
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

SAGE TEALL PROPERTIES, LLC

TRANSCRIPT OF PROCEEDINGS

CLOSING DATE: NOVEMBER 13, 2018

GERHARZ EQUIPMENT PROJECT

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

GERHARZ EQUIPMENT PROJECT

INDEX OF CLOSING DOCUMENTS

Tab No.	Basic Documents
1	Project Agreement
2	Company Lease Agreement
3	Memorandum of Company Lease Agreement with TP-584
4	Bill of Sale
5	Agency Lease Agreement
6	Amended Memorandum of Agency Lease Agreement with Form TP-584
7	Company Certification re: Local Labor Policy
8	Certificates of casualty, liability, workers' compensation and other required insurance
9	Environmental Compliance and Indemnification Agreement
10	Closing Receipt
11	Sales Tax Exemption Letter
12	Form ST-60 indicating appointment of the Company to act as the agent of the Agency
13	PILOT Agreement
14	412-a
15	Mortgage
16	UCC-1 Financing Statements
17	Survey

Items To Be Delivered By The Agency

- 18 General Certificate of the Agency relating to incumbency and signatures of officers, execution and delivery of Agency Documents to which it is a party, no litigation and continued existence, with the following items included as exhibits:

Exhibit "A" - Chapter 641 of the Laws of 1979 of the State of New York, as amended

Exhibit "B" - Certificate of Establishment of the Agency and Certificates of appointment of current members

Exhibit "C" - By-laws

Exhibit "D" - Public Hearing Resolution

Exhibit "E" - Notice of Public Hearing with evidence of publication and copies of letters to affected tax jurisdictions

Exhibit "F" – Relocation Letter

Exhibit "G" - SEQRA Resolution

Exhibit "H" - Inducement Resolution

Exhibit "I" – Amended PILOT Resolution

Exhibit "J" - Final Approving Resolution

Exhibit "K" – Retail Letter

- 19 Mortgage Recording Tax Affidavit

Items To Be Delivered By The Company

- 20 General Certificate of the Company relating to capacity and signatures of officers, execution and delivery of the Documents to which it is a party, no litigation and approval, with the following items included as exhibits:

Exhibit "A" – Articles of Organization

Exhibit "B" – Operating Agreement

Exhibit "C" - Company Resolution

Exhibit "D" - Local Access Agreement

Opinions of Counsel

- 21 Opinion of Bousquet Holstein PLLC, counsel to the Agency, addressed to the Company and the Agency
- 22 Opinion of Bond Schoeneck & King PLLC counsel to the Company, addressed to the Agency and the Company
- 23 Closing Memorandum

PROJECT AGREEMENT

THIS PROJECT AGREEMENT (the “*Project Agreement*”), made as of November 1, 2018, by and between the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, with offices at 201 East Washington Street, 6th Floor, Syracuse, New York 13202 (the “*Agency*”) and **SAGE TEALL PROPERTIES, LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with offices at 6146 East Molloy Road, East Syracuse, New York 13057 (the “*Company*”).

WITNESSETH:

WHEREAS, Title I of Article 18-A of the General Municipal Law of the State of New York (the “*Enabling Act*”) was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the “*State*”) and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 641 of the Laws of 1979 of the State, as amended (collectively, with the Enabling Act, the “*Act*”) and is empowered under the Act to undertake the Project (as hereinafter defined) in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, the Company submitted an application (the “*Application*”) to the Agency requesting the Agency’s assistance with respect to a certain project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project*”).

Facility”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, by resolutions of its members adopted on August 21, 2018 (collectively, the “*Resolutions*”), the Agency authorized certain financial assistance for the benefit of the Project consisting of: (a) an exemption from New York State and local sales and use taxes for purchases and rentals related to the Project with respect to qualifying personal property included in or incorporated into the Project Facility or used in the acquisition, construction or equipping of the Project Facility in an amount not to exceed **\$96,000**, subject to Section 3.01; (b) an exemption from mortgage recording tax; and (c) an abatement from real property taxes through a 10-year payment in lieu of taxes agreement with the Company for the benefit of each municipality and school district having taxing jurisdiction over the Project (collectively referred to as the “*Financial Assistance*”); and

WHEREAS, it has been estimated and confirmed by the Company within its Application for Financial Assistance that: (i) the purchase of goods and services relating to the Project, and subject to New York State and local sales and use taxes, are estimated to cost an amount up to **\$1,200,000**; and therefore, the value of the State and local sales and use tax exemption benefits authorized and approved by the Agency cannot exceed **\$96,000**; (ii) the mortgage recording tax exemption amount shall be approximately **\$10,125** (in accordance with Section 874 of the General Municipal Law); and (iii) real property tax abatement benefits to be provided to the Company over the 10-year benefit period of the anticipated payment in lieu of taxes agreement are estimated to be approximately **\$154,966.79**; and

WHEREAS, the Company proposes to lease the Land and Facility to the Agency, and the Agency desires to lease the Land and Facility from the Company pursuant to the terms of a certain Company Lease Agreement dated as of November 1, 2018 (the “*Company Lease*”), by and between the Company and the Agency; and

WHEREAS, the Agency proposes to acquire an interest in the Equipment pursuant to a bill of sale dated as of November 1, 2018 from the Company (the “*Bill of Sale*”); and

WHEREAS, contemporaneously with the execution of this Project Agreement, the Company shall execute and deliver an environmental compliance and indemnification agreement in favor of the Agency (the “*Environmental Compliance and Indemnification Agreement*”); and

WHEREAS, the Agency proposes to sublease the Project Facility to the Company, and the Company desires to lease the Project Facility from the Agency, upon the terms and

conditions set forth in a certain Agency Lease Agreement dated as of November 1, 2018 (the “*Agency Lease*”); and

WHEREAS, in order to define the obligations of the Company regarding payments in lieu of taxes for the Project Facility, the Agency and the Company will enter into a Payment in Lieu of Tax Agreement, dated as of November 1, 2018 (the “*PILOT Agreement*”), by and between the Agency and the Company; and

WHEREAS, by its Resolutions, the Agency authorized the Company to act as its agent for the purposes of undertaking the Project and the Agency delegated to the Company the authority to appoint sub-agents subject to the execution of this Project Agreement and compliance with the terms set forth herein, in the Resolutions and in the Agency Lease; and

WHEREAS, in order to define the obligations of the Company regarding its ability to utilize the Agency’s State and local sales and use tax exemption benefit as agent of the Agency to acquire, construct, renovate, equip and complete the Project Facility, the Agency and the Company will enter into this Project Agreement; and

WHEREAS, the Agency requires, as a condition and as an inducement for it to enter into the transactions contemplated by the Resolutions, and as more particularly described in the PILOT Agreement and this Project Agreement, that the Company provide assurances with respect to the terms and conditions herein set forth; and

WHEREAS, this Project Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no Financial Assistance shall be provided to the Company prior to the effective date of this Project Agreement.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

**ARTICLE I
PURPOSE OF PROJECT**

Section 1.01 Recitals. The foregoing recitals are incorporated by referenced as if fully set forth herein.

Section 1.02 Purpose of Project. It is understood and agreed by the parties that the purpose of the Agency’s provision of Financial Assistance with respect to the Project is to, and the entering by the Agency into the Company Lease, Agency Lease, PILOT Agreement and this Project Agreement is in order to, promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping, furnishing and completing of the Project Facility to advance job opportunities, health, general prosperity and economic welfare of the people of the City of Syracuse and to otherwise accomplish the public purpose of the Act.

**ARTICLE II
REAL PROPERTY TAX EXEMPTION**

Section 2.01. PILOT Agreement. Attached hereto and made a part hereof as **Exhibit A** is a copy of the PILOT Agreement by and between the Company and the Agency.

**ARTICLE III
SALES AND USE TAX EXEMPTION**

Section 3.01. Scope of Agency. The Company agrees to limit its activities as agents for the Agency under the authority of the Resolutions and this Project Agreement to acquisition, reconstruction, installation and completion of the Project Facility. The right of the Company to act as agent of the Agency shall expire on the earlier of **April 1, 2020, based on the schedule below¹**, or sixty days after the issuance of a certificate of occupancy, unless extended by a resolution adopted by the members of the Agency, or unless terminated early in accordance with the terms of the Agency Lease. The value of the sales and use tax exemption benefits shall not exceed the amounts described in the Application and as set forth below in footnote ²1 and in Section 3.03(b) unless approved by a resolution adopted by the members of the Agency. All contracts entered into by the Company as agent for the Agency shall include the following language:

“This contract is being entered into by _____ (the “*Agent*”), as agent for and on behalf of the City of Syracuse Industrial Development Agency (the “*Agency*”), in connection with a certain project of the Agency for the benefit of the Agent consisting in part of the acquisition and installation of certain machinery, equipment and building materials, all for use in construction and/or incorporation and installation in certain premises located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “*Premises*”). The machinery, equipment and building materials (collectively, the “*Equipment*”) to be used in the construction and/or incorporated and installed in the Premises shall be exempt from the sales and use taxes levied by the State of New York if the use and/or

1

<u>Description</u>	<u>Estimated Completion Date</u>	<u>Estimated Costs</u>		<u>Estimated Sales Tax Exemption Needed</u>	
		<u>Construction</u>	<u>FF&E</u>	<u>Construction</u>	<u>FF&E</u>
Exterior work and Company-controlled space	July 1, 2019	\$1,950,000	\$230,000	\$47,000 (by 07/01/19)	\$18,400 (by 07/01/19)
Leased space	April 1, 2020	\$850,000	\$120,000	\$21,000 (by 04/01/20)	\$9,600 (by 04/01/20)

Any portion of the amounts to be used by July 1, 2019 not expended shall be forfeited unless an extension is obtained as set forth in Section 3.01.

acquisition of the Equipment is effected in accordance with the terms and conditions set forth in the Project Agreement dated as of November 1, 2018 by and between the Agency and the Company (the “**Project Agreement**”); and the Agent represents that this contract is in compliance with the terms of the Project Agreement. This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor acknowledges and agrees to the terms and conditions set forth in this paragraph.”

Section 3.02. Appointment of Sub-Agents. Subject to the terms and conditions of this Project Agreement and pursuant to the Resolutions, the Agency hereby delegates to the Company the authority to appoint sub-agents of the Agency in connection with the Project, which may be agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and other parties as the Company chooses (each, a “**Sub-Agent**”). The appointment of each such Sub-Agent will be effective only upon: (1) the execution by the Sub-Agent and the Company of the Sub-Agent Appointment Agreement attached as Exhibit F to the Agency Lease (the “**Sub-Agent Agreement**”), the terms and provisions of which are incorporated herein; (2) the receipt by the Agency of a completed Form ST-60 in accordance with Section 3.03(c) below; and (3) receipt of any required insurance as set forth in the Sub-Agent Agreement.

Section 3.03. Representations and Covenants of the Company.

(a) The Company hereby incorporates and restates its representations, covenants and warranties made in the Agency Lease.

(b) The Company further covenants and agrees that the purchase of goods and services relating to the Project and subject to State and local sales and use taxes are estimated in the amount up to **\$1,200,000**, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed **\$96,000**.

(c) The Company further covenants and agrees to complete “IDA Appointment of Project Operator or Agent For Sales Tax Purposes” (Form ST-60) for itself and each Sub-Agent and to provide said form to the Agency within fifteen (15) days of appointment such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment.

(d) The Company further covenants and agrees to file an annual statement with the State Department of Taxation and Finance an “Annual Report of Sales and Use Tax Exemptions” (Form ST-340) regarding the value of sales and use tax exemptions the Company and its Sub-Agents have claimed pursuant to the agency conferred on the Company with respect to the Project in accordance with Section 874(8) of the Act. The Company further covenants and agrees that it will, within thirty (30) days of each filing, provide a copy of their filed ST-340 to the Agency, but in no event later than March 29 of each year. The Company understands and agrees that the failure to file such annual statement will result in the removal of: (1) the Company’s authority to act as agents for the Agency; and (2) the authority of any Sub-Agent of

the Agency appointed by the Company pursuant to Section 3.02 hereof to act as agent for the Agency.

(e) The Company further acknowledges and agrees that all purchases made in furtherance of the Project by the Company and any Sub-Agent shall be made using "IDA Agent or Project Operator Exempt Purchase Certificate" (Form ST-123, a copy of which is attached to the Sub-Agent Agreement), and it shall be the responsibility of the Company and the Sub-Agent, as the case may be, (and not the Agency) to complete Form ST-123. The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the bill of invoice should state, "I, [NAME OF AGENT], certify that I am a duly appointed agent of the City of Syracuse Industrial Development Agency and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my Project Agreement with the City of Syracuse Industrial Development Agency." The Company further acknowledges and agrees that the following information shall be used by the Company to identify the Project on each bill and invoice: GERHARZ EQUIPMENT PROJECT, 220-22 TEALL AVENUE, SYRACUSE, NEW YORK, IDA PROJECT NO.: 31021805.

(f) The Company acknowledges and agrees that the Agency shall not be liable, either directly or indirectly or contingently, upon any contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder.

Section 3.04. Hold Harmless Provisions.

(a) The Company releases the Agency and its members, officers, agents (other than the Company) and employees from, agrees that the Agency and its members, officers, agents (other than the Company) and employees shall not be liable for and agrees to indemnify, defend and hold the Agency and its members, officers, agents (other than the Company) and employees harmless from and against any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses arising 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 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, constructing, equipping, installing, owning, leasing 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 Project Agreement or the enforcement of or defense of validity of any provision of this Project Agreement; (3) all claims arising from the exercise by the Company of the authority conferred on it pursuant to Sections 3.01 and 3.02 hereof; and (4) all causes of action and reasonable attorneys' fees and other expenses incurred in connection with any suits or actions that may arise as a result of any of the foregoing; provided

that any such claims, causes of action, judgments, liabilities, damages, losses, costs or expenses of the Agency are not incurred or do not result from the gross negligence or intentional wrongdoing of the Agency or any of its members, officers, agents (other than the Company) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence, other than the gross negligence or intentional wrongdoing, in part of the Agency or any of its officers, members, agents (other than the Company) 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) or employees 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 3.04, the Company agrees to provide for and insure, in the liability policies required by Section 3.05 of this Project Agreement, its liabilities assumed pursuant to this Section 3.04.

(d) Notwithstanding any other provisions of this Project Agreement, the obligations of the Company pursuant to this Section 3.04 shall remain in full force and effect after the termination of this Project Agreement 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 officers, members, agents (other than the Company) or employees, relating thereto.

Section 3.05. Insurance Required.

(a) The Company agrees that it shall maintain all insurance required under the Agency Lease.

(b) The Company agrees that it shall cause its general contractor for the Project to maintain, effective as of the date of its Sub-Agent Agreement until the expiration or termination of the general contractor's employment by the Company, or its designee, with respect to the Project Facility, all of the same insurance with respect to the Project Facility, as set forth in Article 6 of the Agency Lease as if the general contractor were the Company thereunder. The Company further agrees that it shall cause its general contractor for the Project to comply and abide, effective as of the date of the Sub-Agent Agreement and until the expiration or termination of the general contractor's employment by the Company, or its designee, with respect to the Project Facility, with all of the terms and conditions set forth in Article 6 of the Agency Lease with respect to the type, nature and proof of insurance required thereunder.

