the Agency the Agency’s right, title and interest in the Project Facility, then and thereupon this Agreement shall automatically be terminated (but the Business Lease shall remain in effect as a direct lease between the Landlord and the Tenant for the Premises on all of the then executory terms, conditions, and covenants set forth in the Business Lease). The foregoing provisions of this subparagraph (e) shall be self-operative and no further instrument shall be required to effect such direct lease. However, in confirmation of the foregoing provisions of this subparagraph (e), the Landlord and the Tenant shall, upon written request, each execute and deliver to the other any instrument which either may reasonably request to evidence such direct lease.

(f) The rights of the Tenant with respect to any assignment of this Agreement or sublet of any or any portion of the Premises shall be as set forth in Article 22 of the Business Lease and shall not be affected, except to the extent the approval of the Agency to any assignment or subletting is required pursuant to Section 9.3 of the Lease, which relevant provisions are set forth in Exhibit C attached hereto and made a part hereof. In respect of any lease or sublease of the Premises by Tenant, the Tenant will (i) fulfill or perform, in all material respects, each and every provision thereof on its part to be fulfilled or performed; (ii) promptly send copies of all notices of default which it shall send or receive thereunder to the Agency, and (iii) enforce, short of termination thereof, the performance or observance of the provisions thereof. Nothing contained in this Agreement shall be deemed to impose on the Agency any of the obligations of the lessor under such leases or subleases.

Section 4. **Nature of Tenant’s Obligations Unconditional.** The Tenant’s obligations under this Agreement and the Business Lease to pay the rental payments and to pay other amounts required to be paid thereunder shall be absolute, unconditional and general obligations, and irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction either might otherwise have against the Landlord, the Agency or any other Person, except as otherwise expressly provided for in the Business Lease as against Landlord. The Tenant will not suspend or discontinue payment of any sublease rental or other amounts due and payable hereunder or performance or observance of any covenant or agreement required on the part of the Tenant hereunder for any cause whatsoever, and the Tenant waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction in the sublease rentals due or to become due hereunder, except as otherwise expressly provided for in the Business Lease as against Landlord.

Section 5. **Events of Default.** Any one or more of the following events shall constitute an "Event of Default" hereunder :

(i) failure of Tenant to comply with any of the terms or conditions of this Agreement within ten (10) business days following Tenant's receipt of written notice thereof from Landlord; provided, however, that with respect to a failure to comply with a non-monetary requirement of the Agreement which cannot reasonably be cured within such ten (10) business day period, such failure shall not constitute an Event of Default if Tenant commences the curing thereof within such ten (10) business day period, and, thereafter, continues to diligently prosecute the curing thereof to completion); or

(ii) if any representation or warranty made to the Agency by Tenant shall provide to have been false, misleading or incorrect in any material respect at the time as of which the facts therein set forth were made, or to have omitted any material liability or claim against the Tenant; or

(iii) any Event of Default under the Business Lease.

Section 6. **Subordination and Non-Disturbance.** The Landlord and the Tenant agree that this Agreement is subject to and is expressly subordinated to the PILOT Agreement, the PILOT Mortgage, the Company Lease and the Lease and all extensions, modifications, amendments and renewals thereof, but in no event shall any such extensions, modifications, amendments and renewals materially affect Tenant's rights and obligations under this Agreement or the Business Lease, unless consented to in writing by the Tenant. Whenever any Event of Default hereunder shall have occurred and be continuing, the Agency may take any of the same remedial steps with respect to the Tenant under this Agreement as are set forth in the Lease with respect to the Landlord. Notwithstanding the foregoing, if an Event of Default under the Lease has occurred which is not due to an Event of Default hereunder or under Article 17 of the Business Lease, then (a) the Agency shall not disturb the Tenant's occupancy of the Premises under the Business Lease and this Agreement (provided, however, that the Agency shall be permitted to exercise its rights and remedies under the Lease against the Landlord with respect to such Event of Default thereunder), and (b) the Tenant shall not be responsible for the repayment of any Benefits as defined in Section 11.4(B) of the Lease. The foregoing provisions of this paragraph shall be self-operative and no further instrument shall be required. However, in confirmation of such subordination, the Landlord and the Tenant shall promptly execute and deliver any certificate or other instrument which the Agency may reasonably request in writing to evidence such subordination.

Section 7. **Miscellaneous.** This Agreement shall inure to the benefit of, and may be enforced by, the Landlord, the Tenant and the Agency, and shall be binding upon the Landlord, the Tenant and the Agency and their respective successors and assigns.

This Agreement shall be governed by, and construed in accordance with, the laws of the State, as the same may be in effect from time to time, without regard to its principles of conflicts of law.

This Agreement shall not be modified, amended, supplemented, rescinded, terminated, repealed or cancelled (except in accordance with its terms) without the prior written consent of the Agency in each instance.

The Tenant shall not seek to recover from the Agency any moneys paid to the Agency pursuant to this Agreement, whether by reason of set-off, counterclaim or deduction or for any reason whatsoever. The Tenant covenants and agrees (x) simultaneously to give to the Agency copies of all notices of default and communications related thereto by the Tenant under this Agreement; (y) that the Agency shall not be obligated by reason of this Agreement or otherwise to perform or be responsible for the performance of any duties or obligations of the Landlord hereunder or under the Business Lease; and (z) not to make any prepayments of rents or other sums due hereunder to the Landlord unless such prepayments shall also be simultaneously applied as a prepayment of rental payments or other sums due or to become due under the Lease.

Any obligations that may be imposed upon the Agency by virtue of operation of this Agreement shall be subject to the non-recourse provisions of the Lease as though such non-recourse provisions were fully set forth herein.

All notices, certificates or other communications hereunder shall be sufficient if sent by registered or certified United States mail, postage prepaid, return receipt requested, addressed, if to the Landlord, to 700 Hicksville Road, Bethpage, NY 11714, Attention: Glenn Lostritto and, if to the Tenant, to [_____]. Copies of any notices of default delivered to the Landlord or to the Tenant shall also be sent to the Agency at 1550 Franklin Avenue, Suite 235, Mineola, NY 11501, Attention: Executive Director, with a copy to Phillips Lytle LLP, 1305 Franklin Avenue, Suite 200, Garden City, NY 11530, Attention: Paul V. O'Brien, Esq.

The Tenant hereby waives the provisions of Section 227 of the New York Real Property Law or any law of like import now or hereafter in effect.

The provisions of this Lease relating to waiver of a jury trial and the right of re-entry or re-possession shall survive the termination or expiration of this Lease.

This Agreement, collectively with the Business Lease, shall completely and fully supersede all other prior understandings or agreements, both written and oral, between the Landlord and the Tenant relating to the Premises.

If any clause, provision or section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

The Tenant will permit the Agency, or its duly authorized agents, at all reasonable times and upon reasonable notice, to enter the Premises for the purposes and in accordance with the provisions set forth in the Lease.

This Agreement, once fully executed and unconditionally delivered to the parties hereto, shall become effective contemporaneously upon the effectiveness of the Business Lease. It 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.

THE PARTIES HERETO DO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY OTHER DOCUMENT EXECUTED IN CONNECTION WITH THIS AGREEMENT.

The Tenant represents that it is subject to service of process in the State and covenants that it will remain so subject so long as this Agreement shall be in effect. If for any reason the Tenant should cease to be so subject to service of process in the State, the Tenant hereby designates and appoints, without power of revocation, _____ for service of process, and if such agent shall cease to act or otherwise cease to be subject to service of process in the State, the Secretary of State of the State of New York, as the agents of the Tenant upon whom may be served all process, pleadings, notices or other papers which may be served upon the Tenant as a result of any of its obligations under this Agreement; provided, however, that the serving of such process, pleadings, notices or other papers shall not constitute a condition to the Tenant's obligations hereunder. The Tenant irrevocably and unconditionally (a) agrees that any suit, action or other legal proceeding arising out of this Agreement may be brought in the courts of record of the State in the County or the courts of the United States, Eastern District of New York; (b) consents to the jurisdiction of each such court in any such suit, action or proceeding; and (c) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts. For such time as this Agreement is in effect, the Tenant's agents designated above shall accept and acknowledge in the Tenant's behalf service of any and all process in any such suit, action or proceeding brought in any such court. The Tenant agrees and consents that any such service of process upon such agents and written notice of such service to the Tenant in the authorized manner shall be taken and held to be valid personal service upon the Tenant whether or not the Tenant shall then be doing, or at any time shall have done, business within the State and that any such service of process shall be of the same force and validity as if service were made upon the Tenant according to the laws governing the validity and requirements of such service in the State, and waives all claim of error by reason of any such service. Such agents shall not have any power or authority to enter into any

appearance or to file any pleadings in connection with any suit, action or other legal proceedings against the Tenant or to conduct the defense of any such suit, action or any other legal proceeding except as expressly authorized by the Tenant.

IN WITNESS WHEREOF, the Landlord and the Tenant have caused this Agreement to be executed in their respective names by their respective duly authorized officers, all being done as of the year and day first above written.

STEEL G, LLC,
as Landlord

By: _____
Name: _____
Title: _____

[_____] ,
as Tenant

By: _____
Name: _____
Title: _____

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

On the ____ day of _____, in the year 2015, before me the undersigned, a Notary Public in and for said State, personally appeared _____, 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 executed the instrument.

Notary Public

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

On the ____ day of _____, in the year 2015, before me the undersigned, a Notary Public in and for said State, personally appeared _____, 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 executed the instrument.

Notary Public

APPENDIX A

"Affiliate" of a Person shall mean a Person who directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with, such Person. The term "control" means (i) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, or (ii) the ownership, either directly or indirectly, of at least fifty-one percent (51%) of the voting stock or other equity interest of such Person.

"Agency Transaction Documents" include the Company Lease, the Lease, the PILOT Agreement, the PILOT Mortgage and all other documents entered into in order to facilitate the Project.

"Business Lease" shall mean the Lease from the Landlord to the Tenant, dated _____, which is annexed hereto as Exhibit A.

"Company Lease" shall mean the Company Lease from the Landlord to the Agency, dated as of October 1, 2011, which conveys to the Agency, inter alia, a leasehold interest in and to the Land and the improvements thereon.

"County" means the County of Nassau.

"Lease" shall mean the Sublease Agreement, dated as of July 1, 2015, between the Agency and the Landlord, and shall include any and all amendments thereof and supplements thereto hereafter made in conformity therewith.

"Person" means an individual, partnership, limited liability company, corporation, trust, unincorporated organization or Governmental Authority.

"PILOT Agreement" shall mean the Payment in Lieu of Taxes Agreement between the Agency and the Landlord, dated as of [_____].

"PILOT Mortgage" shall mean the Mortgage and Assignment of Leases and Rents, dated as of July 1, 2015, from the Landlord and the Agency, as mortgagors, to the County, and its successors and assigns, as mortgagee.

"Prohibited Person" means (i) any Person (A) that is in default or in breach, beyond any applicable grace or cure period, of its obligations under any written agreement with the Agency or the County, or (B) that directly or indirectly controls, is controlled by or is under common control with a Person that is in default or in breach, beyond any applicable grace or cure period, of its obligations under any written agreement with the Agency or the County, unless such default or breach has been waived in writing by the Agency or the County, as the case may be, and (ii) any Person (A) that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure, or (B) that directly or indirectly controls, is controlled by or is under common control with a Person that has been

convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure.

“State” means the State of New York.

APPENDIX B

Employment Report

[FOLLOWS IMMEDIATELY]

FORM OF ANNUAL EMPLOYMENT REPORT

Contact Person:		Actual Number of Employees as of 12/31/__: Average Annual Salary of Employees Retained:	F/T/E \$	
Address of Home Office: Phone & Fax:		20__ Total Annual Payroll Dollar Amount:	\$ F/T/E	Construction Jobs Created During 20__: F/T/E
# of Employees before the IDA project:	F/T/E	Actual # of New Employees Hired in Fiscal Year 20__: Average Annual Salary of Employees Hired:	F/T/E \$	Average Annual Salary of 20__ Construction Jobs: \$

Please attach (1) the fourth quarter form NYS-45 filed with New York State Employment Taxation Department indicating number of employees, and (2) the Undersigned's annual payroll report for year ending 12/31/__. *It is not necessary to include Part C.*
 Undersigned, hereby confirms that no leases, subleases or other arrangements permitting the use or occupancy of the facilities subject to this report are in existence, except those expressly authorized in writing by the Nassau County Industrial Development Agency.
 Undersigned, hereby confirms that no Event of Default under the Transaction Document has occurred and is continuing.

Projects that received Sales Tax Benefits are required to complete the attached ST-340 form and include a copy of it with this report upon return. The original ST-340 must be filed with the NYS Department of Taxation and Finance, by the undersigned, no later than February 11th.

 Print Name & Title

 Signature

Acknowledgement to be completed by a Notary Public
 State of _____ County of _____, On the ____ day of ____ in the year ____ before me the undersigned, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she they executed the same in his/her/their, capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC (Please sign and affix stamp)

RETURN TO: NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY
1550 FRANKLIN AVENUE-SUITE 235
MINEOLA, NY 11501

Attn: Colleen Pereira
 **due no later than February 11, 20__

EXHIBIT A

**Business Lease Agreement Between
Landlord and Tenant**

[FOLLOWS IMMEDIATELY]

EXHIBIT B

Definition of "Project"

Section 854(4) of the General Municipal Law

"Project"--shall mean any land, any building or other improvement, and all real and personal properties located within the state of New York and within or outside or partially within and partially outside the municipality for whose benefit the agency was created, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes or other economically sound purposes identified and called for to implement a state designated urban cultural park management plan as provided in title G of the parks, recreation and historic preservation law and which may include or mean an industrial pollution control facility, a recreation facility, educational or cultural facility, a horse racing facility, a railroad facility or an automobile racing facility, provided, however, no agency shall use its funds in respect of any project wholly or partially outside the municipality for whose benefit the agency was created without the prior consent thereto by the governing body or bodies of all the other municipalities in which a part or parts of the project is, or is to be, located.