**ARTICLE IV
COMMITMENTS AND REPORTING**

Section 4.01. Compliance Commitments. The Company agrees and covenants that it shall meet and maintain the commitments set forth in (a) below beginning in the first year after completion of the Project in accordance with footnote 1 in Section 3.01 hereof. The Company further agrees and covenants that it shall meet and maintain the commitments set forth in (b) below with respect to retained jobs set forth in and in accordance with the Application starting in the first year in which Financial Assistance is claimed and/or provided; and with respect to new jobs, the Company shall create, in years one (1) through five (5) following completion of the Project the new jobs set forth in the Company's Application. The reporting of, and the commitment to, each of (a), (b) and (c) below continue for the duration of the PILOT Agreement (the "**Term**"); or if the PILOT is terminated early, until the earlier of five (5) years from the termination date of the PILOT or the stated expiration of the PILOT Agreement:

(a) The total investment made with respect to the Project on July 1, 2019 shall equal to or exceed \$4,165,000, with an additional \$350,000 invested by April 1, 2020, for a total of \$4,965,000, being the total project cost as stated in the Company's Application for Financial Assistance (the "**Investment Commitment**").

(b) At least forty (40) full time equivalent ("**FTE**") employees were retained by the Project Facility as of the date of the Application for Financial Assistance (the "**Baseline FTE**"). The Company agrees to maintain, as of the first year in which Financial Assistance is claimed and/or provided the Baseline FTE. The Company's application estimated the creation of eight (8) new FTEs (the "**New FTEs**") at the Project Facility within the first five (5) years following completion of the Project Facility. The Company shall be required to meet and maintain all of the foregoing employment commitments during the Term hereof (the "**Employment Commitment**").

(c) The Company shall annually provide to the Agency certain information to confirm that the Project is achieving the investment, job retention, job creation, and other objectives of the Project for the Term (the "**Reporting Commitment**").

Section 4.02. Reporting Requirement. As part of the commitments set forth in Section 4.01, the Company shall provide annually, to the Agency, a certified statement and supporting documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, by zip code, including full time equivalent independent contractors or employees of independent contractors that work at the Project location, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. **Exhibit B** contains a form of annual certification that the Company must complete and submit to the Agency on an annual basis. The Agency reserves the right to modify such form to require additional information that the Agency must have in order to comply with its reporting requirements under the Act and/or its policies.

ARTICLE V
SUSPENSION, DISCONTINUATION, RECAPTURE AND/OR TERMINATION OF
FINANCIAL ASSISTANCE

Section 5.01. Suspension, Discontinuation, Recapture and/or Termination of Financial Assistance. It is understood and agreed by the Parties that the Agency is entering into the Company Lease, the Agency Lease, the PILOT Agreement and this Project Agreement in order to provide Financial Assistance to the Company for the Project Facility and to accomplish the public purposes of the Act.

(a) In accordance with Section 875(3) of the New York General Municipal Law, the policies of the Agency, and the Resolutions, the Company covenants and agrees that it is subject to recapture of all State sales and use tax exemption benefits if:

(1) the Company or its Subagents, if any, authorized to make purchases for the benefit of the Project are not entitled to the State sales and use tax exemption benefits; or

(2) the State sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its Subagents, if any; or

(3) the State sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or

(4) the Project has failed to comply with a material term or condition to use the property or services in the manner required by any project document between the Company and the Agency.

Each of the foregoing four events are hereinafter referred to as a “***State-Mandated Recapture Event***”. The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a State-Mandated Recapture Event has occurred.

(b) In addition to Section 5.01(a), in accordance with the policies of the Agency and the Resolutions, the Company covenants and agrees that the Agency shall have the right to suspend, discontinue, recapture or terminate all or any portion of any Financial Assistance to the extent any of the following occur (each a “***Deficit***”):

- a) for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency, and/or such exemptions were for property or services not authorized by the Agency (each, a “***Local Sales Tax Benefit Violation***”);
- b) the company, upon completion of the project, fails to reach and maintain at least 85 percent of its employment requirements for job creation and/or retention (“***Job Deficit***”);

- c) the total investment actually made with respect to the project at the project's completion date is less than 85 percent of its investment requirement ("**Investment Deficit**");
- d) the company fails to provide annually to the Agency certain information to confirm that the project is achieving the investment, job retention, job creation, and other objectives of the Project ("**Reporting Failure**"); or
- e) there otherwise occurs any event of default under any project document (each, an "Event of Default") or a material violation of the terms and conditions of any project document (a "**Material Violation**").

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency's attention, whether a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure Event of Default or Material Violation (each a "**Noncompliance Event**") has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any Project Document in accordance with the terms of the Project Document.

At the time of any Noncompliance Event, the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance in accordance with its Recapture Policy; and shall consider the following criteria in determining whether to proceed to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance:

- i. Whether the Company has proceeded in good faith.
- ii. Whether the Project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the Company.
- iii. Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance would create a more adverse situation for the Company, such as the Company going out of business or declaring bankruptcy, which would not occur if the Agency's rights were not exercised.
- iv. Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance would create an adverse situation for the residents of the City of Syracuse.
- v. The assessment prepared in accordance with the Agency's Annual Assessment Policy.
- vi. Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend,

discontinue, recapture or terminate all or any portion of the Financial Assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance (the “*Determination*”). The Determination shall provide terms, if any, by which the Company may remedy any Noncompliance Event upon which the Determination was based. The Company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume Financial Assistance to the Company (which will be at the Agency’s sole discretion).

(c) If a State-Mandated Recapture Event occurs or the Agency makes a Determination, the Company agrees and covenants that it will: (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company; and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction. The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine the State sales and use tax due from the Company, together with any relevant penalties and interest due on such amounts.

ARTICLE VI MISCELLANEOUS PROVISIONS

Section 6.01. Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Project Agreement to the Agency regardless of any investigation made by the Agency. The obligations of the Company to repay, defend and/or provide the indemnity required by Section 3.04 hereof shall survive the termination of this Project Agreement and all such payments after such termination shall be made upon demand of the party to whom such payment is due. The obligations of the Company to repay, defend and/or provide the indemnity required by Section 3.04 hereof shall survive the termination of this Project Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action, or prosecution 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) or employees relating thereto.

Section 6.02. Notices. All notices, certificates and other communications under this Project Agreement shall be in writing and shall be deemed given when delivered personally or when sent by certified mail, postage prepaid, return receipt requested, or by overnight delivery service, addressed as follows:

If to the Agency: City of Syracuse Industrial Development Agency
201 East Washington Street, 6th Floor
Syracuse, New York 13202
Attn: Chairman

With a copy to: Corporation Counsel
City of Syracuse
233 East Washington Street
Syracuse, New York 13202

and

Bousquet Holstein PLLC
One Lincoln Center, Suite 1000
110 West Fayette Street
Syracuse, New York 13202
Attn: Susan R. Katzoff, Esq.

If to the Company: Sage Teall Properties, LLC
6146 East Molloy Road
East Syracuse, New York 13057
Attn: Scott Gerharz, Manager

With a copy to: Bond, Schoeneck & King PLLC
One Lincoln Center
110 West Fayette Street
Syracuse, New York 13202
Attn: Kevin Pole, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when received or delivery of same is refused by the recipient or personally delivered in the manner provided in this Section.

Section 6.03. Amendments. No amendment, change, modification, alteration or termination of this Project Agreement shall be made except in writing upon the written consent of the Company and the Agency.

Section 6.04. Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Project Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Project Agreement or any part thereof.

Section 6.05. Counterparts. This Project Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

Section 6.06. Governing Law. This Project Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Onondaga County, New York.

Section 6.07. Term. Except as specifically provided otherwise, the term of this Project Agreement shall be the longer of: (1) the term of the Agency Lease ; or (2) five years following the Project's substantial completion date as evidenced by a certificate of occupancy. The Project will remain "active" for purposes of Section 874(12) of General Municipal Law and the Agency's Annual Assessment Policy during the term of this Project Agreement.

Section 6.08. Section Headings. The headings of the several Sections in this Project Agreement 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 Project Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Project Agreement as of the day and year first above written.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

Honora Spillane, Executive Director

SAGE TEALL PROPERTIES, LLC

By: _____
Scott Gerharz, Manager

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

SCOTT GERHARZ, being first duly sworn, deposes and says:

1. That I am the Manager of Sage Teall Properties, LLC and that I am duly authorized on behalf of the Company to bind the Company and to execute this Project Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

(Signature of Officer)

Subscribed and affirmed to me
under penalties of perjury
this ___ day of November, 2018.

(Notary Public)

IN WITNESS WHEREOF, the parties hereto have executed this Project Agreement as of the day and year first above written.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Honora Spillane, Executive Director

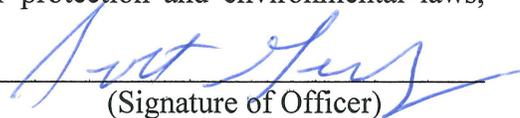
SAGE TEALL PROPERTIES, LLC

By:  _____
Scott Gerharz, Manager

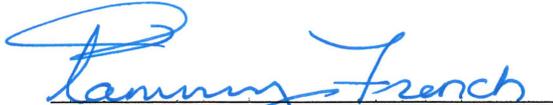
STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

SCOTT GERHARZ, being first duly sworn, deposes and says:

1. That I am the Manager of Sage Teall Properties, LLC and that I am duly authorized on behalf of the Company to bind the Company and to execute this Project Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

 _____
(Signature of Officer)

Subscribed and affirmed to me
under penalties of perjury
this 12 day of November, 2018.

 _____
(Notary Public)

TAMMY FRENCH
Notary Public - State of New York
No. 01FR6300646
Qualified in Oswego County
My Commission Expires 08/22/2022

EXHIBIT A

Executed Copy of PILOT Agreement

SEE TAB 13

EXHIBIT B

FORM OF ANNUAL REPORTING QUESTIONNAIRE

SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
201 East Washington Street, 6th Floor, Syracuse, New York 13202

Date

COMPANY
COMPANY ADDRESS

Dear _____:

Our auditors, _____, CPAs are conducting an audit of our financial statements for the year ended December 31, _____. In connection with that audit, we request that you furnish certain information directly to our auditor with regard to the following security issued by/through the City of Syracuse Industrial Development Agency:

Sale - Leaseback Financing

Project: _____

Date of Financing:

Principal Amount Financed:

Maturity Date:

Original Interest Rate:

Please provide the following information as of December 31, [year]:

Name of Lender

Debt Retired in [year] Yes/No

Debt Refinanced in [year] Yes/No

(If Yes, please update information in Paragraph 1 above)

D-1

Debt in Default as of [date] Yes/No

Current Interest Rate(s)

Rate range, if Variable

Principal balance outstanding as of [date]

Principal payments made during [year]

Payments in Lieu of Taxes (PILOT)

paid in [year]

Total cost of goods/services purchased: \$ _____

New York State Sales Tax Exemptions Claimed [year]

New York Local Sales Tax Exemptions Claimed: [year]

New York State Mortgage Recording

Tax Exemption: [year]

Form of Syracuse Industrial Development Agency — Project Jobs Data [year]

From:

To: _____, CPAs

Re:

The following jobs information is furnished to you with regard to the above cited project:

A. Job Retention/Creation:

I. Construction Jobs:

Provide the name of your general contractor: _____.

Provide the address (including county) of your general contractor: _____.

Is the general contractor MWBE qualified? _____.

Is the general contractor Service-Disabled Veteran-Owned Business Enterprises (SDVOBE) qualified? _____.

For each contractor and/or sub-contractor, provide the following information for the reporting period:

Bid awarded to (Name/Address/County*)	Value of contract	MWBE (Yes/No)	SDVOBE (Yes/No)	Number of jobs (FTE)

***Must include county**

II. Permanent (non-construction) Jobs:

Number of FTEs retained at the Project prior to date of application: _____.

Number of FTEs created by the Project during the reporting calendar year (*exclusive of construction jobs*): _____.

Of the jobs created by the Project during the reporting year (*exclusive of construction jobs*) identify how many are in each of the following categories:

Professional/Managerial/Technical - includes jobs which involve skill or competence of extraordinary degree and may include supervisory responsibilities (examples: architect, engineer, accountant, scientist, medical doctor, financial manager, programmer). **Number of jobs created in reporting year** _____.

Skilled - includes jobs that require specific skill sets, education, training, and experience and are generally characterized by high education or expertise level (examples: electrician, computer operator, administrative assistant, carpenter, sales representative). **Number of jobs created in reporting year** _____.

Unskilled or Semi-Skilled - includes jobs that require little or no prior acquired skills and involve the performance of simple duties that require the exercise of little or no independent judgment (examples: general cleaner, truck driver, typist, gardener, parking lot attendant, line operator, messenger, information desk clerk, crop harvester, retail salesperson, security guard, telephone solicitor, file clerk). **Number of jobs created in reporting year** _____.

Identify:

the average annual salary range of the FTEs (*exclusive of construction jobs*) created during the reporting year: \$_____.

the total number of jobs (*exclusive of construction jobs*) created by the Project from the date of application through the reporting date: _____.

the total number of jobs (retained and created, *but exclusive of construction jobs*) at the Project from the date of application through the reporting date: _____.

What is the annual average salary range of the FTEs (*exclusive of construction jobs*) created at the Project to date: \$_____.

B. Geographical Hiring Data:

1. Construction jobs:

Of the construction jobs created during the reporting period, provide the zip codes for the hires (based upon hire's residence); and, if more than one (1) FTE hired during the reporting period, identify the number of FTEs hired from each zip code.

2. FTEs hired (*exclusive of construction jobs*)

Of the FTE jobs created during the reporting period, provide the zip codes for the hires (based upon hire's residence); and, if more than one (1) FTE hired during the reporting period, identify the number of FTEs hired from each zip code.

Provide the same information reflecting FTEs hired from the date of application through the reporting date at the Project.

Comments:

Signature

Print Name

Title

Date

COMPANY LEASE AGREEMENT

THIS COMPANY LEASE AGREEMENT (the “*Company Lease*”), made and entered into as of November 1, 2018, by and between **SAGE TEALL PROPERTIES, LLC** (the “*Company*”), a limited liability company organized under the laws of the State of New York with an office at 6146 East Molloy Road, East Syracuse, New York 13057 and **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY** (the “*Agency*”), a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York, with an office at 201 East Washington Street, 6th Floor, Syracuse, New York 13202.

WITNESSETH :

WHEREAS, Title 1 of Article 18-A of the New York General Municipal Law (the “*Enabling Act*”) was duly enacted into law as Chapter 1030 of the New York Laws of 1969; and

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages, and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip, and dispose of land and any buildings or other improvements, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, or industrial purposes, in order to advance the job opportunities, health, general prosperity, and economic welfare of the people of the State of New York and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease or sell any or all of its properties, to mortgage and pledge any or all of its properties, whether then owned or thereafter acquired, and to pledge the revenues and receipts from the lease or sale thereof; and

WHEREAS, the Agency was created pursuant to and in accordance with the provisions of the Enabling Act by Chapter 641 of the Laws of 1979 of the State of New York (collectively with the Enabling Act, the “*Act*”) and is empowered under the Act to undertake the Project (as hereinafter defined); and

WHEREAS, the Agency, by resolution adopted on August 21, 2018, agreed, at the request of the Company to undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*”) and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and

use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Company is the current owner of the Project Facility; and

WHEREAS, the Agency proposes to assist the Company’s acquisition, construction and equipping of the Project Facility, and grant the Financial Assistance to the Project by, among other things: (1) appointing the Company, or its designee, as its agent with respect to the Project Facility; (2) accepting a leasehold interest in the Land and Facility from the Company pursuant to this Company Lease and acquiring an interest in the Equipment pursuant to a bill of sale from the Company; and (3) subleasing the Project Facility to the Company pursuant to the Agency Lease; and

WHEREAS, the Agency now proposes to lease the Land and Facility from the Company pursuant to the terms and conditions set forth herein; and

WHEREAS, all things necessary to constitute this Company Lease a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Company Lease have, in all respects, been duly authorized.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows, to wit:

**ARTICLE I
RECITALS AND DEFINITIONS**

1.0 RECITALS.

The foregoing recitals are incorporated herein by reference as if fully set forth hereinbelow.