EXHIBIT C

Agency Sublease Provisions

Provided that the Landlord has satisfied the conditions set forth in Section 9.3(C) of the Lease, and that no additional Financial Assistance (as defined in the Lease) is being requested to be granted in connection with a proposed sublease by the Tenant (the "Proposed Sublease"), the Agency shall grant its consent thereto, provided that:

(a) neither the Landlord, nor any of its Affiliates nor any Guarantor of Landlord, is then in default, beyond applicable notice and cure periods, under the Lease or any document, instrument or agreement between the Landlord, such Affiliates or such Guarantor, if any, and either the Agency or the County;

(b) the Proposed Sublease will cause the Project Facility to continue to qualify as a "project" under the Act (see Exhibit B annexed hereto) and will not tend, in the judgment of the Agency, to bring the Project into disrepute as a public project;

(c) the proposed use of the premises to be demised by the Proposed Sublease (the "Subleased Premises") is a permitted use under Section 3.2 of the Lease;

(d) the proposed subtenant (the "Proposed Subtenant") is not a Prohibited Person, no guarantor (if any) under the Proposed Sublease is a Prohibited Person and no Affiliate of the Proposed Subtenant or any such guarantor (if any) is a Prohibited Person and, if the Proposed Subtenant is not a publicly traded company, no partner, member or shareholder, as the case may be, of the Proposed Subtenant, is a Prohibited Person;

(e) The Agency determines, based on the record before it, that the Proposed Sublease will not result in the removal of a facility or plant of the Proposed Subtenant from one area of the State to another area of the State (other than relocations within the County) or in the abandonment of one or more plants or facilities of the Proposed Subtenant located in the State (other than in the County), unless the Proposed Sublease is reasonably necessary to discourage the Proposed Subtenant from removing its plant or facility to a location outside the State or is reasonably necessary to preserve the competitive position of the Proposed Subtenant in its respective industry;

(f) the Proposed Sublease will not result in a relocation of the Proposed Subtenant within the County that would result in the creation of vacant space within the County, unless the Agency determines, based on the record before it, that the Proposed Sublease is reasonably necessary to discourage the Proposed Subtenant from removing its plant or facility to a location outside the County;

(g) neither the Landlord, the Tenant, the Proposed Subtenant nor any Affiliate of either of them has employed or retained any appointed or elected governmental official to solicit

or secure the Agency's consent to the Proposed Sublease upon an agreement of understanding for a commission or percentage, brokerage or contingent fee;

(h) no funds of the Agency shall, as a result of the Agency's consent to the Proposed Sublease, be given hereunder to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State; and

(i) the use of the Sublease Premises as contemplated by the Proposed Sublease would not cause the Project Facility or any part thereof or the operation thereof to be in violation of any Applicable Law.

If any of the conditions set forth in clauses (a) through and including (i) above are not satisfied, then the Proposed Sublease shall require the Agency's prior written consent, which consent may be granted or withheld in the Agency's sole and absolute discretion.

If additional Financial Assistance (i.e., additional mortgage recording tax and/or additional sales and use tax exemptions) is requested to be granted simultaneously with or in connection with a Proposed Sublease, then the Proposed Sublease shall require the Agency's prior written consent, which consent may be granted or withheld in the Agency's sole and absolute discretion; provided, however, if the proposed use of the portion of the Project Facility to be demised pursuant to the Proposed Sublease is "Class A" office space, as reasonably determined by the Agency, then the Agency's consent to the Proposed Sublease shall not be unreasonably withheld, delayed or conditioned.

EXHIBIT D

Alterations, Modifications or Improvements to the Premises

Upon prior written notice to the Agency, the Tenant may make alterations, modifications or improvements to the Premises, or any part thereof, provided:

(a) the Tenant shall (a) give or cause to be given all notices and comply or cause compliance with all Applicable Laws applying to or affecting the conduct of work on such modification or improvement to the Premises, or any part thereof, (b) indemnify, defend (with counsel selected by the Agency and reasonably acceptable to the Tenant) and save the Agency and its officers, members, agents (other than the Tenant), attorneys, servants and employees, past, present and future harmless from all fees, expenses, fines and penalties due to failure to comply therewith, (c) promptly procure all permits and licenses necessary for the prosecution of any work described in this Section 6.1(B), and (d) not be in default under this Lease or under any of the other Transaction Documents beyond applicable notice and cure periods;

(b) such alterations, modifications and improvements are effected with due diligence, in a good and workmanlike manner and in compliance with all Applicable Laws;

(c) the Tenant shall promptly and fully pay for such alterations, modifications and improvements in accordance with the terms of the applicable contract(s) therefor;

(d) the alteration, modification or improvement to the Premises shall not constitute or cause a default under any of the Transaction Documents;

(e) the Tenant shall furnish to the Agency, at least thirty (30) days prior to commencing such alteration, modification or improvement to the Premises, detailed plans and specifications therefor; provided, further, however, that such plans need not be furnished to the Agency for nonstructural modifications or improvements to the Premises which do not exceed, at any one time, \$250,000.00 in value;

(f) as a result of such alterations, modifications or improvements, neither the usefulness, structural integrity nor operating efficiency of the Premises would be impaired in the reasonable judgment of the Agency;

(g) if the cost of such alterations, modifications or improvements is estimated to exceed \$500,000.00, such alterations, modifications or improvements shall be conducted only after the Tenant shall have furnished to the Agency a labor and materials payment bond, or other security, naming the Agency as dual obligee and otherwise in form and substance satisfactory to the Agency, or the Tenant shall have furnished to the Agency other evidence satisfactory to the Agency in its reasonable discretion of the availability of sufficient funding for such alterations, modifications or improvements;

(h) the Agency receives reasonably satisfactory evidence that such alterations, modifications and alterations do not change the nature of the Premises such that it would not comply with the terms of this Lease or such that it would not constitute a “project” (as such quoted term is defined in the Act);

(i) if such alterations, modifications or improvements constitute “Tenant Controlled Improvements” (as such term is defined in the PILOT Agreement), then the Agency may require an increase in the sums payable under the PILOT Agreement;

(j) no such alterations, modifications or improvements shall be entitled to any “financial assistance” (as such quoted term is defined in the Act) from the Agency unless agreed to in writing by the Agency; however, it is expressly understood that any such alterations, modifications or improvements (including new structures) shall automatically become part of the Premises and shall be subject to the benefits and obligations of this Lease and the PILOT Agreement; and

(k) an Event of Default shall not have occurred and be continuing under this Lease or any other Transaction Document.

All such alterations, modifications and improvements shall constitute a part of the Premises.

LEASE

DATED [_____]

BETWEEN

STEEL G, LLC

as Landlord

AND

[_____]

as Tenant

Premises: Portion of 201 Grumman Road West, Bethpage, New York

LEASE, dated [____], between STEEL G, LLC, a Delaware limited liability company, having an office at c/o Steel Equities 700 Hicksville Road, Bethpage, New York 11714 ("Landlord") and [____], a [____] corporation, having an office at [____] ("Tenant").

W I T N E S S E T H :

Landlord and Tenant hereby covenant and agree as follows:

ARTICLE 1

Premises

Section 1.01 Landlord hereby leases to Tenant, and Tenant hereby hires from Landlord, the Premises hereinafter described ("Premises") for a Term hereinafter stated, for the rents hereinafter reserved, and upon and subject to the terms and conditions of this Lease.

Section 1.02 The Premises consist of [____] rentable square feet located on the [____] floor in the building known as 201 Grumman Road West, Bethpage, New York ("Building"), all as more particularly shown on Exhibit "A" annexed hereto and made a part hereof ("Site Plan"); together with the non-exclusive right in common with other tenants and occupants to use the Common Areas (as hereafter defined) appurtenant thereto. The Building, the Land (as hereafter defined) and all other improvements, buildings and structures on the Land (including, without limitation, all parking areas, plazas, sidewalks, curbs and the Common Areas) are collectively called the "Project Facility." Landlord reserves the right, at any time during the Term, to change existing access points and designate the exits and entrances for the Project Facility.

Section 1.03 The definitions of certain terms used in this Lease are set forth in Section 35.01 and in various other Sections of this Lease. Landlord and Tenant agree (but with no representation of any kind) that the Premises are conclusively deemed to contain a total of [____] rentable square feet.

ARTICLE 2

Term

The Premises are leased for a term of [____] years ("Term") which shall commence on [____] ("Commencement Date") and expire on [____] ("Expiration Date"), unless the Term shall terminate sooner pursuant to any of the other terms of this Lease or pursuant to law. Upon the Effective Date, the terms and provisions hereof shall be fully binding on Landlord and Tenant prior to the occurrence of the Commencement Date. The taking of possession of Premises by Tenant shall be conclusive evidence as against Tenant that, at the time such possession was so taken, the Premises were in good and satisfactory condition. If for any reason Landlord shall be unable to deliver possession of the Premises to Tenant on any date specified in this Lease for such delivery, Landlord shall have no liability to Tenant therefor and the validity of this Lease shall not be impaired, nor shall the Term be extended, by reason thereof,

except the Commencement Date and Expiration Date shall be adjusted as to the date the Landlord is able to tender actual possession to Tenant. This Section 1.03 shall be an express provision to the contrary for purposes of Section 223-a of the New York Real Property Law and any other law of like import now or hereafter in effect.

ARTICLE 3

Rent

Section 3.01A. Throughout the Term, Tenant shall pay to Landlord, without notice or demand, in lawful money of the United States of America, by check at the office of the Landlord or at such other place as Landlord may designate, the following rental:

- (1) an annual fixed rent ("Fixed Rent") as set forth on Exhibit 'B' annexed hereto and made a part hereof, payable in equal monthly installments in advance on the first day of each and every month commencing on the Commencement Date and thereafter during the Term; and
- (2) additional rent ("Additional Rent") consisting of all other sums of money which becomes due from and payable by Tenant hereunder (for default in the payment of which Landlord shall have the same remedies as for a default in the payment of Fixed Rent) from the Commencement Date and thereafter during the Term.

If Tenant shall fail to pay an installment of Fixed Rent for a period of ten (10) days after such installment shall become due, Tenant shall pay a late charge of five (5%) percent of the amount of any such installment of Fixed Rent so due. If Tenant shall fail to pay any other sum of money or payment of Additional Rent which Tenant assumes or agrees to pay under this Lease for a period of ten (10) days after such payment shall become due, Tenant shall pay interest on such Additional Rent at the Interest Rate (as hereinafter defined) from the date when such payment became due to the date of payment thereof. Any late charges or interest charges herein shall be in addition to all of Landlord's other rights and remedies hereunder in the event of Tenant's default and shall be payable as Additional Rent.

B. There shall be no abatement of, deduction from, reduction of, or counterclaim or set off against any rental unless otherwise specifically and expressly permitted in this Lease. The term "Rent", "rent" or "rental", as used in this Lease, shall include Fixed Rent and Additional Rent.

Section 3.02 Upon the execution and delivery of this Lease, Tenant shall pay [] Dollars on account of Fixed Rent which shall be credited on a per diem basis toward the payment of installments of Fixed Rent first due and payable hereunder. If by reason of any of the provisions of this Lease, the Commencement Date shall be other than the first day of a month, Fixed Rent for such month shall be prorated on a per diem basis.

Section 3.03 Tenant covenants (a) to pay the Fixed Rent and Additional Rent when due and (b) to observe and perform, and not to suffer or permit any violations of, Tenant's obligations under this Lease.

ARTICLE 4 **Condition of the Premises**

Tenant acknowledges that it has examined and inspected the Premises and is fully familiar with the physical condition thereof, and agrees to take possession of the Premises "as is," except for the work to be performed by Landlord, as more particularly described in Exhibit "C" annexed hereto and made a part hereof (collectively "Landlord's Work"). Tenant agrees that, except for Landlord's Work, Tenant shall be responsible, at its sole cost and expense, to perform all of the work needed in order to prepare the Premises for Tenant's initial use and occupancy.

ARTICLE 5 **Use**

Section 5.01 Tenant shall use and occupy the Premises for offices, warehousing and distribution in furtherance of the operation of its business, as presently existing ("Permitted Use"), and for no other purpose without the consent of Landlord.

Section 5.02 Tenant shall not use, occupy, suffer or permit the Premises or any part thereof to be used in any manner, or suffer or permit anything to be brought into or kept therein, which would, in Landlord's judgment, (a) make unobtainable at standard rates from any reputable insurance company authorized to do business in New York State any fire insurance with extended coverage or liability, elevator, boiler, umbrella or other insurance, (b) cause, or be likely to cause, injury or damage to the Building, (c) constitute a public or private nuisance, (d) violate any certificate of occupancy in connection with the Building, (e) emit objectionable noise, fumes, vibrations, heat, chilled air, vapors or odors into or from the Buildings, or (f) impair or interfere with any of the Building services, including the furnishing of electrical energy, or the proper and economical cleaning, heating, ventilating, air conditioning or other servicing of the Building.

Section 5.03 If any governmental license or permit shall be required for the proper and lawful conduct of Tenant's business in or occupancy of the Premises and if failure to secure such license or permit would in any way affect Landlord or the Building, then Tenant, at its expense, shall procure and thereafter maintain such license or permit and submit the same to Landlord for inspection. Tenant shall comply with the terms and conditions of each such license and/or permit.

Section 5.04 During the Term, Tenant shall not operate, bring or permit to be brought or kept in or on the Premises, any coin, token operated vending machines or similar device for the sale of any beverages, food, candy, cigarettes or other commodities (collectively referred to as "Vending Machines") except Vending Machines supplied by Landlord, at Landlord's option.

ARTICLE 6
Real Estate Tax/PILOT Payments

Section 6.01 If Real Estate Taxes for any Tax Year shall exceed the Base Tax Amount, then Tenant shall pay to Landlord (each, a "Tax Payment") Tenant's Share of the amount by which Real Estate Taxes for such Tax Year are greater than the Base Tax Amount.