1.1 DEFINITIONS.

For all purposes of this Company Lease and any agreement supplemental thereto, all defined terms indicated by the capitalization of the first letter of such term shall have the meanings specified in the Table of Definitions which is attached to the Agency Lease as Exhibit “C” thereto except as otherwise expressly defined herein or the context hereof otherwise requires.

1.2 INTERPRETATION.

In this Company Lease, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “herein,” “hereunder,” and any similar terms as used in this Company Lease refer to this Company Lease; the term “heretofore” shall mean before and the term “hereafter” shall mean after the date of this Company Lease;

(b) Words of masculine gender shall mean and include correlative words of feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa; and

(c) Any certificates, letters, or opinions required to be given pursuant to this Company 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 Company Lease.

ARTICLE II DEMISE; PREMISES; TERM

2.1 DEMISE.

The Company hereby leases to the Agency, and the Agency hereby leases from the Company, the Land and the Facility for the stated term for the rents, covenants and conditions set forth herein subject only to the Permitted Encumbrances.

2.2 DESCRIPTION OF PREMISES LEASED.

The leased premises is the Land and the Facility described in the recitals of this Company Lease and as more fully described on **Exhibit “A”** attached hereto.

2.3 TERM.

The Project is leased for a term which shall commence as of November 1, 2018, and shall end on the expiration or earlier termination of the Agency Lease.

2.4 MANDATORY CONVEYANCE.

At the expiration of the term hereof or any extension thereof by mutual agreement, or as otherwise provided in the Agency Lease, this Company Lease shall automatically expire without any further action by the parties hereto. The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing, delivering and recording terminations of leases and bill of sale together with any other documents therewith and to take such other and further actions reasonably necessary to confirm the termination of the Agency’s interest in the Project, all at the Company’s sole cost and expense.

2.5 CONSIDERATION.

The Agency is paying to the Company concurrently with the execution hereof consideration of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Company.

2.6 REPRESENTATIONS AND COVENANTS OF THE COMPANY.

The Company makes the following representations 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 New York, has the power to enter into this Company Lease and the other Company Documents and to carry out its obligations hereunder and thereunder, and has duly authorized the execution, delivery, and performance of this Company Lease and the other Company Documents.

(b) This Company Lease and the other Company Documents constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Company, enforceable in accordance with their respective terms.

(c) The Company has a valid and enforceable fee interest in the Land and the Facility and shall remain and retain such interests for the term of this Company Lease unless otherwise consented to in writing by the Agency.

(d) Neither the execution and delivery of this Company Lease and the other Company Documents, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions thereof will:

(1) Result in a breach of, or conflict with any term or provision in, the Company's Articles of Organization and Operating Agreement;

(2) Require consent under (which has not been heretofore received) or result in a breach of or default under any credit agreement, indenture, purchase agreement, mortgage, deed of trust indenture, commitment, guaranty or other 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

(3) Conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction, or decree of any Governmental Authority or court (domestic or foreign) having jurisdiction over the Company or any of the property of the Company.

(e) So long as the Agency holds an interest in the Project Facility, the Project Facility is and 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 required by the Company Documents or which the Agency, together with Agency's counsel, advise the Company in writing

should be taken), or allow any action to be taken, which action (or omission) would in any way cause the Project Facility not to constitute a “project” (as such quoted term is defined in the Act).

(f) The Company shall cause all notices as required by law to be given and shall comply or cause compliance with all laws, ordinances, municipal rules, and regulations and requirements of all Governmental Authorities applying to or affecting the construction, equipping and operation of the Project Facility (the applicability of such laws, ordinances, rules, and regulations to be determined both as if the Agency were the owner of the Project Facility and as if the Company, were the owner of the Project Facility), and the Company will defend and save the Agency and its officers, members, agents (other than the Company), and employees harmless from all fines and penalties due to failure to comply therewith.

(g) The Company shall perform, or cause to be performed, for and on behalf of the Agency, each and every obligation of the Agency (which is within the control of the Company) under and pursuant to the Agency Lease, this Company Lease and the other Company Documents and shall defend, indemnify, and hold harmless the Agency and its members, officers, agents (other than the Company), servants and employees from and against every expense, liability, or claim arising out of the failure of the Company to fulfill its obligations under the provisions of this Section 2.6.

(h) The Company acknowledges, restates and affirms the obligations, representations, warranties and covenants set forth in Sections 2.2 and 11.12 of the Agency Lease as if fully set forth herein.

ARTICLE III DISPUTE RESOLUTION

3.1 GOVERNING LAW.

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

3.2 WAIVER OF TRIAL BY JURY.

THE COMPANY AND THE AGENCY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY DISPUTE ARISING UNDER THIS COMPANY LEASE, AND THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS COMPANY LEASE.

ARTICLE IV MISCELLANEOUS CLAUSES

4.1 NOTICES.

All notices, certificates, and other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with

documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the Person who attempted to effect such delivery. The addresses to which notices, certificates, and other communications hereunder shall be delivered are as follows:

(a) To the Agency:

City of Syracuse Industrial Development Agency
201 East Washington Street, 6th Floor
Syracuse, New York 13202
Attn: Chairman

With copies to:

Corporation Counsel
City of Syracuse
233 East Washington Street
Syracuse, New York 13202

and

Bousquet Holstein PLLC
110 West Fayette Street, Suite 1000
Syracuse, New York 13202
Attn: Susan R. Katzoff, Esq.

(b) To the Company:

Sage Teall Properties, LLC
6146 East Molloy Road
East Syracuse, New York 13057
Attn: Scott Gerharz, Manager

With a copy to:

Bond, Schoeneck & King PLLC
One Lincoln Center
110 West Fayette Street
Syracuse, New York 13202
Attn: Kevin Pole, Esq.

4.2 NO RECOURSE UNDER THIS COMPANY LEASE.

No provision, covenant or agreement contained herein, in any other agreement entered into in connection herewith, or any obligations herein imposed, upon the Agency, or any breach thereof, shall constitute or give rise to or impose upon the Agency, a debt or other pecuniary liability or a charge upon its general credit, and all covenants, stipulations, promises, agreements and obligations of the Agency contained in this Company Lease shall be deemed to

be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in his individual capacity.

4.3 ENTIRE AGREEMENT.

This Company Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged in this Company Lease. This Company Lease may not be changed, modified or discharged, in whole or in part, except by a written instrument executed by the party against whom enforcement of the change, modification or discharge is sought.

4.4 AGENCY REPRESENTATIONS.

The Company expressly acknowledges that neither the Agency nor the Agency's directors, members, employees or agents has made or is making, and the Company, in executing and delivering this Company Lease, is not relying upon warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Company Lease, and no rights, easements or licenses are or shall be acquired by the Company by implication or otherwise unless expressly set forth in this Company Lease.

4.5 BINDING EFFECT.

This Company Lease shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

4.6 PARAGRAPH HEADINGS.

Paragraph headings are for convenience only and shall not affect the construction or interpretation of this Company Lease.

4.7 CONSENT TO AGENCY LEASE; SUBORDINATION.

The Company hereby consents to the sublease by the Agency of the Project Facility to the Company pursuant to the Agency Lease. The Company acknowledges and agrees that this Company Lease and the Agency Lease shall be subordinate in all respects to the Mortgages.

4.8 HOLD HARMLESS PROVISIONS.

(a) The Company hereby releases the Agency and its members, officers, agents, and employees from, agree that the Agency and its members, officers, agents, and employees shall not be liable for, and agree to indemnify, defend, and hold the Agency and its members, officers, agents, and employees harmless from and against any and all claims arising as a result of the Agency's undertaking of 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 by any cause whatsoever pertaining to the Project

Facility, or arising by reason of or in connection with the occupation or the use thereof, or the presence on, in, or about the Project Facility;

(2) Liability arising from or expense incurred by the Agency's acquisition of a leasehold interest in the Project Facility and the subleasing of the Project Facility, including, without limiting the generality of the foregoing, all liabilities or claims arising as a result of the Agency's obligations under the Agency Lease, the Company Lease or the Mortgage;

(3) All claims arising from the exercise by the Company of the authority conferred upon it and performance of the obligations assumed under Article II hereof;

(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 any such losses, damages, liabilities, 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, or employees.

The foregoing indemnities shall apply notwithstanding the fault or negligence (other than gross negligence or willful misconduct) on the part of the Agency or any of its officers, members, agents, servants, or employees and irrespective of any breach of 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, or employees by any employee of the Company, or any contractor of the Company, or anyone directly or indirectly employed by any of them, or any one 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 such contractor under workers' compensation laws, disability benefit laws, or other employee benefit laws.

(c) Notwithstanding any other provisions of this Company Lease, the obligations of the Company pursuant to this Section 4.8 shall remain in full force and effect after the termination of the Agency Lease and this Company 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 and charges incurred by the Agency, or its officers, members, agents (other than the Company), or employees, relating thereto.

(d) For purposes of this Section 4.8, the Company shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

4.9 NO RECOURSE; SPECIAL OBLIGATION.

The obligations and agreements of the Agency contained herein and in the other Agency Documents and in any other instrument or document executed in connection herewith or therewith, and any instrument or document supplemental hereto or thereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent, or employee of the Agency in his individual capacity; and the members, officers, agents, and employees 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. The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State New York or of the City of Syracuse, and neither the State of New York nor the City of Syracuse shall be liable hereon or thereon. 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 Project Facility, other than revenues derived from or constituting Unassigned Rights. No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless:

(a) 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 thirty (30) 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 thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period; and

(b) 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 reasonable fees and expenses; and

(c) 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, or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents, and employees against any liability incurred as a result of its compliance with such demand; and (2) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents, and employees against all liability expected to be incurred as a result of compliance with such request.

Any failure to provide notice, indemnity, or security to the Agency pursuant to this Section 4.9 shall not alter the full force and effect of any Event of Default under the Agency Lease.

(d) For purposes of this Section 4.9, the Company shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

4.10 MERGER OF AGENCY.

(a) Nothing contained in this Company Lease shall prevent 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 body corporate and politic and public instrumentality of the State of New York, or political subdivision thereof, which has the legal authority to perform the obligations of the Agency hereunder, provided that upon any such consolidation, merger, or assignment, the due and punctual performance and observance of all the agreements and conditions of this Company Lease to be kept and performed by the Agency shall be expressly assumed in writing by the public instrumentality or political subdivision resulting from such consolidation or surviving such merger or to which the Agency's rights and interests hereunder shall be assigned.

(b) As of the date of any such consolidation, merger, or assignment, the Agency shall 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 reasonably may request.

4.11 EXECUTION OF COUNTERPARTS.

This Company 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.

4.12 EVENT OF DEFAULT.

A default in the performance or the observance of any covenants, conditions, or agreements on the part of the Company in this Company Lease, the Agency Lease or the Project Agreement.

4.13 REMEDIES.

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

- 1) Terminate the Company Lease; or
- 2) 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.

4.14 AMENDMENTS, CHANGES AND MODIFICATIONS.

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

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

SAGE TEALL PROPERTIES, LLC

By: 
Scott Gerharz, Manager

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Honora Spillane, Executive Director

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

SAGE TEALL PROPERTIES, LLC

By: _____
Scott Gerharz, Manager

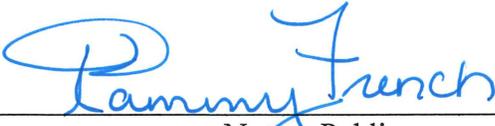
**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By:  _____
Honora Spillane, Executive Director

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

On the 12 day of November, 2018, before me, the undersigned, personally appeared **SCOTT GERHARZ**, 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.

TAMMY FRENCH
Notary Public - State of New York
No. 01FR6300646
Qualified in Oswego County
My Commission Expires 08/22/2022



Notary Public

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

On the ___ day of November, 2018, before me, the undersigned, personally appeared **HONORA SPILLANE**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

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

On the ____ day of November, 2018, before me, the undersigned, personally appeared **SCOTT GERHARZ**, 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

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

On the 7th day of November, 2018, before me, the undersigned, personally appeared **HONORA SPILLANE**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L. McRobbie

Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2022

EXHIBIT A

DESCRIPTION OF REAL PROPERTY

ALL that tract or parcel of land, situate in the City of Syracuse, (formerly part of Lot No. 223 of the Salt Springs Reservation), County of Onondaga and State of New York, bounded and described as follows: beginning at a point in the easterly line of Teall Avenue at the intersection of the northerly line of Lynch Street and the easterly line of Teall Avenue; thence N 03° 19' 30" W along Teall Avenue a distance of 396.64 feet to a point; thence N 66° 31' 00" E a distance of 473.51 feet to a point; thence S 03° 16' 38" E a distance of 141.58 feet to a point; thence S 08° 20' 35" W a distance of 82.0 feet to a point; thence S 17° 32' 39" W a distance of 91.84 feet to a point; thence N 66° 28' 00" E a distance of 55.92 feet to a point; thence S 21° 53' 40" E a distance of 100.04 feet to a point in the northerly line of Lynch Street; thence S 66° 28' 00" W along Lynch Street a distance of 510.87' to a point in the east line of Teall Avenue, said point being the place and point of beginning.

Lisa Dell, County Clerk
401 Montgomery Street
Room 200
Syracuse, NY 13202
(315) 435-2229

Onondaga County Clerk Recording Cover Sheet

Received From :
STEWART-CATHINA

Return To :
BOND SCHOENECK & KING
ONE LINCOLN CENTER
SYRACUSE, NY 13202

Method Returned : MAIL

First PARTY 1

SAGE TEALL PROPERTIES LLC

First PARTY 2

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Index Type : Land Records

Instr Number : 2018-00053120

Book : Page :

Type of Instrument : Memorandum Of Lease

Type of Transaction : Deed Misc

Recording Fee: \$80.50

Recording Pages : 7

The Property affected by this instrument is situated in Syracuse, in the
County of Onondaga, New York

Real Estate Transfer Tax

RETT # : 4451

Deed Amount : \$0.00

RETT Amount : \$0.00

Total Fees : \$80.50

State of New York

County of Onondaga

I hereby certify that the within and foregoing was
recorded in the Clerk's office for Onondaga
County, New York

On (Recorded Date) : 11/19/2018

At (Recorded Time) : 10:13:14 AM



Doc ID - 0316702200007

Lisa Dell

Lisa Dell, County Clerk



This sheet constitutes the Clerks endorsement required by Section 319 of Real Property Law of the State of New York

Entered By: RSWEEENIE Printed On : 11/19/2018 At : 10:19:31AM

**MEMORANDUM OF
COMPANY LEASE AGREEMENT**

NAME AND ADDRESS OF LESSOR: Sage Teall Properties, LLC
6146 East Molloy Road
East Syracuse, New York 13057

NAME AND ADDRESS OF LESSEE: City of Syracuse Industrial Development Agency
201 East Washington Street, 6th Floor
Syracuse, New York 13202

DESCRIPTION OF LEASED PREMISES:

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being more particularly described in **Exhibit "A"** annexed hereto, together with the improvements thereon.

DATE OF EXECUTION OF COMPANY LEASE AGREEMENT:

As of November 1, 2018.

TERM OF COMPANY LEASE AGREEMENT:

The term of the Company Lease Agreement shall commence as of November 1, 2018 and continue in full force and effect until the earlier of: (1) **June 30, 2029**; or (2) an earlier termination in accordance with the terms of the Agency Lease Agreement.

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 1st day of November, 2018.

SAGE TEALL PROPERTIES, LLC

By: _____



Scott Gerharz, Manager

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____

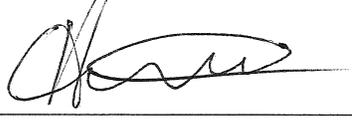
Honora Spillane, Executive Director

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 1st day of November, 2018.