Section 6.02 For purposes of this Lease, the following definitions shall apply:

(a) "Base Tax Amount" means the Taxes for the following Tax Years:

For School Taxes:
July 1, 2015 through June 30, 2016

For Town Taxes:
January 1, 2015 through December 31, 2015

(b) "Real Estate Taxes" means (i) the real estate taxes, assessments and special assessments levied, assessed or imposed upon or which respect to the Real Property by any federal, state, municipal, school district or other government or governmental body or authority, and (ii) any expenses incurred by Landlord in contesting such taxes or assessments and/or the assessed value of the Real Property, which expenses shall be allocated to the Tax Year to which such expenses relate. If at any time the method of taxation shall be altered so that in lieu of or as addition to or as a substitute for, the whole or any part of such real estate taxes, assessments and special assessments now imposed on real estate, there shall be levied, assessed or imposed (x) a tax, assessment, levy, imposition, fee or charge wholly or partially as a capital levy or otherwise on the rents received therefrom, or (y) any other additional or substitute tax, assessment, levy, imposition, fee or charge, including, without limitation, any PILOT Payments (as hereafter defined), business improvement district and transportation taxes, fees and assessments, then all such PILOT Payments, taxes, assessments, levies, impositions, fees or charges or the part thereof so measured or based shall be included in "Real Estate Taxes". Landlord represents to Tenant that Landlord has entered into a Payment in Lieu of Taxes Agreement ("PILOT Agreement") with the Nassau County Industrial Development Agency ("Agency"). The PILOT Agreement, which may be amended from time to time, sets forth the payments in lieu of real estate taxes ("PILOT Payments") due by Landlord during the term of the PILOT Agreement. A copy of the current PILOT Agreement is annexed hereto as Exhibit "E" and made a part hereof.

(c) "Real Property" means the Land, the Building, all Improvements and all easements, air rights, development or zoning rights over other real property in the vicinity of the Building and all appurtenances to all of the foregoing, consisting of the following tax map identifier: Section ; Block ; Lot on the tax map of Nassau County.

(d) "Tax Year" means each period of twelve (12) months, commencing on the first (1st) day of January of each such period, in which occurs any part of the Term, or the first day of such other period of twelve (12) months occurring during the Term as now or hereafter

may be adopted as the fiscal year for real estate tax purposes of the Town of Oyster Bay and/or and/or County of Nassau.

(e) "Tenant's Share" means [] percent.

Section 6.03 If and to the extent Real Estate Taxes are required to be paid in advance on a quarterly or semi-annual basis for any Tax Year, then Landlord shall bill Tenant for Tenant's Share of the Real Estate Taxes then due for such calendar quarter or semi-annual period, as the case may be, and Tenant's Share of Real Estate Taxes for such calendar quarter or semi-annual period shall be due in its entirety within ten (10) days thereafter. Notwithstanding the foregoing, Landlord may elect to furnish to Tenant, prior to the commencement of each Tax Year, a statement setting forth Landlord's reasonable estimate of the Tax Payment for such Tax Year. Tenant shall pay to Landlord on the first day of each month during such Tax Year, an amount equal to $1/12^{\text{th}}$ of Landlord's estimate of the Tax Payment for such Tax Year. If Landlord shall not furnish any such estimate for a Tax Year or if Landlord shall furnish any such estimate for a Tax Year subsequent to the commencement thereof, then (i) until the first day of the month following the month in which such estimate is furnished to Tenant, Tenant shall pay to Landlord on the first day of each month an amount equal to the monthly sum payable by Tenant to Landlord under this Article 6 in respect of the last month of the preceding Tax Year, (ii) after such estimate is furnished to Tenant, Landlord shall notify Tenant whether the installments of the Tax Payment previously made for such Tax Year were greater or less than the installments of the Tax Payment to be made in accordance with such estimate, and (x) if there is a deficiency, Tenant shall pay the amount thereof within ten (10) days after demand therefor, or (y) if there is an overpayment, Landlord shall refund to Tenant the amount thereof. Landlord may, during each Tax Year, furnish to Tenant a revised statement of Landlord's estimate of the Tax Payment for such Tax Year, and in such case, the Tax Payment for such Tax Year shall be adjusted and paid or refunded as the case may be, substantially in the same manner as provided in the preceding sentence. After the end of each Tax Year, Landlord shall furnish to Tenant a statement of Tenant's Tax Payment for such Tax Year (and shall endeavor to do so within one hundred eighty (180) days after the end of each Tax Year). If such statements shall show that the sums paid by Tenant, if any, exceeded the Tax Payment to be paid by Tenant for the applicable Tax Year, Landlord shall refund to Tenant the amount of such excess; and if such statement shall show that the sums so paid by Tenant were less than the Tax Payment to be paid by Tenant for such Tax Year, Tenant shall pay the amount of such deficiency within ten (10) days after demand therefor. If there shall be any increase in the Real Estate Taxes for any Tax Year, whether during or after such Tax Year, or if there shall be any decrease in the Real Estate Taxes for any Tax Year, the Tax Payment for such Tax Year shall be appropriately adjusted and paid or refunded, as the case may be, in accordance herewith. In no event, however, shall Real Estate Taxes be reduced below the Base Tax Amount.

Section 6.04 If Landlord shall receive a refund of Real Estate Taxes for any Tax Year, Landlord shall pay to Tenant Tenant's Share of the net refund (after deducting from such refund the costs and expenses of obtaining the same, including, without limitation, appraisal, accounting and legal fees, to the extent that such costs and expenses were not included in the Real Estate Taxes for such Tax Year); provided, that such payment to Tenant shall in no event exceed Tenant's Tax Payment paid for such Tax Year.

Section 6.05 If the Taxes comprising the Base Tax Amount are reduced as a result of an appropriate proceeding or otherwise, the Taxes as so reduced shall for all purposes be deemed to be the Base Tax Amount and Landlord shall notify Tenant of the amount by which the Tax Payments previously made were less than the Tax Payments required to be made under this Article 6 and Tenant shall pay the deficiency within ten (10) days after demand therefor. Notwithstanding the foregoing, or any other provision of this Article 6, if there shall be any increase in Real Estate Taxes due to improvements made or other work performed by Tenant to any portion of the Premises, Tenant shall be solely responsible for the amount of such increase and Tenant shall pay such increased amount within ten (10) days after demand therefor.

Section 6.06 In any case provided in this Article 6 in which Tenant is entitled to a refund, Landlord may, in lieu of making such refund, credit against future installments of Fixed Rent any amounts to which Tenant shall be entitled. Nothing in this Article 6 shall be construed so as to result in a decrease in the Fixed Rent. If this Lease shall expire before any such credit shall have been fully applied then (provided Tenant is not in default under this Lease) Landlord shall refund to Tenant the unapplied balance of such credit.

Section 6.07 Landlord's failure to render or delay in rendering any statement with respect to any Tax Payment or installment thereof shall not prejudice Landlord's right to thereafter render such a statement, nor shall the rendering of a statement for any Tax Payment or installment thereof prejudice Landlord's right to thereafter render a corrected statement therefor.

ARTICLE 7

Building Expenses

Section 7.01 Tenant shall pay to Landlord, as Additional Rent, an amount equal to Tenant's Share (as defined in Article 6 hereof) of the Building Expenses for each Expense Year occurring during the Term (an "Expense Payment"). The Expense Payment shall be payable in monthly installments commencing on the Commencement Date and thereafter during the Term. Notwithstanding anything contained in this Lease to the contrary, Tenant shall be responsible for one hundred (100%) percent of the cost incurred by Landlord for any services provided under this Lease exclusively to Tenant and Tenant shall pay such cost within thirty (30) days after written demand therefore by Landlord.

Section 7.02 For purposes of this Lease, the following definitions shall apply:

(a) The term "Building Expenses" shall mean the total of all the costs and expenses incurred or borne by Landlord with respect to the (x) operation, maintenance, cleaning, repair, safety and management of the Project Facility, and (y) the services provided by Landlord to all tenants in the Project Facility. Building Expenses shall include but not be limited to the following: sprinkler maintenance and alarm service maintenance; security services; elevator maintenance (if any), fees of managing agent; snow removal; garbage removal; landscaping and irrigation; parking area maintenance, repair and restriping; the cost of all charges for electricity, gas and water furnished to the Common Areas; repairs, replacements and maintenance of roof and exterior of Building; repairs and maintenance of recharge basin and

septic/sewer systems; painting of the Common Areas; and the cost of building and cleaning supplies, tools and equipment needed to service the Common Areas.

(b) The term "Expense Year" shall mean the full calendar year in which the Term commences, and each subsequent calendar year.

Section 7.03 Following the expiration of each Expense Year, Landlord shall submit to Tenant an "Expense Statement" prepared by Landlord setting forth the Building Expenses for the preceding Expense Year and the Expense Payment if any, due to Landlord from Tenant for such Expense Year. At the request of Tenant, Landlord shall furnish Tenant with information sufficient to determine the basis for the Expense Statement. In the event Tenant's Expense Payment shall be greater than or less than the aggregate of Tenant's Estimated Expense Payment, as said term is hereinafter defined, for such Expense Year, then within twenty (20) days after receipt of such Expense Statement, Tenant shall make payment of any unpaid portion of its Expense Payment as Additional Rent, or any excess paid by Tenant shall be, at Landlord's option, either refunded to Tenant or credited against the payment(s) of estimated Expense Payment next coming due.

Section 7.04 Until the initial Expense Statement or a new Expense Statement of projected Building Expenses is rendered, Tenant's Expense Payment for any Expense Year shall be deemed to be one-twelfth (1/12th) of the total Expense Payment initially estimated by Landlord or based upon the preceding Expense Year, as the case may be ("Estimated Expense Payment").

Section 7.05 Each Expense Statement furnished to Tenant shall constitute a final determination as between Landlord and Tenant of the Building Expenses for the period represented thereby, provided, however, Tenant shall have a period of thirty (30) days following receipt of the Expense Statement to question any one or more line items in the Expense Statement. In no event shall the Fixed Rent under this Lease be reduced by virtue of this Article.

Section 7.06 If the Commencement Date is not the first day of an Expense Year or if the date of expiration or termination of this Lease (except for termination for Tenant's default), whether or not same is the Expiration Date or another date prior or subsequent thereto, is not the last day of an Expense Year, then the Expense Payment, shall be prorated based upon the number of days of the applicable Expense Year within the Term. With respect to the year in which the Term expires or terminates such pro rata portion shall become immediately due and payable by Tenant to Landlord, if it has not theretofore already been paid, and Landlord, as soon as reasonably practicable, shall cause the Expense Statement for that Expense Year to be prepared and furnished to Tenant. Landlord and Tenant thereupon shall make appropriate adjustments of all amounts then owing.

Section 7.07 If the first Expense Year is not a full calendar year, then the Building Expenses for such first Expense Year shall be annualized by Landlord, giving effect to seasonal variations, to obtain the amounts thereof which would have been incurred had said first Expense Year been a full calendar year, and the Expense Payment shall be computed by Landlord based

upon such annualized amounts. For purposes of the foregoing, amounts shall be computed on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months.

ARTICLE 8

Insurance

Section 8.01 Tenant shall not do, suffer or permit anything to be done in or about the Premises or the Building which would: (a) subject Landlord to any liability for injury to any person or property, (b) cause any increase in the insurance rates applicable to the Building, or (c) result in the cancellation of, or the assertion of any defense by any insurer to any claim under, any policy of insurance maintained by or for the benefit of Landlord and the Agency.

Section 8.02 Tenant shall obtain and keep in full force and effect during the Term, at its own cost and expense, the following insurance (collectively "Tenant's Insurance"):

- (a) Commercial general liability insurance covering the operations of Tenant with limits of \$1,000,000 per occurrence Bodily Injury and Property Damage, \$1,000,000 per occurrence Personal & Advertising Injury, \$1,000,000 Products Liability and Completed Operations, \$1,000,000 Fire Damage Legal Liability and \$2,000,000 General Aggregate limit per location. The policy shall be written on an occurrence basis subject to no deductible;
- (b) Property insurance to the full replacement cost on Tenant's machinery, equipment, furniture and fixtures, goods, wares, merchandise, improvements and betterments and loss of Business Income insurance in sufficient amounts against damage caused by fire and all other perils covered by a standard All Risk Insurance Policy, including coverage for terrorist acts;
- (c) Workers Compensation insurance affording coverage under the Workers Compensation laws of the State of New York and Employers Liability coverage subject to statutory limits;
- (d) Auto Liability Insurance in an amount not less than \$1,000,000.00 CSL covering owned, non-owned and hired autos;
- (e) Umbrella Liability Insurance in an amount not less than \$10,000,000, providing excess coverage over all limits and coverages noted in Section 8.02 (a), (b), (c) and (d) above; and
- (f) Such other insurance as Landlord shall reasonably require of Tenant, based on its use of and operations in the Premises.

Section 8.03 All policies of insurance required in Section 8.02 above shall be endorsed to name Landlord and the Agency as "additional insured" using form CG 2010 (11/85) or its equivalent. Definition of "additional insured" shall include all partners, officers, directors, employees, agents and representatives of the named entity, including its managing agent.

Further, coverage for "additional insured" shall apply on a primary basis to any insurance carried by Landlord, whether collectible or not.

Section 8.04 Tenant's Insurance shall be written in form and substance satisfactory to Landlord by an insurance company of recognized responsibility licensed to do business in New York State, having an A.M. Best & Co. insurance rating of at least A and financial size category of at least IX. Tenant's Insurance may be covered under a blanket policy covering the Premises and other locations and may be maintained under a single policy or, at Tenant's election, under more than one policy, whether primary or umbrella. All policies shall be endorsed to provide that in the event of cancellation, non-renewal or material modification, Landlord and the Agency shall receive thirty (30) days written notice thereof. Landlord and Tenant each agree to look first to any insurance in its favor (including rent loss or business interruption insurance, as the case may be before making any claim against the other party for recovery for loss or damage). Tenant agrees to waive its right of subrogation against Landlord and shall obtain a waiver from its insurance company releasing the carrier's subrogation rights against Landlord.

Section 8.05 Tenant shall furnish Landlord and the Agency with Certificates of Insurance evidencing compliance with all insurance provisions simultaneously with the execution of the Lease and five (5) days prior to the expiration or anniversary of the respective policy terms. Upon Landlord's or the Agency's request, Tenant shall furnish complete copies of all policies including all endorsements attached thereto evidencing compliance with all insurance provisions. Additionally, Tenant's contractors and subcontractors, if any, shall provide such insurance as Landlord or the Agency may reasonably require, commensurate with other comparable buildings in proximity to the Building such insurance shall name the Agency as an "additional insured" on liability policies carried by such contractors or subcontractors with respect to their operations at the Premises. Upon failure of Tenant to procure, maintain and pay all premiums therefor, Landlord may, at its option, do so, and Tenant agrees to pay the cost thereof to Landlord as Additional Rent.

Section 8.06 Tenant shall, to the fullest extent permitted by law, and at its own cost and expense, defend, indemnify and hold Landlord its partners, directors, officers, employees, servants, representatives and agents harmless from and against any and all claims, loss (including attorney's fees, witnesses' fees and all court costs), damages, expense and liability (including statutory liability), resulting from injury and/or death of any person or damage to or loss of any property arising out of any negligent or wrongful act, error or omission or breach of contract in connection with the operations of Tenant arising from or in connection with the possession, use, occupancy, management, repair, maintenance or control of the Premises or any portion thereof; or arising from or in connection with any Tenant Improvements. The foregoing indemnity shall include injury or death of any employee or the tenant, its invitees, contractors and subcontractors and shall not be limited in any way by an amount or type of damages, compensation or benefits payable under any applicable Workers Compensation, Disability Benefits or other similar employee benefits acts. Tenant's liability under the foregoing indemnification shall not be limited to required limits contained in Section 8.02 above. The duty to defend, indemnify, and hold harmless shall not depend on whether any indemnitee either shall or shall not be reimbursed by insurance, and shall survive the expiration or earlier termination of this Lease.

ARTICLE 9

Compliance with Laws

Section 9.01 Tenant, at its sole cost and expense, shall comply with all Legal Requirements and all Insurance Requirements and give Landlord prompt notice of any lack of compliance. Tenant shall pay all costs, expenses, fines, penalties and damages which may be imposed upon Landlord and/or the mortgagee by reason of or arising out of Tenant's failure fully and promptly to comply with the provisions of this Section.

Section 9.02 Any Improvements made or performed by or on behalf of Tenant or any person claiming through or under Tenant pursuant to this Article shall be made in conformity with and subject to the provisions of Article 10.

Section 9.03 Tenant shall not use, generate, manufacture, store or dispose of any Hazardous Materials on or about the Property, or cause or permit any Hazardous Materials to be brought upon, stored, manufactured, or used on or about the Property, in violation of any Legal Requirement, for any purpose. Tenant shall provide to Landlord copies of all communications received by Tenant with respect to any Legal Requirements relating to Hazardous Materials, and/or any claims made in connection therewith. Landlord or its agents may perform environmental inspections of the Premises at any time (upon reasonable notice to Tenant). The term "Hazardous Materials" shall mean any substances, materials or wastes currently or in the future deemed or defined in any Legal Requirement as "hazardous materials," "hazardous substances," "toxic substances," "contaminants," "pollutants" or words of similar import.

ARTICLE 10

Improvements; Tenant's Property

Section 10.01 So long as Tenant is not in default under this Lease, Tenant, at its sole cost and expense, may make Improvements in the Premises, excluding structural changes, provided:

- (a) Tenant's Improvements will not result in a violation of or require a change in any certificate of occupancy applicable to the Premises or to the Building or require the Landlord to make changes in or about the Premises as a result of Tenant's Improvements;
- (b) The character or outside appearance of the Building, or rentability of the Buildings or any part thereof shall not be affected in any way, and Tenant's Improvements shall not, in the sole opinion of Landlord, weaken or impair (temporarily or permanently) the structure or lessen the value or cubic content of the Premises or the Building either during the making of such Improvements or upon their completion;
- (c) No part of the Building outside of the Premises shall be physically affected;
- (d) In performing the work involved in making Improvements, Tenant shall be bound by and observe all of the terms of this Article;

- (e) Upon the termination of this Lease, Tenant shall, on Landlord's request, restore the Premises to their condition prior to the making of any Improvements by Tenant, reasonable wear and tear and damage by insured casualty excepted; and
- (f) No Improvements estimated to cost more than \$50,000 (as estimated by Landlord's architect, engineer or contractor), shall be undertaken (i) except under the supervision of a licensed architect or licensed professional engineer satisfactory to Landlord, (ii) except after at least thirty (30) days' prior notice to Landlord and (iii) prior to Tenant delivering to Landlord either (1) a performance bond and a labor and materials payment bond (issued by a surety company satisfactory to Landlord and licensed to do business in New York State) each in an amount equal to 100% of such estimated cost, showing Landlord as an additional obligee thereunder, and otherwise in form satisfactory to Landlord or (2) such other reasonable security as shall be satisfactory to Landlord.

Section 10.02 All Improvements shall at all times comply with all Legal Requirements and Insurance Requirements and all Rules and Regulations (including any Landlord may reasonably adopt with respect to the making of Improvements) and shall be made at such times and in such manner as Landlord may from time to time direct. Tenant, at its expense, shall (a) obtain all necessary municipal and other governmental permits, authorizations, approvals and certificates for the commencement and prosecution of such Improvements and for final approval thereof upon completion, (b) deliver three (3) copies thereof to Landlord, and (c) cause all Improvements to be performed in a good and first-class workmanlike manner, using new materials and equipment at least equal in quality to the original installations of the Building or the then standards for the Building established by Landlord. Improvements shall be promptly commenced and completed and shall be performed in such manner so as not to interfere with the occupancy of any other tenant nor delay or impose any additional expense upon Landlord in the maintenance, cleaning, repair, safety, management, or security of the Building or in the performance of any Improvements. If any additional expense is incurred by Landlord, Tenant shall pay such additional expense as Additional Rent upon demand. Throughout the performance of Improvements, Tenant, at its sole cost and expense, shall carry, or cause to be carried, worker's compensation insurance covering all persons employed in connection with the Improvements in statutory limits and general liability insurance (with completed operations endorsement) for any occurrence in or about the Premises in which Landlord, Landlord's agents, the Agency and the mortgagee shall be named as parties assured, in such limits as Landlord may reasonably prescribe, with insurers reasonably satisfactory to Landlord and evidence that such insurance is in effect before the commencement of its Improvements and, on request, at reasonable intervals thereafter.

Section 10.03 Tenant, at its expense, promptly shall procure the cancellation or discharge of all notices of violation arising from or otherwise connected with Improvements which shall be issued by any public authority having or asserting jurisdiction.

Section 10.04 Tenant promptly shall pay the cost of all Improvements. Tenant hereby indemnifies Landlord against liability for any mechanics' and other liens filed in connection with Improvements or repairs, including the liens of any chattel mortgages, security agreements or financing statements upon any materials or fixtures installed in and constituting part of the Premises. Tenant, at its expense, shall either bond or procure the discharge of all such liens within thirty (30) days after the filing of any such lien against the Premises or any part thereof. If Tenant shall fail to cause any such lien to be discharged within the period aforesaid, then, in addition to any other right or remedy, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by deposit or bonding proceedings, and in any such event Landlord shall be entitled, if it elects, to compel the prosecution of an action for the foreclosure of such lien and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances. Any amount so paid by Landlord, all costs and expenses incurred by Landlord in connection therewith, shall constitute Additional Rent and shall be paid on demand.

Section 10.05 All fixtures, equipment, Improvements and appurtenances attached to or built into the Premises at the commencement of or during the Term (collectively "Fixtures"), whether or not at the expense of Tenant, shall be and remain a part of the Premises and shall be deemed the property of Landlord as of the date such Fixtures are completed, or as of the date such Fixtures are attached to or built into the Premises, and shall not be removed by Tenant, except as expressly provided in this Lease.

ARTICLE 11

Tenant Maintenance and Repairs

Section 11.01 Tenant agrees that, from and after the Commencement Date and until the Expiration Date or earlier termination of the Term pursuant to any of the other terms of this Lease or pursuant to law, it will, at its expense, keep and maintain in good order and condition the Premises, Tenant's Property, all Improvements, facilities, equipment and Fixtures now or hereafter located therein (including but not limited to rollup gates, doors, locks, windows, and plate glass) and promptly shall make all necessary or appropriate repairs, replacements and renewals thereof.

Section 11.02 Tenant shall be responsible, at its cost and expense, for all maintenance, repairs and/or replacements to all Building Systems located in and which exclusively service the Premises (including the air conditioner compressor, lines and ducts which may be located elsewhere in the Building or on the Land). In addition, Tenant shall make all repairs and replacements of any kind and nature necessitated by any act or neglect of Tenant, its contractors, its servants, agents, invitees or employees including any repairs and/or replacements resulting from Tenant's failure to maintain adequate heat in the Premises. Tenant shall maintain service contracts with contractors reasonably approved by Landlord for the maintenance of the heating, ventilating, and air conditioning systems throughout the Term and provide Landlord with copies of such contracts.

Section 11.03 Notwithstanding any contrary provision of this Lease, Tenant, at its expense, shall make any and all repairs to the Premises which may be necessitated by any break-in, forcible entry or other trespass into or upon the Premises, regardless of whether or not such entry and damage is caused by the negligence or fault of Tenant or occurs during or after business hours.

Section 11.04 Tenant shall provide for the removal of all garbage, at its costs and expense and for such purpose obtain a service to pick up rubbish on a regular basis. Garbage and refuse shall be kept in containers or dumpsters to be placed in an area designated by Landlord for such purpose. Tenant, at Landlord's election, shall retain Landlord's refuse removal contractor to perform such refuse removal services at Tenant's expense. Landlord's refuse contractor shall charge Tenant at competitive market rates and shall reasonably perform its obligations under its contract with Tenant.

Section 11.05 Tenant shall, at its cost and expense, take good care of, maintain and keep clean, the interior of the Premises, any sidewalks and grounds immediately in front of the Premises. Additionally, Tenant shall, at its cost, keep free from debris, ice and snow, any loading docks exclusively servicing the Premises. Tenant, at Landlord's election, shall retain Landlord's snow removal contractor and/or cleaning contractor to perform such snow removal and cleaning services, at Tenant's expense.

Section 11.06 If Tenant does not maintain, repair or replace such elements as provided in this Article 11, the Landlord may, but shall not be obligated to, make the necessary repair or cure the defective condition at the expense of the Tenant and the Tenant shall reimburse Landlord promptly upon request therefore. The amount of such reimbursement shall be considered Additional Rent under the Lease and shall be due within ten (10) days of demand thereof. Landlord shall not be responsible for any repairs to the Premises or provide any services unless expressly stated in this Lease.

ARTICLE 12

Landlord Maintenance, Repairs and Services

Section 12.01 During the Term, Landlord shall make all structural repairs, except those which shall have been occasioned by the acts of omission or commission of the Tenant, its agents, contractors, employees or invitees. Tenant shall promptly give written notice to Landlord with respect to any damages to the interior or exterior of the Premises. Structural repairs are hereby defined to be and limited to repair of the roof deck, bearing walls and foundation, except as expressly set forth to the contrary in Article 11 hereof and elsewhere in this Lease as being the responsibility of Tenant.

Section 12.02 Subject to reimbursement in accordance with Article 7 hereof, Landlord shall provide snow removal services to the common parking area and common roadways servicing the Building.

ARTICLE 13

Electricity; Utilities

Section 13.01 Electricity Landlord shall install either a (i) direct meter or (ii) sub-meter, in order to measure Tenant's consumption of electricity in connection with the use and occupancy of the Premises. If a direct meter is installed, then Tenant shall make all arrangements for electric service directly with the utility company supplying such service to the Premises, including any deposit requirement. Tenant shall pay directly to the utility company, promptly as and when due, all metered or assessed charges for electric used and consumed in or in connection with the Premises. Tenant shall comply with all contracts relating to any such service and shall do all other things required for the maintenance and continuance of all such service. Landlord shall not be responsible for any delays occasioned by the failure of the utility company to furnish electric service to the Premises. If a sub-meter is installed, then, all sub-metered charges for electric consumed within the Premises shall be at Landlord's actual cost plus a commercially reasonable charge to cover Landlord's cost to administer such service. Bills for any such sub-metered charges shall be tendered at such times as Landlord may elect and the amount, as computed from such sub-meter, shall be deemed to be, and be paid as Additional Rent within twenty (20) days after the same are tendered. In the event that such bills are not paid within ten (10) days after written notice from Landlord to Tenant that such payments are past due, Landlord may discontinue the electric service measured by such sub-meter without releasing Tenant from any liability under this Lease and without Landlord or Landlord's agent incurring any liability for any damage or loss sustained by Tenant by such discontinuance of service. If any tax is imposed upon Landlord's receipts from the sale or resale of electric service to Tenant by any Federal, State or Municipal authority, Tenant covenants and agrees that where permitted by law, Tenant's pro-rata share of such taxes shall be passed onto and included in the bill of, and paid by, Tenant to Landlord. Landlord shall not be liable in any way to Tenant for any change, failure, inadequacy or defect in the supply or character of electric energy furnished to the Premises. Landlord shall not be liable in any way to Tenant for any change, failure, inadequacy or defect in the supply or character of electric energy furnished to the Premises. Tenant, at Tenant's expense, shall be responsible for any repair, maintenance and replacement of any electric meter, panel board and all wires and wiring located within the Premises and all feeders and risers serving the Premises installed by or at the request of Tenant, or shall pay Landlord's reasonable charges therefor on demand. At no time shall Tenant's connected electrical load in the Premises exceed the Buildings' electrical specifications, as determined by Landlord's consulting engineer in the exercise of his reasonable judgment, without the prior written approval of the Landlord.

Section 13.02 Gas All gas service required for the operation of Tenant's business in the Premises shall be the responsibility of Tenant, at Tenant's sole cost and expense. Tenant shall make all arrangements for gas service directly with the utility company supplying such service to the Premises, including any deposit requirement. Landlord shall not be responsible for any delays occasioned by the failure of the utility company to furnish gas service to the Premises. Tenant shall pay directly to the utility company, promptly as and when due, all metered or assessed charges for gas used and consumed in or in connection with the Premises. Tenant shall comply with all contracts relating to any such service and shall do all other things required for the maintenance and continuance of all such service.