SAGE TEALL PROPERTIES, LLC

By: _____
Scott Gerharz, Manager

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By:  _____
Honora Spillane, Executive Director

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

On the _____ day of November, 2018, before me, the undersigned, personally appeared **SCOTT GERHARZ**, 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.

TAMMY FRENCH
Notary Public - State of New York
No. 01FR6300646
Qualified in Oswego County
My Commission Expires 08/22/2022



Notary Public

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

On this _____ day of November, 2018, before me, the undersigned, personally appeared **HONORA SPILLANE**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

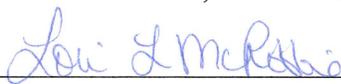
STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

On the _____ day of November, 2018, before me, the undersigned, personally appeared **SCOTT GERHARZ**, 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

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

On this 7th day of November, 2018, before me, the undersigned, personally appeared **HONORA SPILLANE**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 22

EXHIBIT "A"

LEGAL DESCRIPTION OF THE LAND

ALL that tract or parcel of land, situate in the City of Syracuse, (formerly part of Lot No. 223 of the Salt Springs Reservation), County of Onondaga and State of New York, bounded and described as follows: beginning at a point in the easterly line of Teall Avenue at the intersection of the northerly line of Lynch Street and the easterly line of Teall Avenue; thence N 03° 19' 30" W along Teall Avenue a distance of 396.64 feet to a point; thence N 66° 31' 00" E a distance of 473.51 feet to a point; thence S 03° 16' 38" E a distance of 141.58 feet to a point; thence S 08° 20' 35" W a distance of 82.0 feet to a point; thence S 17° 32' 39" W a distance of 91.84 feet to a point; thence N 66° 28' 00" E a distance of 55.92 feet to a point; thence S 21° 53' 40" E a distance of 100.04 feet to a point in the northerly line of Lynch Street; thence S 66° 28' 00" W along Lynch Street a distance of 510.87' to a point in the east line of Teall Avenue, said point being the place and point of beginning.



Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax

Recording office time stamp

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Print or type.

Schedule A – Information relating to conveyance

Grantor/Transferor <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantor) Sage Teall Properties, LLC Mailing address 6146 East Molloy Road City State ZIP code East Syracuse NY 13057 Single member's name if grantor is a single member LLC (see instructions)	Social security number Social security number Federal EIN 83-1824176 Single member EIN or SSN
Grantee/Transferee <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantee) City of Syracuse Industrial Development Agency Mailing address 201 E. Washington Street, 6th Floor City State ZIP code Syracuse NY 13202 Single member's name if grantee is a single member LLC (see instructions)	Social security number Social security number Federal EIN 52-1380308 Single member EIN or SSN

Location and description of property conveyed

Tax map designation – Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
032.1-01-27.0	311500	220-22 Teall Avenue	Syracuse	Onondaga

Type of property conveyed (check applicable box)

1 <input type="checkbox"/> One- to three-family house 2 <input type="checkbox"/> Residential cooperative 3 <input type="checkbox"/> Residential condominium 4 <input type="checkbox"/> Vacant land	5 <input checked="" type="checkbox"/> Commercial/Industrial 6 <input type="checkbox"/> Apartment building 7 <input type="checkbox"/> Office building 8 <input type="checkbox"/> Other _____	Date of conveyance <table border="1" style="display: inline-table; text-align: center;"> <tr> <td style="width: 20px;">11</td> <td style="width: 20px;">01</td> <td style="width: 20px;">2018</td> </tr> <tr> <td>month</td> <td>day</td> <td>year</td> </tr> </table>	11	01	2018	month	day	year	Percentage of real property conveyed which is residential real property _____ % (see instructions)
11	01	2018							
month	day	year							

Condition of conveyance (check all that apply)

- | | | |
|--|--|---|
| a. <input type="checkbox"/> Conveyance of fee interest
b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____%)
c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____%)
d. <input type="checkbox"/> Conveyance to cooperative housing corporation
e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E) | f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)
g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)
h. <input type="checkbox"/> Conveyance of cooperative apartment(s)
i. <input type="checkbox"/> Syndication
j. <input type="checkbox"/> Conveyance of air rights or development rights
k. <input type="checkbox"/> Contract assignment | l. <input type="checkbox"/> Option assignment or surrender
m. <input type="checkbox"/> Leasehold assignment or surrender
n. <input checked="" type="checkbox"/> Leasehold grant
o. <input type="checkbox"/> Conveyance of an easement
p. <input type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)
q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state
r. <input type="checkbox"/> Conveyance pursuant to divorce or separation
s. <input type="checkbox"/> Other (describe) _____ |
|--|--|---|

For recording officer's use	Amount received Schedule B., Part I \$ _____ Schedule B., Part II \$ _____	Date received	Transaction number
-----------------------------	--	---------------	--------------------

Schedule B – Real estate transfer tax return (Tax Law, Article 31)

Part I – Computation of tax due

- 1 Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) **Exemption claimed**
- 2 Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)
- 3 Taxable consideration (subtract line 2 from line 1)
- 4 Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3
- 5 Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)
- 6 Total tax due* (subtract line 5 from line 4)

1.		0	00
2.		0	00
3.		0	00
4.		0	00
5.		0	00
6.		0	00

Part II – Computation of additional tax due on the conveyance of residential real property for \$1 million or more

- 1 Enter amount of consideration for conveyance (from Part I, line 1)
- 2 Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A) ...
- 3 Total additional transfer tax due* (multiply line 2 by 1% (.01))

1.		
2.		
3.		

Part III – Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada) a
- b. Conveyance is to secure a debt or other obligation..... b
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts d
- e. Conveyance is given in connection with a tax sale..... e
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F..... f
- g. Conveyance consists of deed of partition..... g
- h. Conveyance is given pursuant to the federal Bankruptcy Act h
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property i
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) k

*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: (check the appropriate box)

1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
 2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

 - Other (attach detailed explanation).
3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
 4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the **NYC Department of Finance**.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

Sage Teall Properties, LLC

City of Syracuse Industrial Development Agency

<p>_____ Grantor signature Scott Gerharz</p>	<p>_____ Manager Title</p>	<p>_____ Grantee signature Honora Spillane</p>	<p>_____ Executive Director Title</p>
<p>_____ Grantor signature</p>	<p>_____ Title</p>	<p>_____ Grantee signature</p>	<p>_____ Title</p>

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: (check the appropriate box)

1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

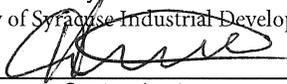
 - Other (attach detailed explanation).
3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the **NYC Department of Finance**.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

Sage Teall Properties, LLC

City of Syracuse Industrial Development Agency

Grantor signature Scott Gerharz	Manager Title	 Grantee signature Honora Spillane	Executive Director Title
Grantor signature	Title	Grantee signature	Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under Exemptions for nonresident transferor(s)/seller(s) and sign at bottom.

Part I - New York State residents

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, **each** resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

Part II - Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. **Each** nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-I.

Exemption for nonresident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from _____ Date to _____ Date (see instructions).
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

BILL OF SALE TO AGENCY

SAGE TEALL PROPERTIES, LLC, a limited liability company organized under the laws of the State of New York with an office to conduct business at 6146 East Molloy Road, East Syracuse, New York 13057 (the "**Company**"), for the consideration of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration received by the Company from the City of Syracuse Industrial Development Agency, a public benefit corporation organized and existing pursuant to the laws of the State of New York (the "**Agency**"), having its office at 201 East Washington Street, 6th Floor, Syracuse, New York 13202, the receipt of which is hereby acknowledged by the Company, hereby sells, transfers, and delivers unto the Agency, its successors and assigns, all those materials, machinery, equipment, fixtures and furnishings hereafter acquired by the Company, on or after November 1, 2018, as agent of the Agency pursuant to the Project Agreement dated as of November 1, 2018 (the "**Project Agreement**") between the Company and the Agency, or acquired by any Sub-Agents (as defined in the Project Agreement), in connection with the Project Facility, as described in the Agency Lease entered between the Agency and the Company dated as of November 1, 2018 (the "**Agency Lease**"), and as listed on "**Exhibit A**" attached hereto.

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

The Company hereby represents and warrants that it is the true and lawful owner of the personal property being conveyed hereby, that all of the foregoing are free and clear of all liens, security interests, and encumbrances, except for Permitted Encumbrances, as defined in the Agency Lease, and that the Company has the right to sell the same as aforesaid; and the Company covenants that it will warrant and defend title to the same for the benefit of the Agency and its successors and assigns against the claims and demands of all persons.

IN WITNESS WHEREOF, the Company has caused this instrument to be executed by its duly authorized representative on the date indicated beneath the signature of such representative and dated as of the 1st day of November, 2018.

SAGE TEALL PROPERTIES, LLC

By: _____


Scott Gerharz, Manager

EXHIBIT "A"

DESCRIPTION OF THE EQUIPMENT

All articles of personal property, all machinery, apparatus, equipment, appliances, floor coverings, furniture, furnishings, supplies, materials, fittings and fixtures of every kind and nature whatsoever and all appurtenances acquired by **SAGE TEALL PROPERTIES, LLC** (the "**Company**") as agent of the Agency pursuant to the Project Agreement dated as of November 1, 2018 (the "**Project Agreement**") between the Company and the Agency, or acquired by any Sub-Agents (as defined in the Project Agreement), and now or hereafter attached to, contained in or used or acquired in connection with the Project Facility (as defined in the Agency Lease) or placed on any part thereof, though not attached thereto, including, but not limited to, pipes, screens, fixtures, furniture, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, rugs, movable partitions, cleaning equipment, maintenance equipment, shelving, racks, flagpoles, signs, waste containers, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery; and 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.

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

AND

SAGE TEALL PROPERTIES, LLC

AGENCY LEASE AGREEMENT

DATED AS OF NOVEMBER 1, 2018

GERHARZ EQUIPMENT PROJECT

TABLE OF CONTENTS

		Page
	TABLE OF CONTENTS.....	i
ARTICLE I	RECITALS AND DEFINITIONS.....	2
	1.0 RECITALS	2
	1.1 DEFINITIONS.....	2
	1.2 INTERPRETATION.....	3
ARTICLE II	REPRESENTATIONS AND COVENANTS	3
	2.1 REPRESENTATIONS OF THE AGENCY	3
	2.2 REPRESENTATIONS AND COVENANTS OF THE COMPANY.....	4
ARTICLE III	CONVEYANCE OF LEASEHOLD INTEREST IN PROJECT FACILITY	7
	3.1 AGREEMENT TO CONVEY LEASEHOLD INTEREST TO COMPANY.....	7
	3.2 USE OF PROJECT FACILITY	7
ARTICLE IV	CONSTRUCTION AND EQUIPPING OF THE PROJECT	8
	4.1 CONSTRUCTION, AND EQUIPPING OF THE PROJECT FACILITY	8
	4.2 COMPLETION OF PROJECT FACILITY.....	9
	4.3 COSTS OF COMPLETION PAID BY COMPANY	10
	4.4 REMEDIES TO BE PURSUED AGAINST CONTRACTORS, SUBCONTRACTORS, MATERIALMEN AND THEIR SURETIES.....	10
	4.5 COOPERATION IN EXECUTION OF ADDITIONAL MORTGAGES AND MODIFICATIONS OF MORTGAGES.	10
ARTICLE V	AGREEMENT TO LEASE PROJECT FACILITY; RENTAL PAYMENTS.....	11
	5.1 AGREEMENT TO LEASE PROJECT FACILITY.....	11
	5.2 TERM OF LEASE; EARLY TERMINATION; SURVIVAL	12
	5.3 RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE.....	13
	5.4 NATURE OF OBLIGATIONS OF COMPANY HEREUNDER	14
ARTICLE VI	MAINTENANCE, MODIFICATIONS, TAXES, AND INSURANCE.....	15
	6.1 MAINTENANCE AND MODIFICATIONS OF PROJECT FACILITY	15
	6.2 TAXES, ASSESSMENTS, AND UTILITY CHARGES.....	15
	6.3 INSURANCE REQUIRED	16

6.4 ADDITIONAL PROVISIONS RESPECTING INSURANCE.....16

6.5 APPLICATION OF NET PROCEEDS OF INSURANCE.....17

6.6 PAYMENTS IN LIEU OF REAL ESTATE TAXES17

ARTICLE VII DAMAGE, DESTRUCTION, AND CONDEMNATION17

7.1 DAMAGE OR DESTRUCTION.....17

7.2 CONDEMNATION.....19

7.3 ADDITIONS TO PROJECT FACILITY20

ARTICLE VIII SPECIAL COVENANTS20

8.1 NO WARRANTY OF CONDITION OR SUITABILITY BY
THE AGENCY; ACCEPTANCE "AS IS"20

8.2 HOLD HARMLESS PROVISIONS20

8.3 RIGHT OF ACCESS TO PROJECT FACILITY.....22

8.4 MAINTENANCE OF EXISTENCE22

8.5 AGREEMENT TO PROVIDE INFORMATION22

8.6 BOOKS OF RECORD AND ACCOUNT; FINANCIAL
STATEMENTS.....22

8.7 COMPLIANCE WITH ORDERS, ORDINANCES, ETC.22

8.8 DISCHARGE OF LIENS AND ENCUMBRANCES.....23

8.9 PERFORMANCE BY AGENCY OF COMPANY'S
OBLIGATIONS.....23

8.10 DEPRECIATION DEDUCTIONS AND TAX CREDITS23

8.11 EMPLOYMENT OPPORTUNITIES.....24

8.12 SALES AND USE EXEMPTION24

8.13 IDENTIFICATION OF THE EQUIPMENT.....25

ARTICLE IX ASSIGNMENTS; TRANSFERS; MERGER OF AGENCY25

9.1 ASSIGNMENT OF AGENCY LEASE.....25

9.2 TRANSFERS OF INTERESTS.....26

9.3 MERGER OF AGENCY26

ARTICLE X EVENTS OF DEFAULT AND REMEDIES26

10.1 EVENTS OF DEFAULT DEFINED.....26

10.2 REMEDIES ON DEFAULT.....28

10.3 REMEDIES CUMULATIVE28

10.4 AGREEMENT TO PAY ATTORNEYS' FEES AND
EXPENSES.....28

10.5 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.....29

ARTICLE XI MISCELLANEOUS29

11.1 NOTICES.....29

11.2 BINDING EFFECT30

11.3 SEVERABILITY.....30

11.4 AMENDMENTS, CHANGES AND MODIFICATIONS30

11.5 EXECUTION OF COUNTERPARTS30

11.6 APPLICABLE LAW30

11.7	WAIVER OF TRIAL BY JURY	31
11.8	SUBORDINATION.....	31
11.9	SURVIVAL OF OBLIGATIONS	31
11.10	TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING	31
11.11	NO RECOURSE; SPECIAL OBLIGATION.....	31
11.12	OBLIGATION TO SELL AND PURCHASE THE EQUIPMENT	32
11.13	ENTIRE AGREEMENT.....	33
11.14	DISCLOSURE.....	33

EXHIBIT “A”	REAL PROPERTY DESCRIPTION
EXHIBIT “B”	DESCRIPTION OF EQUIPMENT
EXHIBIT “C”	TABLE OF DEFINITIONS
EXHIBIT “D”	FORM OF ANNUAL REPORTING REQUIREMENTS
EXHIBIT “E”	FORM OF SUB-AGENT AGREEMENT
EXHIBIT “F”	RECAPTURE POLICY

AGENCY LEASE AGREEMENT

THIS AGENCY LEASE AGREEMENT, dated as of November 1, 2018 (the “*Agency Lease*”), by and between the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a body corporate and politic and a public instrumentality of the State of New York, having its office at 201 East Washington Street, 6th Floor, Syracuse, New York 13202 (the “*Agency*”), and **SAGE TEALL PROPERTIES, LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with offices at 6146 East Molloy Road, East Syracuse, New York 13057 (the “*Company*”).