Section 13.03 Water Tenant shall be responsible for Tenant's Share (as defined in Article 6 hereof) of water/sewer charges imposed or assessed upon the Building ("Water Charges"). Tenant shall pay Tenant's Share of the Water Charges to Landlord as Additional Rent within ten (10) days following presentment of bills evidencing such charges. If Tenant requires, uses or consumes water for any purpose in addition to ordinary lavatory purposes, Landlord may install a water meter or sub-meter and thereby measure Tenant's water consumption for all purposes. Tenant shall pay Landlord for the cost of the meter and the cost of the installation, thereof and throughout the duration of Tenant's occupancy. Tenant shall keep said meter and installation equipment in good working order and repair at Tenant's own cost and expense in default of which Landlord may cause such meter and equipment to be replaced or repaired and collect the cost thereof from Tenant, as Additional Rent. Tenant agrees to pay for water consumed, as shown on said meter as and when bills are rendered, and on default in making such payment Landlord may pay such charges and collect the same from Tenant, as Additional Rent. Tenant covenants and agrees to pay, as Additional Rent, the sewer rent, charge or any other tax, rent, levy or charge which now or hereafter is assessed, imposed or a lien upon the Premises or the realty of which they are part pursuant to law, order or regulation made or issued in connection with the use, consumption, maintenance or supply of water, water system or sewage or sewage connection or system.

Section 13.04 Telephone/Data Telephone and data transmission service (collectively, "Telephone/Data Service") shall be the responsibility of Tenant. Tenant shall make all arrangements for telephone/data service directly with a telecommunications company supplying said service, including the deposit requirement for the furnishing of service. Landlord shall not be responsible for any delays occasioned by the failure of said company to furnish such service. In the event Landlord has designated a company as the prime Telephone/Data Service provider for the Building, Tenant may use a different telephone/data service provider of its choice provided (i) such other provider shall be reasonably acceptable to Landlord, (ii) the installation work of such provider shall be performed in accordance with the provisions of Article 10 of this Lease and (iii) such provider shall install the equipment required to provide such service to Tenant inside the Premises and not in the Common Areas (except that the wiring and cabling to such equipment may be run through the Common Areas in the manner and location reasonably required by Landlord).

ARTICLE 14

Intentionally Omitted

ARTICLE 15

Damage to or Destruction of the Premises

Section 15.01 If the Premises or any part thereof shall be damaged or rendered Untenantable by fire or other insured casualty and if Tenant gives prompt notice thereof to Landlord and this Lease is not terminated pursuant to any provision of this Article, Landlord shall proceed to repair or cause to be repaired such damage to the Premises after and to the extent of Landlord's collection of the insurance proceeds attributable to such damage to the Premises. The rental shall be equitably abated to the extent that the Premises shall have been rendered

Untenantable, such abatement to be from the date of such damage to the date the Premises shall no longer be Untenantable; provided, however, should Tenant occupy a portion of the Premises during the period the repair work is taking place and prior to the date the Premises are no longer Untenantable, the rent allocable to such occupied portion, based upon the proportion which the occupied portion of the Premises bears to the total area of the Premises, shall be payable by Tenant from the date of such occupancy.

Section 15.02 If the Premises shall be totally damaged or rendered wholly Untenantable by fire or other casualty or if the Building shall be so damaged by fire or other casualty that substantial alteration or reconstruction of the Building in Landlord's sole opinion, shall be required (whether or not the Premises shall have been so damaged), then Landlord may terminate this Lease, by giving thirty (30) days' notice of such termination, within ninety (90) days after the date of such fire or other casualty. In the event that such notice of termination shall be given, this Lease shall terminate as of the date provided in such notice of termination (whether or not the Term shall have commenced) with the same effect as if that date were the Expiration Date, without prejudice to Landlord's rights under this Lease, but in no event shall Tenant be obligated to pay rent from date same were rendered Untenantable.

Section 15.03 Landlord shall not be liable for any inconvenience to Tenant or injury to the business of Tenant resulting in any way from any such damage by fire or other casualty, or the repair thereof. Landlord will not carry insurance of any kind on Tenant's Property, and Landlord shall not be obligated to repair any damage thereto, or replace the same, or bear any of the risk of loss of Tenant's Property.

Section 15.04 This Article shall be considered an express agreement governing any case of damage to or destruction of the Buildings or any part thereof by fire or other casualty, and Section 227 of the Real Property Law of the State of New York (or any similar or successor provision) providing for such a contingency in the absence of such express agreement, and any other law of like import now or hereafter enacted, shall have no application in such case.

ARTICLE 16

Eminent Domain

Section 16.01A. If the whole of the Premises shall be acquired or condemned by eminent domain, this Lease shall terminate as of the date of the vesting of title in the condemning authority as if said date were the Expiration Date. If only a part of the Premises shall be so acquired or condemned then, except as otherwise provided in this Article, this Lease shall continue in force and effect, but from and after the date of the vesting of title, the Fixed Rent shall be an amount which bears the same ratio to the Fixed Rent payable immediately prior to such condemnation as the value of the untaken portion of the Premises (appraised after the taking and repair of any damage to the Buildings pursuant to this Section) bears to the value of the entire Premises immediately before the taking and any Additional Rent payable shall be adjusted to reflect the diminution of the Premises. Such value of the Premises before and after the taking shall be determined by an independent appraiser chosen by Landlord. Pending such determination, Tenant shall pay to Landlord rent as fixed by Landlord, subject to adjustment after such determination.

B. If only a part of the Premises shall be so acquired or condemned, then whether or not the Premises shall be affected, Landlord may, within sixty (60) days following the date of vesting of title, give Tenant thirty (30) days' notice of termination of this Lease and in which event this Lease shall terminate upon the expiration of said thirty (30) days with the same effect as if that date were the Expiration Date, and the rental shall be apportioned as of the date title was vested in the condemning authority.

Section 16.02 In the event of any such acquisition or condemnation of all or any part of the Premises, Landlord shall receive the entire award for any such acquisition or condemnation. Tenant shall have no claim against Landlord or the condemning authority for the value of any unexpired portion of the Term and agrees not to join in any claim made by Landlord and to execute all further documents that may be required in order to facilitate the collection of the award by Landlord. Landlord shall have the right, coupled with an interest, to sign such further documentation on behalf of Tenant.

Section 16.03 If the temporary use or occupancy of all or part of the Premises shall be condemned or taken, this Lease shall remain unaffected by such condemnation or taking and Tenant shall continue responsible for all of its obligations hereunder (except to the extent prevented from so doing by reason of such condemnation or taking) and it shall continue to pay the rent in full except as herein above provided. Any lump sum award received by Tenant as compensation for temporary use and occupancy of the Premises shall be delivered to and held by Landlord in trust for the making of rent payments. The rights and interest of Landlord and Tenant to any award received or receivable with respect to a condemnation or taking for temporary use or occupancy shall be in all other respects governed by the applicable provisions of the Superior Mortgage.

Section 16.04 The terms "condemnation" and "acquisition" as used herein shall include any agreement in lieu of or in anticipation of the exercise of the power of eminent domain between the Landlord and any governmental authority authorized to exercise the power of eminent domain.

ARTICLE 17

Conditions of Limitation

Section 17.01 A. This Lease and the Term and estate hereby granted are subject to the limitations that:

- (a) if Tenant shall file a voluntary petition in bankruptcy or insolvency, or commence a case under the Bankruptcy Code, or shall be adjudicated a debtor, or insolvent, or shall file any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy act or any other present or future applicable federal, state or other statute or law (foreign or domestic), or shall make an assignment for the benefit of creditors or shall seek or consent acquiesce in the

appointment of any trustee, receiver or liquidator of Tenant or of all or any part of Tenant's Property; or

- (b) if, within sixty (60) days after the commencement of any proceeding and/or case against Tenant, whether by the filing of a petition or otherwise, seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future applicable federal, state or other statute or law (foreign or domestic), such proceeding shall not have been dismissed, or if, within sixty (60) days after the appointment of any trustee, custodian, receiver or liquidator of Tenant or of all or any part of Tenant's Property, without the consent or acquiescence of Tenant, such appointment shall not have been vacated or otherwise discharged, or if any execution or attachment shall be issued against Tenant or any of Tenant's Property pursuant to which the Premises shall be taken or occupied or attempted to be taken or occupied; or
- (c) if Tenant shall default in the payment of any Fixed Rent or Additional Rent and such default shall continue for a period of five (5) days after delivery of notice from Landlord; or
- (d) if Tenant shall default in the performance of any term of this Lease on Tenant's part to be performed (other than the payment of Fixed Rent and Additional Rent) and Tenant shall fail to remedy such default within thirty (30) days after notice of such default, or if such default is of such a nature that it cannot be completely remedied within said period of thirty (30) days, if Tenant shall not (x) promptly upon the giving by Landlord of such notice advise Landlord of Tenant's intention to institute all steps necessary to remedy such situation, (y) promptly institute and thereafter diligently prosecute to completion all steps necessary to remedy the same, and (z) complete such remedy within a reasonable time after the date of the giving of said notice by Landlord; or
- (e) if the Premises shall become vacant, deserted or abandoned for a period of thirty (30) consecutive days or if Tenant fails to take occupancy of the Premises within thirty (30) days after the Commencement Date;

then in any of said events Landlord may give to Tenant notice of intention to terminate this Lease and to end the Term and the estate hereby granted at the expiration of ten (10) days from the date of the giving of such notice, and, in the event such notice is given, this Lease and the Term and estate hereby granted (whether or not the Term shall have commenced) shall terminate upon the expiration of said ten (10) days with the same effect as if that day were the Expiration Date, but Tenant shall remain liable for damages as provided in Article 18.

B. If Tenant shall be in default under Section 17.01A, then Tenant shall also be liable for all legal and other experts' fees, costs and expenses paid or incurred by Landlord,

whether directly or indirectly, in having any court determine that this Lease is terminated, or in Landlord's recovering possession of the Premises or in Landlord recovering payment of Fixed Rent or Additional Rent or in Landlord's appearing in any court, or in Landlord's being a party to any appeal(s) from any such court's determination.

Section 17.02 Nothing in Section 17.01 shall be deemed to require Landlord to give the termination notice(s) therein provided for prior to the commencement of a summary proceeding for nonpayment of rent or a plenary action for recovery of rent on account of any default in the payment of the same, it being intended that such notice(s) is for the purpose of creating a conditional limitation hereunder pursuant to which this Lease shall terminate, and if Tenant thereafter remains in possession or occupancy it shall become a holdover tenant.

ARTICLE 18

Re-Entry by Landlord; Remedies

Section 18.01 If Tenant shall default in the payment when due of any installment of Fixed Rent or in the payment when due of any Additional Rent and such default shall continue for a period of five (5) days after notice, or if this Lease and the Term shall terminate as provided in Article 17:

- (a) Landlord and Landlord's agents may immediately, or at any time after such default or after the date upon which this Lease and the Term shall terminate, re-enter the Premises or any part thereof, without notice, either by summary proceedings or by any other applicable action or proceeding, or by force or otherwise (without being liable to indictment, prosecution or damages therefor), and may repossess the Premises and dispossess Tenant and any other persons from the Premises and remove any and all of its or their property and effects from the Premises, without liability for damage thereto, to the end that Landlord may have, hold and enjoy the Premises, and in no event shall re-entry be deemed an acceptance of surrender of this Lease; and
- (b) Landlord, at its option, may relet the whole or any part of the Premises from time to time, either in the name of Landlord, Tenant or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Expiration Date, at such rental or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord in its sole discretion may determine. Landlord shall have no obligation to relet the Premises or any part thereof and shall in no event be liable for refusal or failure to relet the Premises or any part thereof, or, in the event of any such reletting, and no such refusal or failure shall operate to relieve Tenant of any liability. Landlord, at Landlord's option, may make such repairs, Improvements and other physical changes in and to the Premises as Landlord, in its discretion, considers advisable or necessary in connection with any such reletting or proposed reletting, without relieving Tenant of any liability under this Lease or otherwise affecting any such liability.

Section 18.02 Tenant, on its own behalf and on behalf of all persons claiming through or under Tenant, including all creditors, does hereby expressly waive, so far as is permitted by law, any and all rights which Tenant and all such persons might otherwise have to (a) the service of any notice of intention to re-enter or to institute legal proceedings to that end, (b) redeem the Premises or any interest therein, (c) re-enter or repossess the Premises, or (d) restore the operation of this Lease, after Tenant shall have been dispossessed by a judgment or by a warrant of any court or judge, or after any re-entry by Landlord, or after any termination of this Lease, whether such dispossession, re-entry by Landlord or termination shall be by operation of law or pursuant to the provisions of this Lease. The word "re-enter", "re-entry" and "re-entered" as used in this Lease shall not be deemed to be restricted to their technical legal meanings.

Section 18.03 In the event of any breach or threatened breach by Tenant or any person claiming through or under Tenant of any of the terms of this Lease, Landlord shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any right allowed at law or in equity, by statute or otherwise, as if re-entry, summary proceedings or other specific remedies were not provided for in this Lease.

Section 18.04 If this Lease shall terminate as provided in Article 17, or by or under any summary proceedings or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in this Article, or by or under any summary proceeding or any other action or proceeding, then, in any of said events:

- (a) Tenant shall pay to Landlord all rent to the date upon which this Lease shall have been terminated or to the date of re-entry upon the Premises by Landlord, as the case may be;
- (b) Landlord shall be entitled to retain all monies, if any, paid by Tenant to Landlord, whether as advance rent, security or otherwise, but such monies shall be credited by Landlord against any rent due at the time of such termination or re-entry or, at Landlord's option, against any damages payable by Tenant;
- (c) Tenant shall be liable for and shall pay to Landlord, as damages, any deficiency between the rent payable hereunder for the period which otherwise would have constituted the unexpired portion of the Term (conclusively presuming the Additional Rent to be the same as was payable for the year immediately preceding such termination or re-entry) and the net amount, if any, of rents ("Net Rent") collected under any reletting effected pursuant to the provisions of Section 18.01 for any part of such period (first deducting from the rents collected under any such reletting all of Landlord's expenses in connection with the termination of this Lease or Landlord's re-entry upon the Premises and in connection with such reletting including all repossession costs, brokerage commissions, legal expenses, alteration costs and other expenses of preparing the Premises for such reletting);

- (d) Any deficiency in accordance with subdivision (c) above shall be paid in monthly installments by Tenant on the days specified in this Lease for the payment of installments of Fixed Rent. Landlord shall be entitled to recover from Tenant each monthly deficiency as the same shall arise and no suit to collect the amount of the deficiency for any month shall prejudice Landlord's right to collect the deficiency for any prior or subsequent month by a similar proceeding. Alternatively, suit or suits for the recovery of such deficiencies may be brought by Landlord from time to time at its election; and
- (e) Whether or not Landlord shall have collected any monthly deficiencies as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay Landlord, on demand, as and for liquidated and agreed final damages and not as a penalty, a sum equal to the amount by which the Fixed Rent and Additional Rent payable hereunder for the period to the Expiration Date from the earlier of (i) the last date to which all rental payments have been made, or (ii) the latest of the date of termination of this Lease, the date of re-entry, or the date through which monthly deficiencies shall have been paid in full (conclusively presuming the Additional Rent to be the same as payable for the year immediately preceding such termination or re-entry), exceeds the then fair and reasonable rental value of the Premises for the same period, both discounted at the rate of seven (7%) percent per annum to present worth.