WITNESSETH:

WHEREAS, the Agency is authorized and empowered by Title I of Article 18-A of the General Municipal Law of the State of New York (the “*State*”), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, 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, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, 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, among other things, to: (i) make contracts and leases, and to execute such documents as necessary or convenient, with a public or private person, firm, partnership, or corporation; (ii) to acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects (as defined in the Act); and (iii) to sell, lease and otherwise dispose of any such property; and

WHEREAS, the Agency, by resolution adopted on August 21, 2018, agreed, at the request of the Company to undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the

Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency proposes to assist the Company's acquisition, construction and equipping of the Project Facility and grant the Financial Assistance to the Project by, among other things: (1) appointing the Company and/or its designee as its agent with respect to completing the Project; (2) accepting a leasehold interest in the Land and the Facility from the Company and a fee interest in the Equipment pursuant to a bill of sale from the Company; and (2) subleasing the Project Facility to the Company pursuant to this Agency Lease; and

WHEREAS, the Company is the current owner of the Land and the Facility and has leased the Land and the Facility to the Agency pursuant to the Company Lease Agreement dated as of November 1, 2018 (the "**Company Lease**"); and

WHEREAS, the Company has conveyed title to the Equipment to the Agency pursuant to the Bill of Sale dated as of November 1, 2018 (the "**Bill of Sale**"); and

WHEREAS, the Agency now proposes to sublease the Project Facility to the Company pursuant to the terms and conditions herein set forth; and

WHEREAS, all things necessary to constitute this Agency Lease a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution, and delivery of this Agency Lease have, in all respects, been duly authorized.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows, to wit:

ARTICLE I RECITALS AND DEFINITIONS

1.0 RECITALS.

The foregoing recitals are incorporated herein by reference as if fully set forth hereinbelow.

1.1 DEFINITIONS.

For all purposes of this Agency Lease and any agreement supplemental thereto, all defined terms indicated by the capitalization of the first letter of such term shall have the meanings specified in the Table of Definitions attached hereto as **Exhibit "C"** except as otherwise expressly defined herein or the context hereof otherwise requires.

1.2 INTERPRETATION.

In this Agency Lease, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “herein,” “hereunder,” and any similar terms as used in this Agency Lease refer to this Agency Lease; the term “heretofore” shall mean before and the term “hereafter” shall mean after the date of this Agency Lease;

(b) Words of masculine gender shall mean and include correlative words of feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa; and

(c) Any certificates, letters, or opinions required to be given pursuant to this Agency 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 Agency Lease.

ARTICLE II REPRESENTATIONS AND COVENANTS

2.1 REPRESENTATIONS OF THE AGENCY.

The Agency makes the following representations to the Company 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 Agency Lease and to carry out its obligations hereunder. Based upon the representations of the Company as to the utilization of the Project Facility, the Project Facility 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 Agency Lease and the other Agency Documents.

(b) Neither the execution and delivery of this Agency Lease, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions of this Agency Lease and the other Agency Documents by the Agency 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, restriction, agreement, or instrument to which the Agency is a party or by which it is bound or will constitute a default by the Agency under any of the foregoing.

(c) This Agency Lease and the other Agency Documents constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Agency, enforceable in accordance with their respective terms.

2.2 REPRESENTATIONS AND COVENANTS OF THE COMPANY.

The Company acknowledges, represents, warrants and covenants to the Agency as follows:

(a) The Company is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of New York, has the power to enter into this Agency Lease and the other Company Documents and to carry out its obligations hereunder and thereunder, and has duly authorized the execution, delivery, and performance of this Agency Lease and the other Company Documents.

(b) This Agency Lease and the other Company Documents constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Company, enforceable in accordance with their respective terms.

(c) The Company is the present fee owner of the Project Facility and shall remain the fee owner of the Project Facility for the term of this Agency Lease unless otherwise consented to in writing by the Agency.

(d) This Project is located in a "Highly Distressed Area" as that term is defined in the Act.

(e) For the duration of the term hereof, the Company shall operate the Project Facility as the Project Facility and for the purposes presented herein and in the Application and Plans and Specifications presented to the Agency.

(f) Neither the execution and delivery of this Agency Lease and the other Company Documents, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions thereof will:

(1) Result in a breach of, or conflict with any term or provision in, the Company's Articles of Organization and Operating Agreement.

(2) Require consent under (which has not been heretofore received) or result in a breach of or default under any credit agreement, indenture, purchase agreement, mortgage, deed of trust, commitment, guaranty or other 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

(3) Conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction, or decree of any Governmental Authority or court (domestic or foreign) having jurisdiction over the Company or any of the property of the Company.

(g) The providing of Financial Assistance to the Project by the Agency:

(1) Has been an important consideration in the Company's decision to acquire, reconstruct, renovate and equip the Project Facility in the City of Syracuse;

(2) Will not result in the removal of an industrial or manufacturing plant or commercial activity of any Project Facility occupant from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of any user, occupant, or proposed user or occupant of the Project Facility located within the State, except as permitted by the Act; and

(3) Will preserve or increase the overall number of permanent, private sector jobs in the State and the City.

(h) So long as the Agency holds a leasehold interest in the Project Facility, the Project Facility is and 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 required by the Company Documents or which the Agency, together with Agency's counsel, advise the Company in writing should be taken), or allow any action to be taken, which action (or omission) would in any way cause the Project Facility not to constitute a "project" (as such quoted term is defined in the Act).

(i) The Company shall cause all notices as required by law to be given and shall comply or cause compliance with all laws, ordinances, municipal rules, and regulations and requirements of all Governmental Authorities applying to or affecting the construction, equipping and operation of the Project Facility (the applicability of such laws, ordinances, rules, and regulations to be determined both as if the Agency were the owner of the Project Facility and as if the Company, were the owner of the Project Facility), and the Company will defend and save the Agency and its officers, members, agents (other than the Company), and employees harmless from all fines and penalties due to failure to comply therewith.

(j) The Project will not have a significant effect on the environment" (within the meaning of such term as used in SEQRA) and the Company hereby covenants to comply with all mitigating measures, requirements and conditions, if any, enumerated in the SEQR Resolution under SEQRA applicable to the acquisition, construction and installation of the Project Facility and in any other approvals issued by any other Governmental Authority with respect to the Project. No material changes with respect to any aspect of the Project Facility have arisen from the date of the issuance of such negative declaration which would cause the determination contained therein to be untrue.

(k) The Company understands and agrees that it is the preference of the Agency that the Company provide opportunities for the purchase of goods and services from: (i) business enterprises located in the City; (ii) certified minority and or women-owned business enterprises; and (iii) business enterprises that employ residents of the City. The Company further understands and acknowledges that consideration will be given by the Agency to the Company's efforts to comply, and compliance, with this objective at any time an extension of benefits is sought or involvement by the Agency with the Project is requested by the Company.

(l) The Agency's undertaking of the Project and the provision of Financial Assistance for the Project will not have a significant impact on the environment within the meaning of SEQRA.

(m) The acquisition, reconstruction, renovation and equipping of the Project Facility will promote employment opportunities and help prevent economic deterioration in the City by the creation and/or preservation of both full and part-time jobs.

(n) The Company has, or will have as of the first date of construction and equipping, all then necessary permits, licenses, and governmental approvals and consents (collectively, "**Approvals**") for the construction and equipping of the Project Facility and has or will have such Approvals timely for each phase of, and throughout the, reconstruction, renovation and equipping of the Project Facility.

(o) The Company will not sublease the whole or any portion of the Project Facility for an unlawful purpose.

(p) No part of the Project Facility will be located outside of the City.

(q) The Company shall perform, or cause to be performed, for and on behalf of the Agency, each and every obligation of the Agency (which is within the control of the Company) under and pursuant to this Agency Lease, the Company Lease and the other Company Documents and shall defend, indemnify, and hold harmless the Agency and its members, officers, agents (other than the Company), servants and employees from and against every expense, liability, or claim arising out of the failure of the Company to fulfill its obligations under the provisions of this Section 2.2.

(r) The Company agrees that except as is otherwise provided by collective bargaining contracts or agreements applicable to the Project, new employment opportunities created as a result of the Project shall be listed with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Project is located. The Company further agrees that except as is otherwise provided by collective bargaining contracts or agreements applicable to the Project, it will first consider persons eligible to participate in the Federal Job Training Partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the Community Services Division of the Department of Labor for such new employment opportunities.

(s) The Company shall provide to the Agency any and all documentation or information requested by the Agency so that the Agency can comply with all of its reporting requirements under the Act.

(t) As a condition precedent to receiving or benefiting from any State sales and use tax exemption benefits, the Company acknowledges and agrees to all terms and conditions of Section 875(3) of the Act. Section 875(3) of the Act is herein incorporated by reference. As part of such conditions precedent:

(1) The Company shall not take any State or local Sales and Use Tax exemptions to which it is not entitled, which are in excess of the amount authorized by the Agency in reliance on the Company's Application or which are for property or services not authorized.

(2) The Company shall comply with all material terms and conditions to use property or services in the manner required by the Agency Documents.

(3) The Company shall cooperate with the Agency in the Agency's efforts to recover, recapture, receive or otherwise obtain from the Company any Recapture Amount (as defined in Section 8.12(g) hereof), and shall, upon the Agency's request, immediately pay to the Agency any Recapture Amount, together with any interest or penalties thereon imposed by the Agency or by operation of law or by judicial order or otherwise, as provided in Section 8.12(g) hereof. The Company acknowledges and agrees that the failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the State Commissioner of Taxation and Finance to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties.

(u) The amount of State and local sales and use tax benefits comprising the Financial Assistance approved by the Agency shall not exceed **\$96,000**. The Company shall not request, obtain nor claim State and local sales and use tax exemptions in excess of this amount.

(v) The Company hereby acknowledges that the exemption from mortgage recording tax authorized by the Agency as part of the Financial Assistance is limited by Section 874 of the Act.

ARTICLE III CONVEYANCE OF LEASEHOLD INTEREST IN PROJECT FACILITY

3.1 AGREEMENT TO CONVEY LEASEHOLD INTEREST TO COMPANY.

The Company has conveyed to the Agency, pursuant to the Company Lease, a leasehold interest in the Land and Facility, as more fully described in **Exhibit "A"** attached hereto, any improvements now or hereafter constructed and installed thereon, subject to Permitted Encumbrances and all of its right, title and interest in the Equipment via a Bill of Sale, as more fully described in **Exhibit "B"** attached hereto. Under this Agency Lease, the Agency will convey, or will cause to be conveyed, to the Company, a subleasehold interest in the Project Facility subject to Permitted Encumbrances and exclusive of the Agency's Unassigned Rights.

3.2 USE OF PROJECT FACILITY.

Subsequent to the Closing Date, the Company shall be entitled to use the Project Facility in accordance with the terms of this Agency Lease, provided that such use causes the Project Facility to qualify or continue to qualify as a "project" under the Act.

**ARTICLE IV
RECONSTRUCTION, RENOVATION, CONSTRUCTION AND EQUIPPING
OF THE PROJECT**

**4.1 RECONSTRUCTION, RENOVATION, CONSTRUCTION AND
EQUIPPING OF THE PROJECT FACILITY.**

(a) The Company shall promptly construct, equip and complete the Project Facility, all in accordance with the Plans and Specifications. Unless a written waiver is first obtained from the Agency, in accordance with the Agency's Local Access Policy, the Company and its Additional Agents (as defined herein), shall utilize local labor, contractors and suppliers for the reconstruction, renovation and equipping of the Project Facility. For purposes of this Agency Lease, and in particular this Section 4.1, the term "*local*" shall mean Onondaga, Oswego, Oneida, Madison, Cayuga and Cortland Counties. Failure to comply with the local labor requirements of this Section 4.1 (collectively, "*Local Labor Requirements*") may result in the revocation or recapture of all benefits provided/approved to the Project by the Agency.

(b) The Agency hereby confirms the appointment of the Company as its true and lawful agent to perform the following in compliance with the terms, purposes, and intent of this Agency Lease, the Act and the other Company Documents, and the Company hereby accepts such appointment:

(1) To renovate, equip and complete the Project Facility and to acquire the Equipment in accordance with the terms hereof;

(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 requisite or proper, all for the reconstruction, renovation, equipping and completion 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 Agency shall have no liability for the payment of any sums due thereunder;

(3) To pay all fees, costs and expenses incurred in the reconstruction, renovation, equipping and completion of the Project Facility from funds made available therefore from the funds of the Company; 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, or writing in connection with the reconstruction, renovation, equipping and completion of the Project Facility and to enforce the provisions of any contract, agreement, obligation, bond, or other performance security.

(c) 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 Agency shall have no liability for the payment of any sums due thereunder.

(d) The Company has given, or will give or cause to be given, all notices and have complied, or will comply or cause compliance with, all laws, ordinances, rules, regulations,

and requirements of all Governmental Authorities applying to or affecting the conduct of work on the Project Facility (the applicability of such laws, ordinances, rules, and regulations to be determined both as if the Agency were the owner of the Project Facility and as if the Company were the owner of the Project Facility), and the Company will defend, indemnify, and save the Agency and its officers, members, agents, servants, and employees harmless from all 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.

(e) The Company understands and agrees that it is the preference of the Agency that the Company provide opportunities for the purchase of goods and services relative to the Project from: (i) business enterprises located in the City; (ii) certified minority and/or women-owned business enterprises; and (iii) business enterprises that employ residents of the City. Consideration will be given by the Agency to the Company's efforts to comply, and compliance with, this objective at any time an extension of benefits is requested, or further involvement by the Agency with the Project, is requested by the Company.

4.2 COMPLETION OF PROJECT FACILITY.

(a) The Company will proceed with due diligence to acquire, renovate, equip and complete the Project Facility. Completion of the acquisition, reconstruction, renovation, and equipping of the Project Facility shall be evidenced by a certificate signed by an Authorized Representative of the Company and approved by the Agency, stating:

- (1) The date of such completion;
- (2) That all labor, services, materials, and supplies used therefor and all costs and expenses in connection therewith have been paid;
- (3) That the Company has good and valid title to all Property constituting the Project Facility subject to the interest of the Agency therein and to this Agency Lease, the Company Lease and the Bill of Sale; and
- (4) That the Project Facility is ready for occupancy, use and operation for its intended purposes.

(b) Notwithstanding the foregoing, such certificate may state that (1) it is given without prejudice to any rights of the Company against third parties which exist at the date of such certificate or which may subsequently come into being; (2) it is given only for the purposes of this Section 4.2; and (3) no Person other than the Agency may benefit therefrom.

(c) Such certificate shall be accompanied by (1) copy of a certificate of occupancy, if required, and any and all permissions, licenses, or consents required of Governmental Authorities for the occupancy, operation, and use of the Project Facility for its intended purposes; and (2) Lien releases from the Company's contractor and any subcontractors under a contract with a price in excess of \$100,000.

4.3 COSTS OF COMPLETION PAID BY COMPANY.

(a) The Company agrees to complete the Project and to pay in full all costs of the reconstruction, renovation, equipping and completion of the Project Facility.

(b) No payment by the Company pursuant to this Section 4.3 shall entitle the Company to any diminution or abatement of any amounts payable by the Company under this Agency Lease.

4.4 REMEDIES TO BE PURSUED AGAINST CONTRACTORS, SUBCONTRACTORS, MATERIALMEN AND THEIR SURETIES.

In the event of a default by any materialman or Additional Agent (as defined herein) under any contract made by them in connection with reconstruction, renovation, equipping and completion 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 against the materialman or Additional Agent so in default and against each surety for the performance of such contract. The Company may prosecute or defend any action or proceeding or take any other action involving any such materialman or Additional Agent or surety which the Company deems reasonably necessary. The Company shall advise the Agency of any actions or proceedings taken hereunder. No such suit shall relieve the Company of any of its obligations under this Agency Lease and the other Company Documents.

4.5 COOPERATION IN EXECUTION OF ADDITIONAL MORTGAGES AND MODIFICATIONS OF MORTGAGES.

The Agency agrees, upon written request of an Authorized Representative of the Company and subject to the provisions of the Act, to use its commercially reasonable efforts to execute and deliver one or more Mortgages and such additional instruments and documents may be requested by the Company and approved by counsel to the Agency and as may be required in connection with the Company's financing or refinancing for the costs of reconstruction, renovation and equipping of the Project Facility, provided that:

(a) No Event of Default under this Agency Lease, the Company Lease, the PILOT Agreement, the Project Agreement or the Mortgage shall have occurred and be continuing; and

(b) The execution and delivery of such documents by the Agency (i) is permitted by law in effect at the time; and (ii) will serve the public purposes of the Act; and

(c) The Company will be responsible for and shall pay, from the proceeds thereof or otherwise, the Agency's fee and the costs and expenses of the Agency incidental to such additional financing, refinancing or modification thereof, including without limitation the reasonable attorneys' fees of the Agency; and

(d) The documents to be signed by the Agency shall contain the provisions set forth in Sections 8.2 and 11.11 hereof, and shall not impose any duties or obligations upon the Agency except as may be acceptable to the Agency.

(e) Any and all Mortgages, shall, by its terms, be subordinate to the Agency's right to receive payments under the PILOT Agreement.

ARTICLE V
AGREEMENT TO LEASE PROJECT FACILITY; RENTAL PAYMENTS

5.1 AGREEMENT TO LEASE PROJECT FACILITY.

In consideration of the Company's covenant herein to make rental payments, and the other covenants of the Company contained herein, including the covenant to make additional rent and other payments required hereby, the Agency hereby agrees to lease to the Company, and the Company hereby agrees to lease from the Agency, the Project Facility for and during the term provided herein and upon and subject to the terms and conditions herein set forth and subject to Permitted Encumbrances.

The Agency's acceptance of the leasehold interest in and to the Land and Facility pursuant to the Company Lease, and its acquisition of an interest in the Equipment pursuant to the Bill of Sale, and the holding of said interests were effected and performed solely at the request of the Company pursuant to the requirements of the Act. The Agency hereby transfers and conveys all of its beneficial and equitable interests, if any, in the Project Facility to the Company, except for its Unassigned Rights. As a result, the parties hereby acknowledge and agree that subject to the terms and conditions of this Agency Lease, the Company has all of the equitable and beneficial ownership and other interest in the Project Facility (except for the Unassigned Rights), and will have all the equitable and beneficial ownership and other interest in the Project Facility (except for the Unassigned Rights), such that the Company, and not the Agency, shall have an:

- (i) unconditional obligation to bear the economic risk of depreciation and diminution in value of the Project Facility due to obsolescence or exhaustion, and shall bear the risk of loss if the Project Facility is destroyed or damaged;
- (ii) unconditional obligation to keep the Project Facility in good condition and repair;
- (iii) unconditional and exclusive right to the possession of the Project Facility, and shall have sole control of and responsibility for the Project Facility;
- (iv) unconditional obligation to maintain insurance coverage on, and such reserves with respect to, the Project Facility as may be required by the Company, the Agency and the Mortgagee with respect to the Project;
- (v) unconditional obligation to pay all taxes levied on, or payments in lieu thereof, and assessments made with respect to, the Project Facility;

(vi) subject to the Unassigned Rights, unconditional and exclusive right to receive rental and any other income and other benefits of the Project Facility and from the operation of the Project;

(vii) unconditional obligation to pay for all of the capital investment in the Project Facility;

(viii) unconditional obligation to bear all expenses and burdens of the Project Facility and to pay for all maintenance and operating costs in connection with the Project Facility; and

(ix) unconditional and exclusive right to include all income earned from the operation of the Project Facility and claim all deductions and credits generated with respect to the Project Facility on its annual federal, state and local tax returns.

5.2 TERM OF LEASE; EARLY TERMINATION; SURVIVAL.

(a) The term of this Agency Lease shall commence on the date hereof and continue in full force and effect until the earlier of: (1) **June 30, 2029**; or (2) the early termination of this Agency Lease as provided herein.

(b) The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing, delivering and recording terminations of the Agency Lease, the Company Lease, preparing a bill of sale together with any other documents therewith and to take such other and further actions reasonably necessary to confirm the termination of the Agency's interest in the Project.

(c) The Company shall have the option, at any time during the term of this Agency Lease, to terminate this Agency Lease. In the event that the Company shall exercise its option to terminate this Agency Lease pursuant to this Section 5.2(c), the Company shall file with the Agency a certificate stating the Company's intention to do so pursuant to this Section 5.2(c) and to comply with the requirements set forth in Section 5.2(d) hereof.

(d) As a condition to the effectiveness of the Company's exercise of its right to early termination, the Company shall pay to the Agency or other designated entity an amount certified by the Agency as sufficient to pay all unpaid fees and expenses of the Agency incurred under this Agency Lease, the Company Lease and the PILOT Agreement (including, but not limited to those in connection with the early termination of this Agency Lease).

(e) The certificate required to be filed pursuant to Section 5.2(c), setting forth the provision thereof permitting early termination of this Agency Lease shall also specify the date upon which the payments pursuant to subdivision (d) of this Section 5.2 shall be made, which date shall not be less than thirty (30) nor more than sixty (60) days from the date such certificate is filed with the Agency.

(f) Contemporaneously with the termination of this Agency Lease in accordance with Sections 5.1 or 5.2 hereof, the Agency shall transfer, and the Company shall

accept, all of the Agency's right, title and interest in the Project Facility, including the Equipment, for a purchase price of One Dollar (\$1.00) plus the payment of all other sums due hereunder and all legal fees and costs associated therewith. Contemporaneously with the termination of this Agency Lease, the Company Lease and the PILOT Agreement shall terminate.

(g) The Agency shall, upon payment by the Company of the amounts pursuant hereto and to Sections 5.2(d) above and Section 5.3, deliver to the Company all documents furnished to the Agency by the Company, or prepared by the Agency at the sole expense of the Company, and reasonably necessary to evidence termination of the Company Lease and the Agency Lease, including, but not limited to, lease terminations and a bill of sale from the Agency with respect to its interest in the Equipment, without representation or warranty, subject to the following: (1) any Liens to which such Project Facility was subject when conveyed to the Agency, (2) any Liens created at the request of the Company or to the creation of which the Company consented or in the creation of which the Company acquiesced, (3) any Permitted Encumbrances, and (4) any Liens resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Agency Lease.

(h) The obligation of the Agency under this Section 5.2 to convey the Project Facility to the Company will be subject to: (i) there being no uncured Event of Default existing hereunder or under any payment in lieu of tax agreement now or hereafter entered into with respect to all or any portion of the Project Facility or under any other Company Documents, or any other event which would, but for the passage of time or the giving of notice, or both, be such an Event of Default; and (ii) the Company's payment of all expenses, fees and taxes, if any, applicable to or arising from such transfer.

5.3 RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE.

(a) The Company shall pay basic rental payments to the Agency for the Project Facility in an amount sufficient to pay the sums due under the PILOT Agreement at the times and in the manner provides for therein, and an amount sufficient to pay any and all other amounts due hereunder.

(b) The Company shall pay to the Agency, as additional rent, within ten (10) days after the receipt of a demand therefor from the Agency, any annual administrative fees of the Agency, the sum of the reasonable fees, costs and expenses of the Agency and the officers, members, agents, and employees thereof incurred by the reason of the Agency's lease or sublease of the Project Facility or in connection with the carrying out of the Agency's duties and obligations under this Agency Lease, the Company Lease or any of the other Agency Documents and any other fee or expense of the Agency with respect to the Project Facility, or any of the other Agency Documents, the payment of which is not otherwise provided for under this Agency Lease, including, without limitation, reasonable fees and disbursements of Agency counsel, including fees and expenses incurred in connection with the Agency's enforcement of any rights hereunder or incurred after the occurrence and during the continuance of an Event of Default, in connection with any waiver, consent, modification or amendment to this Agency Lease or any other Agency Document that may be requested by the Company, or, in connection with any action by the Agency at the request of or on behalf of the Company hereunder or under any other

Agency Document. Any additional rent not received within ten (10) business days after demand shall accrue interest after the expiration of such ten days at a rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is less.

(c) The administrative fee payable by the Company to the Agency in conjunction with this Project and the Agency's granting of Financial Assistance and all outstanding counsel fees and costs shall be paid at closing.

(d) The Company agrees to make the above-mentioned payments, without any further notice, 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 that the Company shall fail to make or cause to be made any of the payments required under this Agency Lease, the item or installment not so paid shall continue as an obligation of the Company until such item or installment is paid in full.

5.4 NATURE OF OBLIGATIONS OF COMPANY HEREUNDER.

(a) The obligations of the Company to make the payments required by this Agency Lease and to perform and observe any and all of the other covenants and agreements on its part contained herein are general obligations of the Company and are absolute and unconditional irrespective of any defense or any rights of set-off, recoupment, or counterclaim it 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 Agency Lease for any cause whatsoever, including, without limiting the generality of the foregoing, failure to complete the reconstruction, renovation and equipping of the Project Facility, 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, or failure of consideration for, destruction of or damage to, or Condemnation of title to, 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 of New York, or any political subdivision thereof, or any failure of the Agency to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or in connection with this Agency Lease or the Company 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 contained in this Agency Lease or the Company 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 (subject to the provisions of Section 11.11).

**ARTICLE VI
MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE**

6.1 MAINTENANCE AND MODIFICATIONS OF PROJECT FACILITY.

The Company shall:

(a) Keep the Project Facility in good condition and repair and preserve the same against waste, loss and damage, ordinary wear and tear excepted;

(b) Make all necessary repairs and replacements to the Project Facility or any part thereof (whether ordinary or extraordinary, structural, or non-structural, foreseen or unforeseen) which is damaged, destroyed, or condemned; and

(c) Operate the Project Facility in a sound and economic manner in general accordance with the Project description as set forth herein and in the Application and the Plans and Specifications the Company previously provided to the Agency in the Application or otherwise.

6.2 TAXES, ASSESSMENTS AND UTILITY CHARGES.

(a) The Company shall pay as the same respectively become due:

(1) Any and 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;

(2) All utility and other charges, including "service charges," incurred or imposed for the operation, maintenance, use, occupancy, upkeep, and improvement of the Project Facility, the non-payment of which would create, or entitle the obligee to impose, a Lien on the Project Facility;

(3) All assessments and charges of any kind whatsoever lawfully made by any Governmental Authority for public improvements; and

(4) Any and all payments of taxes, if applicable, or all payments in lieu of taxes, if any, required to be made to the Agency under the terms of the PILOT Agreement or any other agreement with respect thereto.

(b) Subject to the terms of the PILOT Agreement, the Company may in good faith actively contest any such taxes, assessments, and other charges, provided that (1) the Company shall have first notified the Agency of such contest; (2) no Event of Default under this Agency Lease or any of the other Company Documents shall have occurred and be continuing; and (3) the Company shall have set aside adequate reserves for any such taxes, assessments and other charges. If the Company demonstrates to the reasonable satisfaction of the Agency and certifies to the Agency by delivery of a written certificate, that the non-payment of any such items will not endanger any part of the Project Facility or subject the Project Facility, or any part

thereof, to loss or forfeiture, the Company may permit the taxes, assessments, and other charges so contested to remain unpaid during the period of such contest and any appeal therefrom. Otherwise, such taxes, assessments, or charges shall be paid promptly by the Company or secured by the Company's posting a bond in form and substance satisfactory to the Agency.

6.3 INSURANCE REQUIRED.

During the term of this Agency Lease, the Company shall maintain or cause to be maintained insurance with respect to the Project Facility against such risks and for such amounts as are customarily insured against by businesses of like size and type and as required of the Agency, paying (as the same becomes due and payable) all premiums with respect thereto, including:

(a) Insurance against loss or damage by fire, lightning, and other casualties customarily insured against (with a uniform standard extended coverage endorsement), such insurance to be in an amount not less than the full replacement value of the completed Project Facility, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Company.

(b) Workers' compensation insurance, disability benefits' insurance, and each other form 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;

(c) A policy of commercial general liability insurance with a limit of liability of not less than \$1,000,000 per occurrence on an "occurrence" basis and \$2,000,000 in the aggregate for bodily injury, including death, and property damage, including but not limited to, contractual liability under this Agency Lease and personal injury, with blanket excess liability coverage in an amount not less than \$2,000,000, covering the Project Facility and Equipment and the Company's and the Agency's use or occupancy thereof against all claims on account of bodily injury or death and property damage occurring upon, in or about the Project Facility or in connection with the ownership, maintenance, use and/or occupancy of the Project Facility and all appurtenant areas.

6.4 ADDITIONAL PROVISIONS RESPECTING INSURANCE.

All insurance required by Section 6.3 shall be with insurance companies of recognized financial standing selected by the Company and licensed to write such insurance in the State of New York. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other Persons engaged in businesses similar in size, character, and other respects to those in which the Company are engaged. All policies evidencing such insurance except the Workers' Compensation policy shall name the Company as insured and the Agency as an additional insured, as its interests may appear, and shall provide that such coverage with respect to the Agency be primary and non-contributory with any insurance secured by the Agency and require at least thirty (30) days' prior written notice to the Agency of cancellation, reduction in policy limits, or material change in coverage thereof.

Prior to the Closing Date, the Company shall deliver to the Agency, satisfactory to the Agency in form and substance: (i) certificates evidencing all insurance required hereby; (ii) the additional insured endorsement(s) applicable to the Agency; (iii) the final insurance binder addressed to the Company covering the Project Facility; and (iv) evidence that the insurance so required is on a primary and non-contributory basis. In addition, the Company shall provide, if so requested by the Agency, a final and complete copy of each insurance policy within thirty (30) days of the Closing Date.

The Company shall deliver or cause to be delivered to the Agency on or before the first business day of each January thereafter each of the items set forth in the immediately preceding paragraph, 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 and 6.4. The Company shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agency Lease each year throughout the term of this Agency Lease.

All premiums with respect to the insurance required by Section 6.3 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 at a rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is less.

6.5 APPLICATION OF NET PROCEEDS OF INSURANCE.

The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.3 shall be applied as follows:

(a) The Net Proceeds of the insurance required by subsection 6.3(a) shall be paid and applied as provided in Section 7.1 hereof; and

(b) The Net Proceeds of the insurance required by subsections 6.3(b) and 6.3(c) shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

6.6 PAYMENTS IN LIEU OF REAL ESTATE TAXES.

The Company and the Agency have entered into a PILOT Agreement with respect to payments in lieu of real estate taxes for the Project Facility.

ARTICLE VII DAMAGE, DESTRUCTION, AND CONDEMNATION

7.1 DAMAGE OR DESTRUCTION.

(a) If the Mortgage shall be in effect or the Mortgagee shall have any interest in the Project Facility arising under or related to the Mortgage, whether by foreclosure or otherwise and the Project Facility shall be damaged or destroyed, in whole or in part, then

insurance proceeds shall be paid in accordance with the relevant provisions of the Mortgage regarding the distribution of such insurance proceeds, provided that there shall be no abatement or reduction in amounts payable to the Agency hereunder. If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility and the Project Facility shall be damaged or destroyed, in whole or in part:

(1) There shall be no abatement or reduction in the amounts payable by the Company under this Agency Lease or otherwise (whether or not the Project Facility is replaced, repaired, rebuilt, or restored); and

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

(3) Except as otherwise provided in subsections 7.1(b) and 7.1(c) hereof, upon receipt of the insurance proceeds, the Company shall promptly replace, repair, rebuild, or restore the Project Facility to substantially the same condition 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 change the nature of the Project Facility, such that it does not constitute a "project" (as such quoted term is defined in the Act); and in the event such Net Proceeds 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 Net Proceeds.