Section 18.05 Each right of Landlord provided for in this Lease shall be cumulative and shall be in addition to every other right provided for in this Lease or now or hereafter existing at law or in equity. The exercise or beginning of the exercise by Landlord of any one or more of such rights shall not preclude the exercise by Landlord of any other rights provided for in this Lease or now or hereafter existing.

ARTICLE 19

Curing Tenant's Defaults; Fees and Expenses

Section 19.01 If Tenant shall default in the performance of any term of this Lease on Tenant's part to be performed, Landlord, without thereby waiving such default, may, but shall not be obligated to, perform the same for the account and at the expense of Tenant, without notice in case of emergency and upon five (5) days notice in all other cases. Landlord may enter the Premises at any time to cure any default. Bills for any expenses incurred by Landlord in connection with any such performance or involved in collecting or endeavoring to collect rent or enforcing or endeavoring to enforce any rights against Tenant under or in connection with this Lease or pursuant to law, including reasonable attorneys fees and any cost, expense and disbursement involved in instituting and prosecuting summary proceedings, as well as bills for any property, material, labor or services provided, furnished or rendered, shall be paid by Tenant as Additional Rent on demand.

Section 19.02 In the event that Tenant is in arrears in payment of rent, Tenant waives Tenant's right, if any, to designate the items against which any payments made by Tenant are to be credited and Landlord may apply any payments made by Tenant to any items Landlord sees fit, irrespective of any designation by Tenant as to the items against which any such payments shall be credited.

ARTICLE 20

Non-Liability and Indemnification

Section 20.01 Neither Landlord nor Landlord's agents, employees, officers, directors, shareholders, partners or principals (disclosed or undisclosed) shall be liable to Tenant or Tenant's agents, employees, contractors, invitees or licensees or any other occupants of the Premises, and Tenant shall save and hold Landlord, Landlord's agents and their respective agents, employees, contractors, officers, directors, shareholders, partners and principals (disclosed or undisclosed) harmless from any loss, liability, claim, damage, expense (including reasonable attorneys' fees and disbursements), penalty or fine incurred in connection with or arising from any injury to Tenant or to any other person or for any damage to, or loss (by theft or otherwise) of any of Tenant's Property or of the property of any other person, irrespective of the cause of such injury, damage or loss unless due to the sole negligence of Landlord or Landlord's agents without contributory negligence on the part of Tenant, its employees, agents, subtenants, contractors, invitees or licensees.

Section 20.02 Tenant hereby indemnifies Landlord against liability in connection with or arising from (a) any default by Tenant in the performance of any provisions of this Lease, and/or (b) the use or occupancy or manner of use or occupancy of the Premises by Tenant or any person claiming by, through or under Tenant, and/or (c) any acts, omissions or negligence of Tenant or any such person, or the contractors, agents, employees, invitees or licensees of Tenant or any such person, in or about the Premises either prior to, during or after the expiration of the Term.

Section 20.03 Tenant shall pay to Landlord as Additional Rent sums equal to all losses and other liabilities referred to in Section 20.02.

ARTICLE 21

Surrender

Section 21.01 On the Expiration Date or upon the sooner termination of this Lease or upon any re-entry by Landlord upon the Premises, Tenant shall, at its sole cost and expense, quit, surrender, vacate and deliver the Premises to Landlord "broom clean" and in good order, condition and repair except for ordinary wear, tear and damage by fire or other insured casualty, together with all Improvements which have been made upon the Premises (except as otherwise provided for in this Lease). Tenant shall remove from the Premises all of Tenant's Property and all personal property and personal effects of all persons claiming through or under Tenant, and shall promptly pay Landlord the cost to repair all damage to the Premises occasioned by such removal, whether or not Landlord corrects such damage.

Section 21.02 If the Expiration Date or the date of sooner termination of this Lease shall fall on a day which is not a business day, then Tenant's obligations under Section 21.01 shall be performed on or prior to the immediately preceding business day.

Section 21.03 Any of Tenant's Property or other personal property which shall remain in the Premises after the termination of this Lease shall be deemed to have been abandoned and either may be retained by Landlord as its property or may be disposed of in such manner as Landlord may see fit; provided, however, that notwithstanding the foregoing, Tenant will, upon request of Landlord made not later than twenty (20) days after the termination of the Lease, promptly remove from the Building any such Tenant's Property or other personal property at Tenant's own cost and expense. If such Tenant's Property or other personal property or any part thereof shall be sold, Landlord may receive and retain the proceeds of such sale and apply the same, at its option, against the expenses of the sale, moving and storage, arrears of rent and any damages to which Landlord may be entitled. Any excess proceeds shall be the property of Landlord. Any expense incurred by Landlord in removing or disposing of such Tenant's Property or other personal property shall be reimbursed to Landlord by Tenant as Additional Rent on demand.

Section 21.04 In the event Tenant remains in possession of the Premises after the termination of this Lease without the execution of a new lease, Tenant, at the option of Landlord, shall be deemed to be occupying the Premises as a tenant from month to month, at a monthly rental equal to two (2) times the Fixed Rent and Additional Rent payable during the last month of the Term, subject to all of the other terms of this Lease insofar as the same are applicable to a month-to-month tenancy.

Section 21.05 Tenant's obligations under this Article shall survive the termination of this Lease.

ARTICLE 22

Assignment, Mortgaging and Subletting

Section 22.01 Neither this Lease nor any part hereof, nor any interest of Tenant hereunder, shall, by operation of law or otherwise, be assigned, mortgaged, pledged, encumbered, or otherwise transferred by Tenant, Tenant's legal representatives or successors in interest and neither the Premises nor any part thereof nor any Tenant's Property shall be encumbered in any manner by reason of any act or omission on the part of Tenant, or anyone claiming under or through Tenant or shall be sublet or be used by anyone other than Tenant, without the prior consent of Landlord and the Agency.

Section 22.02 If this Lease be assigned, whether or not in violation of the provisions of this Lease, Landlord may collect rent from the assignee. If the Premises or any part thereof be sublet or be used or occupied by anybody other than, Tenant, whether or not in violation of this Lease, Landlord may after default by Tenant, and expiration of Tenant's time to cure such default, collect rent from the subtenant or occupant. In either event, Landlord may apply the net amount collected to the rents herein reserved, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of any of the provisions of Section 22.01, or the acceptance

of the assignee, subtenant or occupant as tenant, or a release of Tenant from the further performance by Tenant of Tenant's obligations under this Lease. The consent by Landlord and the Agency to assignment, mortgaging, subletting or use or occupancy by others shall not in any way be considered to relieve Tenant from obtaining the express written consent of Landlord and the Agency to any other or further assignment, mortgaging, or subletting or use or occupancy by others not expressly permitted by this Article. Tenant agrees to pay to Landlord reasonable counsel fees incurred by Landlord in connection with any proposed assignment of Tenant's interest in this Lease or any proposed subletting of the Premises or any part thereof. References in this Lease to use or occupancy by others, that is any one other than Tenant, shall not be construed as limited to subtenants and those claiming under or through subtenants but as including also licensees and other claiming under or through Tenant, immediately or remotely.

Section 22.03 If Tenant shall perform all of the terms, covenants and conditions of this Lease, on Tenant's part to be performed hereunder, Landlord agrees that it will consent to a sublease of the Premises by Tenant to a parent, subsidiary or affiliated company of Tenant ("Related Entity"), provided that in a case of such sublease, Tenant and the sublessee will execute, acknowledge and deliver to Landlord a fully executed counterpart of a written sublease agreement, in form satisfactory to Landlord. If Landlord shall consent to a subletting and Tenant shall sublet all or any portion of the Premises to a non-Related Entity for rents, which for any period, shall exceed the rents payable for the subleased space under the Lease for the same period, Tenant shall pay to Landlord as Additional Rent all such excess rent. Notwithstanding any provisions to the contrary, if Tenant requests the consent of Landlord to a subletting, Landlord shall have the right to recapture that portion of the Premises which Tenant elects to sublease and in such event, Tenant shall be released from further liability with respect to that space, effective as of the date of recapture.

Section 22.04 The transfer of a majority of the issued and outstanding capital stock of any corporate tenant or subtenant of this Lease or of a majority of the total interest in any partnership tenant or subtenant, however accomplished, and whether a single transaction or in a series of related or unrelated transactions, shall be deemed an assignment of this Lease or of such sublease.

Section 22.05 The Article 22 shall be subject to the terms and provisions of the IDA Terms Sub-Sublease Agreement.

ARTICLE 23

Subordination and Attornment

Section 23.01 This Lease and all rights of Tenant hereunder are subject and subordinate in all respect to (a) the IDA Terms Sub-Sublease Agreement (as hereafter defined) and all other ground leases, superior leases, overriding leases and underlying leases and grants of term of the Land and the Buildings or any portion thereof, (collectively the "Superior Lease") (b) all mortgages and building loan agreements, including leasehold mortgages and spreader and consolidation agreements, which may now or hereafter affect the Land, the Buildings, the Premises (collectively the "Superior Mortgage"), whether or not the Superior Mortgage shall also cover other lands or buildings or leases, (c) each advance made or to be made under the

Superior Mortgage, and (d) all renewals, modifications, replacements, substitutions and extensions of the Superior Mortgage. The provisions of this Section shall be self-operative and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall promptly execute and deliver (within ten (10) days after request therefor), at its own cost and expense, any instrument, in recordable form if requested, that Landlord may reasonably request to evidence such subordination. Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any such instruments for and on behalf of Lessee.

Section 23.02 If, at any time prior to the termination of this Lease, the Superior Mortgagee, or any person, or such person's successors or assigns, who acquires the interest of Landlord under this Lease through termination of this Lease, foreclosure action or an assignment or deed in lieu of foreclosure (collectively "Successor Landlord") shall succeed to the rights of Landlord under this Lease, Tenant agrees, at the election and upon request of any Successor Landlord, that this Lease shall not be terminated as a result thereof and that Tenant will fully attorn to and recognize any such Successor Landlord as Tenant's landlord under this Lease upon the then executory terms of this Lease; provided such Successor Landlord shall agree in writing to accept Tenant's attornment. Tenant waives the provisions of any statute or rule of law now or hereafter in effect which may give or purport to give Tenant any right of election to terminate this Lease or to surrender possession of the Premises in the event any Superior Lease is terminated. The foregoing provisions of this Section shall inure to the benefit of any such Successor Landlord, shall apply notwithstanding that, as a matter of law, this Lease may terminate upon the termination of the Superior Lease, shall be self-operative upon any such demand, and no further instrument shall be required to give effect to said provisions. Upon demand of any such Successor Landlord, Tenant agrees to execute instruments to evidence and confirm the foregoing provisions of this Section satisfactory to any such Successor Landlord. Nothing contained in this Section shall be construed to impair any right otherwise exercisable by any such owner, holder or lessee.

ARTICLE 24

Access

Landlord or Landlord's agents shall have the right to enter the Premises at all reasonable times, on prior reasonable notice to Tenant during normal business hours, for any of the purposes specified in this Article and (a) to examine the Premises or for the purpose of performing any obligation of Landlord or exercising any right reserved to Landlord in this Lease; (b) to exhibit the Premises to others; (c) to make or cause to be made such repairs or Improvements, or to permit electrical or other utility meters to be read, or to perform such maintenance, as Landlord may deem necessary or desirable; (d) to take into and store upon the Premises all materials that may be required in connection with any such repairs, Improvements or maintenance; and (e) to alter, renovate and decorate the Premises at any time during the Term if Tenant shall have removed all or substantially all of Tenant's Property from the Premises.

ARTICLE 25
Inability to Perform

This Lease and the obligations of Tenant to pay rent and perform all of the terms of this Lease on the part of Tenant to be performed shall in no way be affected because Landlord is unable or delayed in fulfilling any of its obligations under this Lease by reason of Force Majeure. Landlord shall be under no obligation to employ overtime labor in order to satisfy any of Landlord's obligations under this Lease.

ARTICLE 26
Waiver

To the extent permitted by applicable law, Tenant hereby waives trial by jury and agrees that Tenant will not interpose any counterclaim of whatsoever nature or description in any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, or Tenant's use or occupancy of the Premises, any claim of injury or damage, or any emergency or other statutory remedy with respect thereto. Any claim that Tenant may have against Landlord shall be separately prosecuted. The provisions of this Article shall survive the breach or termination of this Lease.

ARTICLE 27
No Other Waiver

The failure of Landlord to insist in any instance upon the strict performance of any term of this Lease, or to exercise any right herein contained, shall not be construed as a waiver or relinquishment for the future of the performance of such obligation or such right, but the same shall continue and remain in full force and effect with respect to any continuance thereof or any subsequent breach, act or omission.

ARTICLE 28
Quiet Enjoyment

If, and so long as, Tenant pays the rent and keeps, observes and performs each and every provision of this Lease on the part and on behalf of Tenant to be kept, observed and performed, Tenant shall peaceably and quietly enjoy the Premises throughout the Term without hindrance by Landlord or any person lawfully claiming through or under Landlord, subject to the terms of this Lease and the Superior Mortgage.

ARTICLE 29
Shoring; No Dedication; Hoist

Section 29.01 If any excavation or other construction work shall be undertaken or authorized upon land near or adjacent to the Building or in any areas beneath the Building or in subsurface space adjacent to said areas, Tenant shall afford Landlord or the person causing such excavation or other construction work license to enter upon the Premises for the purpose of

doing such work as Landlord or such person shall deem necessary to protect any of the walls or structures of the Building or surrounding land from injury or damage and to support the same by proper foundations, pinning and/or underpinning.

Section 29.02 Any blasting or other noise from any demolition, excavation and/or construction work adjoining or in the vicinity of the Buildings shall not constitute a basis for any reduction in rent or any other claims.

ARTICLE 30

No Representations

Tenant expressly acknowledges that neither Landlord nor any of Landlord's agents has made or is making, and Tenant, in executing and delivering this Lease is not relying upon, any warranties, set-ups, representations, renderings, promises or statements, except to the extent that the same are expressly set forth in this Lease, and no rights, easement or licenses are or shall be acquired by Tenant by implication or otherwise unless expressly set forth in this Lease.

ARTICLE 31

Brokerage

Each party represents to the other that such party has dealt with no broker other than [] (the "Broker") in connection with this Lease or the Building. Landlord shall indemnify and hold Tenant harmless from and against all loss, cost, liability and expense (including, without limitation, reasonable attorneys' fees and disbursements) arising out of any claim for a commission or other compensation by any broker (including Broker) who alleges that it has dealt with Landlord in connection with this Lease or the Building. Tenant shall indemnify and hold Landlord harmless from and against all loss, cost, liability and expense (including, without limitation, reasonable attorneys' fees and disbursements) arising out of any claim for a commission or other compensation by any broker (other than Broker) who alleges that it has dealt with Tenant in connection with this Lease or the Building. Landlord shall enter into a separate agreement with Broker which provides that, if this Lease is executed and delivered by both Landlord and Tenant, Landlord shall pay a commission to Broker to be agreed upon between Landlord and Broker, subject to, and in accordance with, the terms and conditions of such agreement. The provisions of this Article 31 shall survive the expiration or sooner termination of this Lease.

ARTICLE 32

Security Deposit

Section 32.01 Tenant has deposited with Landlord the sum of [] Dollars as security deposit ("Security Deposit"), the receipt whereof, if by check subject to collection, is hereby acknowledged. Said Security Deposit shall be held by Landlord as security for the full and faithful performance by Tenant of each and every term, covenant and condition of this Lease on the part of Tenant to be observed and performed. The Security Deposit is calculated as [] months of the Fixed Rent during the first year of

the Term. Whenever the monthly Fixed Rent increases, Tenant agrees to deposit an additional Security Deposit so that at all times during the Term the Security Deposit shall be equivalent to [] months of the then current Fixed Rent.

Section 32.02 If any of the Fixed Rents or Additional Rents herein reserved or any other sum payable by Tenant to Landlord shall be overdue and unpaid or shall Landlord make payment on behalf of Tenant, or should Tenant fail to perform any of the terms of this Lease, then Landlord may, at its option, and without prejudice to any other remedy which Landlord may have on account thereof, appropriate and apply said entire Security Deposit or so much thereof as may be necessary to compensate Landlord toward the payment of such Fixed Rents, Additional Rents, or other sums due from Tenant, or towards any loss, damage or expense sustained by Landlord resulting from such default on the part of Tenant; and in such event Tenant shall forthwith upon demand restore said Security Deposit to its former amount and so that at all times during the Term the amount deposited shall be equivalent to [] months of the current Fixed Rent. In the event Tenant shall fully and faithfully comply with all of the terms, covenant and conditions of this Lease and promptly pay all of the Fixed Rent and Additional Rents as they fall due and all other sums payable by Tenant to Landlord, said Security Deposit shall be returned in full to Tenant following the date of the expiration of the term hereof and the surrender of the Premises by Tenant in compliance with the provisions of this Lease.

Section 32.03 In the event any bankruptcy, insolvency, reorganization or other creditor-debtor proceedings shall be instituted by or against Tenant, or its successors or assigns, such Security Deposit shall be deemed to be applied first to the payment of any Fixed Rents or Additional Rents and/or other charges due Landlord for all periods prior to the institution of such proceedings and the balance, if any, of such Security Deposit may be retained by Landlord in partial satisfaction of Landlord's damages.

Section 32.04 Landlord may deliver the Security Deposit to the purchaser of Landlord's interest in the Property in the event that such interest be sold or transferred and thereupon Landlord shall be discharged and released from all further liability with respect to such Security Deposit or the return thereof to Tenant, and Tenant agrees to look solely to the new landlord, provided new landlord expressly agrees to be so obligated for the return of said Security Deposit, and this provision shall also apply to any subsequent transferees.

ARTICLE 33

Signage

Tenant shall have the right to install and maintain, at its own expense, signs for the Premises, the location, size and style of which signs shall be subject to the prior written consent of Landlord. Tenant shall comply with all Legal Requirements and shall obtain and pay for all permits required therefor. Tenant expressly agrees that no sign shall be installed on the Building until Landlord's consent and all approvals and permits are first obtained and copies thereof delivered to the Landlord with evidence of payment for any fees pertaining thereto. In the event Landlord shall deem it necessary to remove any such sign or signs in order to paint or to make any other repairs, alterations or improvements in or upon said Premises, or the Building wherein same is situated, or any part thereof, Landlord shall have the right to do so,

provided the same be removed and replaced at Landlord's expense, whenever the said repair, alterations or improvements shall have been completed.

ARTICLE 34

Notices

A. Except as otherwise expressly provided in this Lease or pursuant to any Legal Requirement, any bills, statements, notices, demands, requests, consents or other communications given or required to be given under or in connection with this Lease or pursuant to any Legal Requirement shall be effective only if in writing and

- (a) if to Tenant, then, at the option of Landlord,
 - (i) sent by registered or certified mail, return receipt requested, postage prepaid, addressed to Tenant's address as set forth in this Lease if mailed prior to the Commencement Date or to the Premises if subsequent to the Commencement Date, or to such other address as Tenant may designate for such purposes by like notice, or
 - (ii) sent by nationally recognized overnight courier, or
 - (iii) delivered personally to Tenant;
- (b) if to Landlord, sent by registered or certified mail, return receipt requested, postage prepaid, addressed to Landlord's address as set forth in this Lease; with a copy to: Robert J. Frisoni, Esq., 527 Townline Road, Suite 300, Hauppauge, New York 11788, Phone: (631) 390-4343; Fax: (631) 390-4344;
- (c) if to any other person, sent by registered or certified mail, return receipt requested and postage prepaid, addressed to such person's last known principal address or to such other address as such person may designate to Landlord and Tenant as its address for such purpose by like notice.

B. Any such bill, statement, notice, demand, request, consent or other communication shall be deemed to have been rendered or given (a) on the date delivered if delivered to Tenant personally, or (b) on the third (3rd) day after the date mailed, if mailed as provided in this Section.

ARTICLE 35
Definitions; Construction of Terms

Section 35.01 For the purposes of this Lease and all agreements supplemental to this Lease:

- (a) "Additional Rent" see Section 3.01A.
- (b) "Building" see Section 1.02.
- (c) "Commencement Date" see Article 2.
- (d) "Building Systems" shall mean all electrical, plumbing, sewer, septic, cesspool, sanitary and other mechanical systems of the Building (including but not limited to the Building's HVAC system(s), any elevator or escalator systems, its sprinkler system and its fire and safety system).
- (e) "Common Areas" shall be deemed to include all the Building's public lobbies, the Building's public hallways, corridors and passages and the Building's public stairways, the Project Facility's common parking areas and roadways, and other common areas of the Project Facility which are available for the joint use by all tenants of the Project Facility; but excluding, in all events, any area within the Premises or any other leased or leasable area of the Building.
- (f) "Expiration Date" see Article 2.
- (g) "Fixed Rent" see Section 3.01A.
- (h) "Fixtures" see Section 10.05.
- (i) "Force Majeure" shall mean any and all causes beyond Landlord's reasonable control, including, without limitation, delays caused by Tenant, other tenants, governmental regulation, governmental restriction, strike, labor jurisdictional disputes, labor dispute, (provided said strike, or labor dispute is not the result of any action or inaction of Landlord), riot, accident, mechanical breakdown, shortages or inability to obtain labor, fuel, steam, water, electricity or materials, acts of God, war, enemy action, civil commotion, fire or other casualty.
- (j) "Improvements" shall mean improvements, alterations, additions, installations, substitutions, betterments and decorations, whether made by or on behalf of Landlord or Tenant.

- (k) "Insurance Requirements" shall mean all requirements of any insurance policy covering or applicable to all or any part of the Premises or the use thereof, all requirements of the issuer of any such policy and all orders, rules, regulations, recommendations and other requirements of the New York Board of Fire Underwriters or the Insurance Service Office or any other body exercising the same or similar functions and having jurisdiction or cognizance of all or any part of the Premises.
- (l) "Interest Rate" shall mean sixteen (16%) percent per annum.
- (m) "Land" shall mean the unimproved areas surrounding the Building and the land under the Building.
- (n) "Lease Year" as used in this Lease shall mean a period of twelve (12) consecutive full calendar months. The first Lease Year shall begin on the Commencement Date if the Commencement Date shall occur on the first day of a calendar month, or if such is not the case, then the first Lease Year shall commence upon the first day of the calendar month next following the Commencement Date. Each succeeding Lease Year shall commence upon the anniversary date of the first Lease Year.
- (o) "Legal Requirements" shall mean laws, statutes and ordinances (including building codes and zoning regulations and ordinances) and the orders, rules, regulations, directives and requirements of all federal, state, county, city and borough departments, bureaus, boards, agencies, offices, commissions, and other subdivisions thereof, or of any official thereof, or of any other governmental, public or quasi-public authority, whether now or hereafter in force, which may be applicable to the Premises, Buildings Equipment or the Premises or any part thereof or the sidewalks, curbs or areas adjacent thereto and all requirements, obligations and conditions of all instruments of record on the date of this Lease.
- (p) "Premises" see Section 1.01.
- (q) "Superior Mortgage" see Section 23.01.
- (r) "Superior Mortgagee" shall mean the holder at any time of a Superior Mortgage.
- (s) "Successor Landlord" see Section 23.02.
- (t) "Tenant's Property" shall mean all fixtures, Improvements, additions and other property (i) installed at the sole expense of Tenant, (ii) with respect to which Tenant has not been granted any credit, concession or allowance by Landlord, (iii) which are removable without material damage to the

Premises and (iv) which are not replacements of any property of Landlord, whether any such replacement is made at Tenant's expense or otherwise.

- (u) "Term" see Article 2.
- (v) "Untenantable" shall mean that Tenant is actually and physically unable to use any or all of the Premised in the regular course of its business.

Section 35.02 The Article headings in this Lease and the Table of Contents to this Lease are inserted only as a matter of convenience or reference, and are not be given any effect in construing this Lease.

ARTICLE 36

Estoppel Certificate

At any time and from time to time upon not less than ten (10) days' prior notice by Landlord or the Superior Mortgagee to Tenant, Tenant shall, without charge, execute, acknowledge and deliver to Landlord a statement in writing in recordable form prepared by Landlord addressed to such party as Landlord may designate (with such additions or changes as Landlord may reasonably request) or in form satisfactory to Landlord certifying (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), (ii) whether the Term has commenced and Fixed Rent and Additional Rent have become payable hereunder and, if so, the dated to which they have been paid, (iii) whether or not, to the best knowledge of the signer of such certificate, Landlord is in default in performance of any of the terms of this Lease and, if so, specifying each such default of which the signer may have knowledge, (iv) whether Tenant has accepted possession of the Premises, (v) whether Tenant has made any uncollected claim against Landlord under this Lease and, if so, the nature thereof and the dollar amount, if any, of such claim, (vi) whether there exist any offsets or defenses against enforcement of any of the terms of this Lease upon the part of Tenant to be performed and, if so, specifying the same and (vii) such further information with respect to the Lease or the Premises as Landlord may reasonably request or any Superior Mortgagee may require, it being intended that any such statement delivered pursuant hereto may be relied upon by any prospective purchaser of the Premises or any part thereof or of the interest of Landlord in any part thereof, by any mortgagee or prospective mortgagee thereof, by any lessor or prospective lessor thereof, by any lessee or prospective lessee thereof, or by any prospective assignee of any mortgage or lease thereof.

ARTICLE 37

Parties Bound

Section 37.01 The terms of this Lease shall bind and benefit the successors and assigns of the parties with the same effect as if mentioned in each instance where a party is named or referred to, except that no violation of the provisions of Article 22 shall operate to vest any right in any successor or assignee of Tenant and that the provisions of this Article shall not be construed as modifying the conditions of limitation contained in Article 17.

Section 37.02A. The term "Landlord" shall mean only the owner at the time in question of the present Landlord's interest in the Building and in the event of a sale or transfer of the Building (by operation of law or otherwise), or in the event of the making of a lease of all or substantially all of the Building, or in the event of a sale or transfer (by operation of law or otherwise) of the leasehold estate under any such lease, the grantor, transferor or lessor, as the case may be and hereby is (to the extent of the interest or portion of the Building or leasehold estate sold, transferred or leased) automatically and entirely released and discharged, from and after the date of such sale, transfer or leasing, of all liability in respect to the performance of any of the terms of this Lease on the part of the Landlord thereafter to be performed; provided, that the purchaser, transferee or lessee (collectively "Transferee") shall be deemed to have assumed such liability and agreed to perform such terms, subject to the limitations of this Section (and without further agreement between the then parties hereto, or among such parties and the Transferee) and only during and in respect of the Transferee's period of ownership of the Landlord's interest under this Lease.

B. No recourse shall be had on any of Landlord's obligations under this Lease or for any claim based thereon or otherwise in respect thereof against any incorporator, subscriber to the capital stock, shareholder, employee, agent, officer or director, past, present or future, of any corporation, or any partner or joint venturer of any partnership or joint venture which shall be Landlord hereunder or included in the term "Landlord" or of any successor of any such corporation, or against any principal, disclosed or undisclosed, or any affiliate of any party which shall be Landlord or included in the term "Landlord", whether directly or through Landlord or through any receiver, assignee, agent, trustee in bankruptcy or through any other person, firm or corporation, whether by virtue of any constitution, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability being expressly waived and released by Tenant.