(b) If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility, then notwithstanding anything to the contrary contained in subsection 7.1(a), 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 7.1(a) if the Company shall notify the Agency that, in the Company's sole judgment, the Company does not deem it practical or desirable to replace, repair, rebuild, or restore the Project Facility. In such event, the lesser of (1) the total amount of the Net Proceeds collected under any and all policies of insurance covering the damage to or destruction of the Project Facility, or (2) any other sums due and payable to the Agency pursuant to this Agency Lease and the other Agency and Company Documents, shall be applied to the repayment of all amounts due to the Agency under this Agency Lease, the Company Lease, the PILOT Agreement and other Agency Documents. If the Net Proceeds collected under any and all policies of insurance are less than the amount necessary to repay any and all amounts payable to the Agency, the Company shall pay the difference between such amounts and the Net Proceeds of all such insurance settlements so that any and all amounts then due and payable under this Agency Lease, the Company Lease, the PILOT Agreement and the other Agency Documents to the Agency shall be paid in full. If all amounts due under this Agency Lease, the Company Lease, the Mortgage, the PILOT Agreement and the other Agency Documents are paid in full, all such Net Proceeds, or the balance thereof, shall be paid to the Company for its purposes.

(c) The Company and the Mortgagee may adjust all claims under any policies of insurance required by subsections 6.3(a) and 6.3(c) hereof with the prior written consent of the Agency, which consent shall not be unreasonably withheld.

7.2 CONDEMNATION.

(a) If the Mortgage shall be in effect or the Mortgagee shall have any interest in the Project Facility arising under or related to the Mortgage, whether by foreclosure or otherwise and title to, or the use of, all, substantially all or less than substantially all of the Project Facility shall be taken by Condemnation, then Condemnation proceeds shall be paid in accordance with the relevant provisions of the Mortgage regarding the distribution of such Condemnation proceeds, provided that there shall be no abatement or reduction in amounts payable to the Agency hereunder. If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility and if title to, or the use of, less than substantially all of the Project Facility shall be taken by Condemnation:

(1) There shall be no abatement or reduction in the amounts payable by the Company under this Agency Lease or otherwise (whether or not the Project Facility is restored); and

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

(3) Except as otherwise provided in subsections 7.2(b) and 7.2(c) hereof, upon receipt of the Condemnation proceeds, the Company shall promptly restore the Project Facility (excluding any part of the Project Facility taken by Condemnation) to substantially the condition and value as an operating entity as existed prior to such Condemnation; and the Company shall nonetheless complete such restoration and shall pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds.

(b) If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility and if title to, or the use of, less than substantially all of the Project Facility shall be taken by Condemnation, then notwithstanding anything to the contrary contained in subsection 7.2(a), 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 7.2(a) if the Company shall notify the Agency that, in the Company's sole judgment, the Company does not deem it practical or desirable to restore the Project Facility. In such event, the lesser of (1) the Net Proceeds of any Condemnation award, or (2) the amount necessary to pay the Agency pursuant to this Agency Lease, the Company Lease, the PILOT Agreement and the other Agency Documents, shall be applied to payment of all amounts then due and payable to the Agency under this Agency Lease, the Company Lease, the PILOT Agreement and other Agency Documents. If the Net Proceeds of any Condemnation award are less than the amount necessary to pay any and all amounts then due and payable to the Agency, the Company shall pay the difference between such amounts and the Net Proceeds of such Condemnation award so that any and all amounts then due and payable under this Agency Lease, the Company Lease, the PILOT Agreement and other Agency Documents to the Agency shall be paid in full. If all amounts due under this Agency Lease, the Company Lease, the PILOT Agreement, the

Mortgage and the other Agency Documents have been paid in full, all such Net Proceeds or the balance thereof shall be paid to the Company for its purposes.

(c) The Company and the Mortgagee with the prior written consent of the Agency (which consent shall not be unreasonably withheld), shall have sole control of any Condemnation proceeding with respect to the Project Facility, or any part thereof, and may negotiate the settlement of any such proceeding.

7.3 ADDITIONS TO PROJECT FACILITY.

All replacements, repairs, rebuilding, or restoration made pursuant to Sections 7.1 or 7.2 hereof, whether or not requiring the expenditure of the Company's own moneys, shall automatically become part of the Project Facility as if the same were specifically described herein.

ARTICLE VIII SPECIAL COVENANTS

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. 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 NOT HAVE ANY RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

8.2 HOLD HARMLESS PROVISIONS.

(a) The Company hereby releases the Agency and its members, officers, agents and employees from, agrees that the Agency and its members, officers, agents and employees shall not be liable for, and agrees to indemnify, defend, and hold the Agency and its members, officers, agents and employees harmless from and against any and all claims arising as a result of the Agency's undertaking the Project, including, but not limited to:

(1) Liability for loss or damage to Project Facility or bodily injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project Facility, or arising by reason of or in connection with the occupation or the use thereof, or the presence on, in, or about the Project Facility;

(2) Liability arising from or expense incurred by the Agency's acquisition of a leasehold interest in the Project Facility and the subleasing of the Project Facility, including, without limiting the generality of the foregoing, all liabilities or claims

arising as a result of the Agency's obligations under this Agency Lease, the Company Lease, the Mortgage or any other documents executed by the Agency at the direction of the Company in conjunction with the Project Facility;

(3) All claims arising from the exercise by the Company, and or its Additional Agents (as defined herein) of the authority conferred upon it and performance of the obligations assumed under Section 4.1 hereof;

(4) Any and all claims arising from the non-disclosure of information, if any, requested by the Company in accordance with Section 11.14 hereof;

(5) 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 any such losses, damages, liabilities, 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 or employees.

To the fullest extent permitted by law, the foregoing indemnities shall apply notwithstanding the fault or negligence (other than gross negligence or willful misconduct) on the part of the Agency or any of its officers, members, agents, servants or employees and irrespective of any breach of 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, or employees by any employee of the Company, or any materialman or Additional Agent of the Company, or anyone directly or indirectly employed by any of them, or any one 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 benefit laws, or other employee benefit laws.

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

(d) Notwithstanding any other provisions of this Agency Lease, the obligations of the Company pursuant to this Section 8.2 shall remain in full force and effect after the termination of this Agency Lease and the Company 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 and charges incurred by the Agency, or its officers, members, agents or employees relating thereto.

(e) For purposes of this Section 8.2 and Section 11.11 hereof, the Company shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

8.3 RIGHT OF ACCESS TO PROJECT FACILITY.

During the term of this Agency Lease, the Company agrees that the Agency and its duly authorized agents shall have the right to enter upon and to examine and inspect the Project Facility upon reasonable notice to the Company and with the least disturbance of Project Facility tenants as reasonably possible.

8.4 MAINTENANCE OF EXISTENCE.

During the term of this Agency Lease, the Company will maintain its existence and will not dissolve or otherwise dispose of all or substantially all of its assets.

8.5 AGREEMENT TO PROVIDE INFORMATION.

During the term of this Agency Lease, and no less frequently than annually, the Company agrees, whenever reasonably requested by the Agency or the Agency's auditor, to provide and certify, or cause to be certified, such information concerning the Project and/or the Company, its finances, and for itself and each of its Additional Agents, information regarding job creation¹, Local Labor Requirements, exemptions from State and local sales and use tax, real property and mortgage recording taxes and other topics as the Agency from time to time reasonably considers necessary or appropriate including, but not limited to those reports, in substantially the form as set forth in **Exhibit "D"** attached hereto, and such other information necessary as to enable the Agency to monitor and/or make any reports required by law or governmental regulation, including but not limited to §875 of the Act.

8.6 BOOKS OF RECORD AND ACCOUNT; FINANCIAL STATEMENTS.

During the term of this Agency Lease, 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.

8.7 COMPLIANCE WITH ORDERS, ORDINANCES, ETC.

(a) The Company agrees that it will, during any period in which the amounts due under this Agency Lease remain unpaid, promptly comply with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions, and requirements of all Governmental Authorities, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter affect the Company's

¹ To the extent the Project includes commercial space and/or tenants for which the Company calculated job creation as part of its projections in its Application, the Company is obligated, through its lease or other rental agreement with those commercial tenants, to require that such tenants report to the Company, in accordance with the terms of Section 8.5 hereof, the number of full and part time jobs created and maintained by each such tenant for inclusion in the Company's reporting to or at the request of the Agency.

obligations hereunder or be applicable to the Project Facility, or any part thereof, or to any use, manner of use, or condition of the Project Facility, or any part thereof, the applicability of the same to be determined both as if the Agency were the owner of the Project Facility and as if the Company were the owner of the Project Facility.

(b) Notwithstanding the provisions of subsection 8.7(a), the Company may, in good faith, actively contest the validity or the applicability of any requirement of the nature referred to in said subsection 8.7(a), provided that the Company shall have first notified the Agency of such contest, no Event of Default shall be continuing under this Agency Lease, or any of the other Company Documents; and such contest and failure to comply with such requirement shall not subject the Project Facility to loss or forfeiture. In such event, the Company may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom unless the Agency or its members, officers, agents, or employees may be liable for prosecution for failure to comply therewith, in which event the Company shall promptly take such action with respect thereto as shall be satisfactory to the Agency.

8.8 DISCHARGE OF LIENS AND ENCUMBRANCES.

During the term of this Agency Lease, the Company hereby covenants that, except for Permitted Encumbrances, the Company agrees not to create, or suffer to be created, any Lien on the Project Facility, or any part thereof without the prior written consent of the Agency. The Company shall promptly notify the Agency of any Permitted Encumbrances created, or suffered to be created, on the Project Facility.

8.9 PERFORMANCE BY AGENCY OF COMPANY'S OBLIGATIONS.

Should the Company fail to make any payment or to do any act as herein provided, the Agency may, but need not, upon ten (10) days' prior written 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 expenses, including, without limitation, reasonable attorneys' fees; and the Company shall pay immediately upon demand all sums so expended by the Agency under the authority hereof, together with the interest thereon at a rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is greater.

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.

8.11 EMPLOYMENT OPPORTUNITIES.

The Company shall insure that all employees and applicants for employment with regard to the Project are afforded equal employment opportunities without discrimination.

8.12 SALES AND USE TAX EXEMPTION.

(a) Pursuant to Section 874 of the Act, the parties understand that the Agency is exempt from certain State and local sales use taxes imposed by the State and local governments in the State, and that the Project may be exempted from those taxes due to the involvement of the Agency in the Project. The Agency makes no representations or warranties that any property is exempt from the payment of State or local sales or use taxes. Any exemption from the payment of State or local sales or use taxes resulting from the involvement of the Agency with the Project shall be subject to Section 875 of the Act and shall be limited to purchases of services and tangible personal property conveyed to the Agency or utilized by the Agency or by the Company as agent of the Agency as a part of the Project prior to the Completion Date, or incorporated within the Project Facility prior to the Completion Date. No operating expenses of the Project Facility, and no other purchases of services or property shall be subject to an exemption from the payment of State sales or use tax. It is the intention of the parties hereto that the Company will receive a State and local sales and use tax exemption with respect to the Project, said sales tax exemption to be evidenced by a letter to be issued by the Agency on the date of the execution of this Agency Lease. The Company acknowledges that as an agent of the Agency, it must complete and provide to each vendor Form ST-123 for purchases. The failure to furnish a completed Form ST-123 (IDA Agent or Project Operator Exempt Purchase Certificate) with each purchase will result in loss of the exemption for that purchase.

(b) The Company may use and appoint a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "**Additional Agents**") in furtherance of the completion of the Project. However, for each Additional Agent, the Company must first: (i) cause the each such appointed Additional Agent to execute and deliver a sub-agent agreement, in the form attached hereto at **Exhibit "E"**, and provide a fully executed copy to the Agency; and (ii) submit a completed Form ST-60 to the Agency for execution and filing with the New York State Department of Taxation and Finance.

(c) The Company acknowledges and agrees that an Additional Agent must be appointed as an agent of the Agency in order to avail itself of the Agency's sales and use tax exemption for purchases or rentals of equipment, tools and supplies with respect to the Project Facility.

(d) Pursuant to Section 874(8) of the Act, the Company agrees to annually file and cause each Additional Agent or other operator of the Project Facility to file annually, with the New York State Department of Taxation and Finance, and provide the Agency with a copy of same, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the "**Annual Sales Tax Report**"), a statement of the value of all sales and use tax exemptions claimed by the Company and all other Additional Agents under the authority granted to the Company pursuant to Section 4.1(b) of this Agency

Lease. Pursuant to Section 874(8) of the Act, the penalty for failure to file the Annual Sales Tax Report shall be removal of authority to act as agent of the Agency. Therefore, if the Company shall fail to comply with the requirements of this subsection (d), irrespective of any notice and cure period afforded, the Company and each Additional Agent shall immediately cease to be the agent of the Agency in connection with the Project. The Company is responsible for obtaining from the New York State Department of Taxation and Finance the current version of such Annual Sales Tax Report.

(e) The Company agrees to furnish to the Agency a copy of each such Annual Sales Tax Report submitted to the New York State Department of Taxation and Finance by the Company pursuant to Section 874(8) of the Act for itself and any Additional Agent.

(f) Pursuant to Section 874(9) of the Act, the Agency agrees to file within thirty (30) days of the Closing Date with the New York State Department of Taxation and Finance, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the “*Thirty-Day Sales Tax Report*”), a statement identifying the Company, or 30 days from the appointment of any Additional Agent appointed in accordance with the terms herein, as agent of the Agency, setting forth the taxpayer identification number of the Company, giving a brief description of the goods and/or services intended to be exempted from sales taxes as a result of such appointment as agent, indicating the estimated value of the goods and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

(g) Pursuant to Section 875(3) of the Act, and in conjunction with Agency policy, the Agency shall and in some circumstances may, recover, recapture, receive or otherwise obtain from the Company the portion of the Financial Assistance (the “*Recapture Amount*”) consisting of State and local sales and use tax exemption in accordance with the Agency’s Recapture Policy, a copy of which is attached hereto at **Exhibit “F”**, and the Project Agreement.

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 Agreement shall be properly identified by the Company by such appropriate records, including computerized records, as may be approved by the Agency.

ARTICLE IX ASSIGNMENTS; TRANSFERS; MERGER OF AGENCY

9.1 ASSIGNMENT OF AGENCY LEASE.

This Agency Lease may not be assigned by the Company, in whole or in part, nor all or any part of the Project Facility subleased, nor any part of the Project Facility sold, leased, transferred, conveyed or otherwise disposed of without the prior written consent of the Agency, which consent shall be in the Agency’s sole and absolute discretion; provided however, that the Company may enter into leases for individual rental units that are part of the Project Facility

without the consent of the Agency. Any assignment or sublease of this Agency Lease shall not effect a release of the Company from its obligations hereunder or under the PILOT Agreement.

9.2 TRANSFERS OF INTERESTS.

Company shall not assign or otherwise transfer or allow an assignment or transfer, of a controlling interest in the Company, whether by operation of law or otherwise (including, without limitation, by way of a merger, consolidation or a change of control whereby the current existing equity holders of the Company, as of the date of the application to the Agency, would own, in the aggregate, less than a majority of the total combined voting power of all classes of equity interest of the Company or any surviving entity), without the prior written consent of Agency, which consent shall be in the Agency's sole and absolute discretion.