C. Tenant shall look only and solely to Landlord's estate and interest in and to the Building for the satisfaction of any right of Tenant arising out of this Lease, or for the collection of a judgment or other judicial process or arbitration award requiring the payment of money by Landlord and no other property or assets of Landlord, Landlord's agents, incorporators, shareholders, employees, officers, directors, partners, agents, principals (disclosed or undisclosed), joint venturers, or affiliates shall be subject to levy, lien, execution, attachment, or other enforcement procedure for the satisfaction of Tenant's rights and remedies under or with respect to this Lease, the relationship of Landlord and Tenant hereunder or under law, or Tenant's use and occupancy of the Premises or any other liability of Landlord to Tenant.

Section 37.03 The term "Tenant" shall mean the Tenant herein named, the Tenant's legal representative, or any permitted assignee or other successor in interest (immediate or remote) of the Tenant herein named.

ARTICLE 38
Entire Agreement; Governing Law

Section 38.01 This Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged into this Lease, which alone fully and completely expresses the agreement between Landlord and Tenant. This Lease may not be changed, modified, terminated or discharged, in whole or in part, nor any of its provisions waived except by a written instrument which (a) expressly refers to this Lease, (b) is subscribed to by the party against whom enforcement of the change, modification, termination, discharge or waiver is sought and (c) is permissible under the Superior Mortgage. In no event shall this Lease be binding upon the Landlord unless and until this Lease shall have been executed and acknowledged by Tenant and Landlord and unconditionally exchanged by and between Landlord and Tenant. Thereafter, the approval of the holder of any Superior Mortgage now in existence (or for which a written commitment has been issued) shall be obtained, as set forth in Section 23.01; otherwise the provisions of said Section 23.01 shall be applicable. Without limiting the foregoing, all drafts and redrafts of this Lease, memoranda with respect thereto, exchanges of correspondence between Landlord and Tenant and their respective representatives, brokers' statements, exchanges of floor plans, Tenant's plans and specifications, Landlord's plans and specifications, or any combination thereof, arising out of or with respect to any space in the Buildings shall not constitute an agreement to lease or a lease between Landlord and Tenant.

Section 38.02 This Lease shall be governed in all respects by the laws of the State of New York.

Section 38.03 Landlord and Tenant each respectively represent that (i) the person executing this Lease on its behalf is duly authorized to execute, acknowledge and deliver this Lease; (ii) the execution and delivery of this Lease is within its corporate or partnership power, as the case may be, and does not conflict with, violate, breach or cause a default under any agreement to which it is a party; and (iii) it has obtained all consents, approvals and authorizations necessary for the execution and delivery of this Lease.

Section 38.04 This Lease may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Signed copies of this agreement may be faxed and e-mailed with the same force and effect as if the originally executed agreement had been delivered.

ARTICLE 39
Rules and Regulations

Tenants and Tenant's servants, employees, agents, visitors, and licensees shall observe faithfully, and comply strictly with, the Rules and Regulations annexed hereto as Exhibit "D" and made a part hereof and such other and further reasonable Rules and Regulations as Landlord or Landlord's agents may from time to time adopt. Notice of any additional rules or regulations shall be given in such manner as Landlord may elect. In case Tenant disputes the reasonableness of any additional Rule or Regulation hereafter made or adopted by Landlord or

Landlord's agents, the parties hereto agree to submit the question of the reasonableness of such Rule or Regulation for decision to the New York office of the American Arbitration Association, whose determination shall be final and conclusive upon the parties hereto. The right to dispute the reasonableness of any additional Rule or Regulation upon Tenant's part shall be deemed waived unless the same shall be asserted by service of a notice, in writing upon Landlord within fifteen (15) days after the giving of notice thereof. Nothing in this Lease contained shall be construed to impose upon Landlord any duty or obligation to enforce the Rules and Regulations or terms, covenants or conditions in any other lease, as against any other tenant and Landlord shall not be liable to Tenant for violation of the same by any other tenant, its servants, employees, agents, visitors or licensees.

ARTICLE 40

Parking Area

Section 40.01 Subject to the terms and conditions hereafter contained, Tenant may use Tenant's Share of the common parking area designated by Landlord for Tenant's use ("Non-Exclusive Parking Area").

Section 40.02 The Non-Exclusive Parking Area shall be used for the parking of automobiles of Tenant, and its agents, employees, contractors, licensees and invitees and shall be on a "first come, first served" basis. Tenant shall not use nor permit any of its agents, employees, contractors and licensees to use any parking spaces outside of or in excess of the Non-Exclusive Parking Area. Use of the Non-Exclusive Parking Area may be temporarily suspended due to snow removal, parking lot repairs and other similar type situations. Tenant shall upon request promptly furnish to Landlord the license numbers of the cars operated by Tenant and its personnel.

Section 40.03 All parking spaces and the parking facilities, roadways and driveways used by Tenant, its personnel and visitors will be at their own risk, and Landlord shall not be liable for any injury to person or property, or for loss or damage to any automobile or its contents, resulting from theft, collision, vandalism or any other cause whatsoever. Landlord shall have no obligation whatsoever to provide a guard or any other personnel or device to patrol, monitor, guard or secure any Non-Exclusive Parking Area; if Landlord does so provide, it shall be solely for Landlord's convenience, and Landlord shall in no way whatsoever be liable for any acts or omissions of such personnel or device in failing to prevent any such theft, vandalism, or loss or damage by other cause.

Section 40.04 There shall be no overnight parking in the Non-Exclusive Parking Area and Tenant shall, and shall cause its personnel and visitors to, remove their automobiles from the Non-Exclusive Parking Area at the end of the working day. If any automobile owned by Tenant or by its personnel or visitors remain in the Non-Exclusive Parking Area overnight, and the same interferes with the cleaning or maintenance of said area (snow or otherwise), any costs or liabilities incurred by Landlord in removing said automobile to effectuate cleaning or maintenance, or any damages resulting to said automobile or to Landlord's equipment or equipment owned by others by reason of the presence of or removal of said automobile during such cleaning or maintenance shall be paid by Tenant to Landlord, as Additional Rent on the rent payment date next following the submission of a bill therefore.

Section 40.05 Landlord shall have the right to require that all cars exhibit such identification as Landlord may from time to time deem reasonably necessary to control the use of the Non-Exclusive Parking Area. Landlord shall have the right to tow, at Tenant's sole cost and expense, any of Tenant's, or its employees', visitors' or invitees' cars not exhibiting such identification if required or otherwise not complying with the parking rules and regulations established by Landlord from time to time. Landlord reserves the right to prohibit the use of the Non-Exclusive Parking Area by any person who regularly and/or chronically violates Landlord's rules and regulations.

ARTICLE 41

Nassau County Industrial Development Agency Benefits

The parties acknowledge that the Agency has agreed to grant certain financial assistance to the Landlord in connection with the occupancy by Tenant of the Premises during the Term. This financial assistance includes a beneficial PILOT Agreement. In furtherance thereof, and throughout the Term, the parties agree to comply and cooperate with all requirements of the Agency, specifically applicable to each of them. In addition, Landlord and Tenant agree for the benefit of the Agency to comply with the terms and conditions contained in that certain Sub-Sublease Agreement ("IDA Terms Sub-Sublease Agreement") to which this Lease is annexed and made a part thereof and agree that the Lease is subject to all of the terms of said IDA Terms Sub-Sublease Agreement.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first written above.

LANDLORD: STEEL ONE, LLC

By: _____
Name: _____
Title: _____

TENANT: [_____]

By: _____
Name: _____
Title: _____

EXHIBIT “A”

SITE PLAN

The floor plan that follows is intended solely to identify the general location of the Premises, and should not be used for any other purpose. All areas, dimensions and locations are approximate, and any physical conditions indicated may not exist as shown.

(Follows Immediately)

EXHIBIT “B”
FIXED RENT SCHEDULE

EXHIBIT “C”
LANDLORD’S WORK

EXHIBIT "D"

RULES AND REGULATIONS **ATTACHED TO AND MADE A PART OF THIS LEASE**

1. The sidewalk, entries, and driveways of the Premises shall not be obstructed by Tenant, or its agents, or used by them for any purpose other than ingress and egress to and from the Premises.

2. Tenant shall not place any objects, including antennas, outdoor furniture, equipment, materials, debris, inventory, personal property, etc., in the parking areas, landscaped areas or other areas outside of its Premises, or on the roof of the Premises.

3. No animals or birds shall be kept in or about the Building or the Premises.

4. Tenant shall not disturb the occupants of the Premises or adjoining buildings by the use of any radio or musical instrument or by the making of loud or improper noises.

5. If Tenant desires telegraphic, telephonic or other electric connections in the Premises, Landlord or its agents will direct the electrician as to where and how the wires may be introduced; and, without such direction, no boring or cutting of wires will be permitted. Any such installation or connection shall be made at Tenant's expense.

6. Tenant shall not install or operate any steam or gas engine or boiler, or other mechanical apparatus in the Premises, except as specifically approved in the Lease. The use of oil, gas or flammable liquids for heating, lighting or any other purpose is expressly prohibited. Explosives or other articles deemed extra hazardous shall not be brought into the Premises.

7. Parking any type of recreational vehicles is specifically prohibited on or about the Premises. Except for the overnight parking of operative vehicles, no vehicle of any type shall be stored in the parking areas at any time. In the event that a vehicle is disabled, it shall be removed within forty-eight (48) hours. There shall be no "For Sale" or other advertising signs on or about any parked vehicle. All vehicles shall be parked in the designated parking areas in conformity with all signs and other markings. All parking will be open parking, and no reserved parking, numbering or lettering of individual spaces will be permitted except as specifically approved in this Lease.

8. Tenant shall maintain the Premises free from rodents, insects and other pests.

9. Landlord reserves the right to exclude or expel from the Premises any person who, in the judgment of Landlord is intoxicated or under the influence of liquor or drugs or who shall in any manner do any act in violation of the Rules and Regulations of the Premises.

10. Tenant shall not cause any unnecessary labor by reason of Tenant's carelessness or indifference in the preservation of good order and cleanliness. Landlord shall not be

responsible to Tenant for any loss of property on the Premises, however occurring, or for any damage done to the effects of Tenant by the janitors or any other employee or person.

11. Tenant shall give Landlord prompt notice of any defects in the water, lawn sprinkler, sewage, gas pipes, electrical lights and fixtures, heating apparatus, or any other service equipment affecting the Premises.

12. Tenant shall not permit storage outside the Premises, including without limitation, outside storage of trucks and other vehicles, or dumping of waste or refuse or permit any harmful materials to be placed in any drainage system or sanitary system in or about the Premises.

13. All moveable trash receptacles provided by the trash disposal firm for the Premises must be kept in the trash enclosure areas, if any, provided for that purpose.

14. No auction, public or private, will be permitted on the Premises.

15. No awnings shall be placed over the windows in the Premises except with the prior written consent of Landlord.

16. The Premises shall not be used for lodging, sleeping or cooking or for any immoral or illegal purposes or for any purpose other than that specified in the Lease. No gaming devices shall be operated in the Premises.

17. Tenant shall ascertain from Landlord the maximum amount of electrical current which can safely be used in the Premises, taking into account the capacity of the electrical wiring in the Premises and the needs of other tenants, and shall not use more than such safe capacity. Landlord's consent to the installation of electric equipment shall not relieve Tenant from the obligation not to use more electricity than such safe capacity.

18. Tenant assumes full responsibility for protecting the Premises from theft, robbery and pilferage.

19. Tenant shall not install or operate on the Premises any machinery or mechanical devices of a nature not directly related to Tenant's ordinary use of the Premises and shall keep all such machinery free of vibration, noise and air waves which may be transmitted beyond the Premises.

20. Tenant agrees that the exercise of its rights pursuant to any provisions of this Lease including the Exhibits hereto shall not be done in a manner which would violate the Landlord's union contracts affecting the Building, nor create any work stoppage, picketing, labor disruption or dispute or any interference with the business of the Landlord or any tenant or occupant of the Building.

EXHIBIT “E”

PILOT AGREEMENT

(Follows Immediately)

EXHIBIT J

APPROVED FORM OF PROPOSED SUBLEASE TERM SHEET

See Attached

TERM SHEET
(Proposed Lease Transaction for
201 Grumman Road West, Bethpage, NY)
July , 2015

Name and Address
of Tenant/Licensee:

Guaranty (if any):

Proposed Use: Warehouse and Offices

Leased Space:

Current Location:

Term of Lease/License:

Firm Term of Lease/License:

Renewal Terms (if any):

Rent:

CAM Charge:

Rent Concession (if any):

Calculation of
Annual Gross Income (est.): \$

Provisions re: Taxes: Tenant to pay taxes according to the PILOT agreement

Provisions re: Utilities:

Security Deposit:

Excluded Services:

Assumed Value of
Excluded Services (est.):

Excluded Tenant
Improvements:

Assumed Value of Excluded
Tenant Improvements (est.):

Amortization Period:

Amortization Int. Rate:

Calculation of Gross \$
Income Adjustment (est.):

Brokers:

Permanent Jobs Retained:

Avg. Annual Salary of \$
Jobs Retained:

Permanent Jobs Created:

Avg. Annual Salary of
Jobs Created:

Construction Jobs Created:

Avg. Annual Salary of \$
Construction Jobs:

Construction Period:

Deviations from Approved
Form of Sub-Sublease: N/A
Agreement (identify
applicable form):

Will the proposed Sublease result in the removal of a facility or plant of the Tenant from one area of the State to another area of the State (other than relocations within the County) or in the abandonment of one or more plants or facilities of the Tenant located in the State (other than in the County)?

Will the proposed Sublease result in a relocation of the Tenant within the County?

IF APPLICABLE:

Sales Tax Exemption: N/A
(description)

Sales Tax Exemption N/A
Amount:

Mortgage Tax N/A
Exemption Amount:

SCHEDULE A
LIST OF PRE-CLOSING LEASES

1. Lease Agreement dated as of July 1, 2014 between the Company (as successor landlord to Steel K, LLC) and FedEx Freight, Inc.

SCHEDULE B
INITIAL WORK

1. Power wash, caulk and seal existing exterior precast panel system
2. Repair roof
3. Caulk and re-set seals of exterior window system
4. Miscellaneous painting
5. Restripe parking and loading stalls
6. Repair/replace asphalt and concrete parking and walking areas
7. Repair/replace site lighting
8. Repair loading dock door
9. Repair/replace security systems including exterior door systems and locks
10. Confirmatory soil vapor sampling and indoor air sampling of Existing Building
11. Storm water drywell remedial maintenance