9.3 MERGER OF AGENCY.

(a) Nothing contained in this Agency Lease shall prevent 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 body corporate and politic and public instrumentality of the State of New York, or political subdivision thereof, which has the legal authority to perform the obligations of the Agency hereunder, provided that upon any such consolidation, merger, or assignment, the due and punctual performance and observance of all the agreements and conditions of this Agency Lease to be kept and performed by the Agency shall be expressly assumed in writing by the public instrumentality or political subdivision resulting from such consolidation or surviving such merger or to which the Agency's rights and interests hereunder shall be assigned.

(b) Promptly following the effective date of any such consolidation, merger, or assignment, the Agency shall 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 reasonably may request.

ARTICLE X EVENTS OF DEFAULT AND REMEDIES

10.1 EVENTS OF DEFAULT DEFINED.

The following shall be "Events of Default" under this Agency Lease, and the terms "Event of Default" or "Default" shall mean, whenever they are used in this Agency Lease, any one or more of the following events:

(a) A default by the Company in the due and punctual payment of the amounts specified to be paid pursuant to subsection 5.3 or 8.12(g); or

(b) Failure by the Company to maintain the insurance required by Section 6.3;
or

(c) A default in the performance or the observance of any other of the covenants, conditions, or agreements on the part of the Company in this Agency Lease and the

continuance thereof for a period of thirty (30) days after written notice is given by the Agency or, if such covenant, condition, or agreement is capable of cure but cannot reasonably be cured within such thirty-day period, the failure of the Company to commence to cure within such thirty-day period and to prosecute the same with due diligence and cure the same within an additional thirty (30) days; or

(d) A transfer in contravention of Article 9 hereof;

(e) The occurrence of an "Event of Default" under the Mortgage, the PILOT Agreement, the Company Lease, the Project Agreement or any of the other Company Documents which is not timely cured as provided therein; or

(f) The Company shall generally not pay its debts as such debts become due or is unable to pay its debts as they become due.

(g) 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 thirty (30) days from the date thereof; or

(h) By order of a court of competent jurisdiction, a trustee, receiver, or liquidator of the Project Facility, or any part thereof, or of the Company shall be appointed and such order shall not be discharged or dismissed within sixty (60) days after such appointment; or

(i) The filing by the Company of a voluntary petition under Title 11 of the United States Code or any other federal or state bankruptcy statute; the failure by the Company within sixty (60) days to lift any execution, garnishment, or attachment of such consequence as will impair the Company's ability to carry out its obligations hereunder; 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 statute of a case, action, or proceeding against the Company, and continuation of such case, action, or proceeding without dismissal for a period of sixty (60) days; 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 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 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 sixty (60) days of its issuance.

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

10.2 REMEDIES ON DEFAULT.

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

- 1) Terminate the Company Lease and this Agency Lease;
- 2) Terminate the PILOT Agreement;
- 3) Terminate the Company's appointment as agent of the Agency; or
- 4) 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 or under the Company Lease, the Project Agreement, or the PILOT Agreement, and/or to enforce the Company's obligations and duties under the Company Documents and the Agency's rights under the Agency Documents, including but not limited to, specific performance; or
- 5) Seek to recover the recapture amount set forth in Article 8 hereof as well as any and all other components of Financial Assistance provided to the Company in accordance with the Agency's Recapture Policy.

(b) No action taken pursuant to this Section 10.2 shall relieve the Company from its obligations to make all payments required by Sections 5.3(b) and 8.2 hereof.

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 Agency Lease, the Company Lease and the other Company Documents or the PILOT Agreement now or hereafter existing at law or in equity to collect any amounts then due, or thereafter to become due, hereunder and thereunder and to enforce the Agency's right to terminate this Agency Lease, the PILOT Agreement and the Company Lease. 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 10, it shall not be necessary to give any notice, other than such notice as may be herein expressly required in this Agency Lease.

10.4 AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES.

In the event the Company should Default under any of the provisions of this Agency Lease, or a dispute arises hereunder, and the Agency should employ attorneys or incur other expenses to preserve or enforce its rights hereunder or 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 the reasonable fees and costs of such attorneys and such other expenses so incurred.

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 MISCELLANEOUS

11.1 NOTICES.

All notices, certificates, and other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the Person who attempted to effect such delivery. The addresses to which notices, certificates, and other communications hereunder shall be delivered are as follows:

(a) If to the Agency, to:

City of Syracuse Industrial Development Agency
201 East Washington Street, 6th Floor
Syracuse, New York 13202
Attn: Chairman

With a copy to:

Corporation Counsel
City of Syracuse
233 East Washington Street
Syracuse, New York 13202

and

Bousquet Holstein PLLC
110 West Fayette Street, Suite 1000
Syracuse, New York 13202
Attn: Susan R. Katzoff, Esq.

(b) If to the Company, to:

Sage Teall Properties, LLC
6146 East Molloy Road
East Syracuse, New York 13057
Attn: Scott Gerharz, Manager

With a copy to: Bond, Schoeneck & King PLLC
 One Lincoln Center
 110 West Fayette Street
 Syracuse, New York 13202
 Attn: Kevin Pole, Esq.

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.

11.2 BINDING EFFECT.

This Agency Lease shall inure to the benefit of and shall be binding upon the Agency and the Company and, as permitted by this Agency Lease, upon their respective heirs, successors and assigns.

11.3 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 circumstance; such circumstance shall not render the provision in question inoperative or unenforceable in any other circumstance. Further, if any one or more of the sentences, clauses, paragraphs, or sections herein is contrary to law, then such covenant(s) or agreement(s) shall be deemed severable of remaining covenants and agreements hereof and shall in no way affect the validity of the other provisions of this Agency Lease.

11.4 AMENDMENTS, CHANGES AND MODIFICATIONS.

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

11.5 EXECUTION OF COUNTERPARTS.

This Agency 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.

11.6 APPLICABLE LAW.

This Agency Lease shall be governed exclusively by the applicable laws of the State of New York.

11.7 WAIVER OF TRIAL BY JURY.

THE COMPANY AND THE AGENCY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY DISPUTE ARISING UNDER THIS AGENCY LEASE, AND THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGENCY LEASE.

11.8 SUBORDINATION.

This Agency Lease shall be subject and subordinate to the Company Lease and the Mortgage and all Permitted Encumbrances in all respects.

11.9 SURVIVAL OF OBLIGATIONS.

(a) The obligations of the Company to repay, defend and/or provide the indemnity required by Section 8.2 and 8.12 hereof shall survive the termination of this Agency Lease and all such payments and obligations after such termination shall be made upon demand of the party to whom such payment and/or obligation is due.

(b) The obligations of the Company to repay, defend and/or provide the indemnity required by Sections 8.2 and 8.12 shall survive the termination of this Agency Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action, or prosecution 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) or employees relating thereto.

(c) The obligations of the Company required by Sections 2.2 8.2 and 11.14 hereof shall similarly survive the termination of this Agency Lease.

11.10 TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING.

The Table of Contents and the Section headings in this Agency 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 Agency Lease.

11.11 NO RECOURSE; SPECIAL OBLIGATION.

The obligations and agreements of the Agency contained herein and in the other Agency Documents and in any other instrument or document executed in connection herewith or therewith, and any instrument or document supplemental hereto or thereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent or employee of the Agency in his individual capacity; and the members, officers, agents and employees 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. The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State New York or of the City of Syracuse,

and neither the State of New York nor the City of Syracuse shall be liable hereon or thereon. 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 Project Facility, other than revenues derived from or constituting Unassigned Rights. No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless:

(a) 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 thirty (30) 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 thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period; and

(b) 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 reasonable fees and expenses; and

(c) 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 or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents and employees against any liability incurred as a result of its compliance with such demand; and (2) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request.

(d) For purposes of this Section 11.11, neither the Company nor any Additional Agent shall be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

Any failure to provide notice, indemnity, or security to the Agency pursuant to this Section 11.11 shall not alter the full force and effect of any Event of Default under this Agency Lease.

11.12 OBLIGATION TO SELL AND PURCHASE THE EQUIPMENT.

(a) Contemporaneously with the termination of this Agency Lease in accordance with Section 5.2 hereof, the Agency shall sell and the Company shall purchase all the Agency's right, title and interest in and to all of the Equipment for a purchase price equal to the sum of One Dollar (\$1.00), plus payment of all sums due and payable to the Agency or any other Person pursuant to this Agency Lease and the other Company Documents. The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing and delivering the bill of sale together with any other documents therewith,

including lease terminations in accordance with Section 5.2 hereof, and to take such other and further actions reasonably necessary to confirm the termination of the Agency's interest in the Equipment.

(b) The sale and conveyance of the Agency's right, title and interest in and to the Equipment shall be effected by the execution and delivery by the Agency to the Company of a bill of sale to Company. The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from such transfer of title.

(c) The Company agrees to prepare the bill of sale to Company and all schedules thereto, together with all necessary documentation, and to forward same to the Agency at least thirty (30) days prior to the date that title to the Equipment is to be conveyed to the Company.

11.13 ENTIRE AGREEMENT.

This Agency Lease and the Company Lease contain the entire agreement between the parties and all prior negotiations and agreements are merged therein.

11.14 DISCLOSURE.

Section 875(7) of the New York General Municipal Law (“GML”) requires that the Agency post on its website all resolutions and agreements relating to the Company’s appointment as an agent of the Agency or otherwise related to the Project; and Article 6 of the New York Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency’s possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Company’s competitive position, the Company must identify such elements in writing, supply same to the Agency on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

Honora Spillane, Executive Director

SAGE TEALL PROPERTIES, LLC

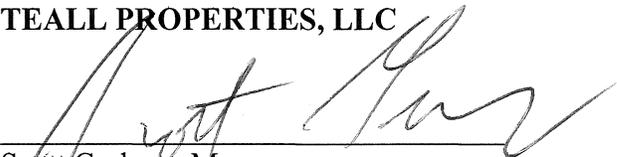
By: _____
Scott Gerharz, Manager

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

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Honora Spillane, Executive Director

SAGE TEALL PROPERTIES, LLC

By: 

Scott Gerharz, Manager

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

On the 7th day of November in the year 2018 before me, the undersigned, personally appeared **HONORA SPILLANE**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L. McRobbie

Notary Public

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

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 22

On the _____ day of November in the year 2018 before me, the undersigned, personally appeared **SCOTT GERHARZ**, 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

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

On the day of November in the year 2018 before me, the undersigned, personally appeared **HONORA SPILLANE**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

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

On the 12 day of November in the year 2018 before me, the undersigned, personally appeared **SCOTT GERHARZ**, 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

TAMMY FRENCH
Notary Public - State of New York
No. 01FR6300646
Qualified in Oswego County
My Commission Expires 08/22/2022

EXHIBIT "A"

REAL PROPERTY DESCRIPTION

ALL that tract or parcel of land, situate in the City of Syracuse, (formerly part of Lot No. 223 of the Salt Springs Reservation), County of Onondaga and State of New York, bounded and described as follows: beginning at a point in the easterly line of Teall Avenue at the intersection of the northerly line of Lynch Street and the easterly line of Teall Avenue; thence N 03° 19' 30" W along Teall Avenue a distance of 396.64 feet to a point; thence N 66° 31' 00" E a distance of 473.51 feet to a point; thence S 03° 16' 38" E a distance of 141.58 feet to a point; thence S 08° 20' 35" W a distance of 82.0 feet to a point; thence S 17° 32' 39" W a distance of 91.84 feet to a point; thence N 66° 28' 00" E a distance of 55.92 feet to a point; thence S 21° 53' 40" E a distance of 100.04 feet to a point in the northerly line of Lynch Street; thence S 66° 28' 00" W along Lynch Street a distance of 510.87' to a point in the east line of Teall Avenue, said point being the place and point of beginning.

EXHIBIT "B"

DESCRIPTION OF EQUIPMENT

All articles of personal property, all machinery, apparatus, equipment, appliances, floor coverings, furniture, furnishings, supplies, materials, fittings and fixtures of every kind and nature whatsoever and all appurtenances acquired by **SAGE TEALL PROPERTIES, LLC** (the "**Company**") as agent of the Agency pursuant to the Project Agreement dated as of November 1, 2018 (the "**Project Agreement**") between the Company and the Agency, or acquired by any Sub-Agents (as defined in the Project Agreement), and now or hereafter attached to, contained in or used or acquired in connection with the Project Facility (as defined in the Agency Lease) or placed on any part thereof, though not attached thereto, including, but not limited to, pipes, screens, fixtures, furniture, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, rugs, movable partitions, cleaning equipment, maintenance equipment, shelving, racks, flagpoles, signs, waste containers, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery; and 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"

TABLE OF DEFINITIONS

The following terms shall have the meanings set forth below, unless the context or use clearly indicate another or different meaning and the singular form of such defined words and terms shall include the plural and vice versa:

Act: means the New York State Industrial Development Agency Act (N.Y. Gen. Municipal Law §§ 850 et seq.) as amended, together with Section 926 of the N.Y. General Municipal Law, as amended from time to time.

Additional Agents: means a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents appointed by the Company in furtherance of the completion of the Project in accordance with the terms of the Agency Lease.

Agency: means the City of Syracuse Industrial Development Agency and its successors and assigns.

Agency Documents: means the Project Agreement, the Agency Lease, the Company Lease, the Mortgage, the PILOT Agreement and any other documents executed by the Agency in connection with the Project or the Financial Assistance granted in connection therewith.

Agency Lease: means the Agency Lease Agreement dated as of November 1, 2018, by and between the Agency and the Company, as the same may be amended or supplemented from time to time.

Application: means the application submitted by the Company to the Agency dated June 18, 2018 requesting the Agency undertake the Project, as same may be amended or supplemented from time to time.

Authorized Representative: means for the Agency, the Chairman or Vice Chairman of the Agency; for the Company, its Manager or any officer designated in a resolution of the Company and, for either the Agency or the Company, any additional persons designated to act on behalf of the Agency or the Company by written certificate furnished by the designating party containing the specimen signature of each designated person.

Bill of Sale: means that certain Bill of Sale from the Company to the Agency dated as of November 1, 2018 in connection with the Equipment.

City: means the City of Syracuse.

Closing Date: means November ____, 2018.

Closing Memorandum: means the closing memorandum of the Agency relating to the Project.

Company: means Sage Teall Properties, LLC, a limited liability company, organized and existing under the laws of the State of New York having an address at 6146 East Molloy Road, East Syracuse, New York 13057, and its permitted successors and assigns.

Company Documents: means the Company Lease, the Agency Lease, the Project Agreement, the PILOT Agreement, the Mortgage, the Environmental Compliance and Indemnification Agreement, the Bill of Sale, the Company Certification and any other documents executed by the Company in connection with the Project or the Financial Assistance granted in connection therewith.

Company Lease: means the Company Lease Agreement dated as of November 1, 2018 from the Company to the Agency, pursuant to which the Company leased the Project Facility to the Agency, as the same may be amended or supplemented from time to time.

Condemnation: means the taking of title to, or the use of, Property under the exercise of the power of eminent domain by any governmental entity or other Person acting under governmental authority.

County: means the County of Onondaga in the State of New York.

Environmental Compliance and Indemnification Agreement: means the Environmental Compliance and Indemnification Agreement dated as of November 1, 2018 by the Company to the Agency.

Equipment: means all materials, machinery, furnishings, fixtures and equipment installed or used at the Project Facility, as of the Closing Date and thereafter acquired by the Company, as agent of the Agency, or by any Additional Agents, on or after November 1, 2019, for or installed in, or upon, the Project Facility, as more fully described in **Exhibit "B"** to the Agency Lease.

Facility: means the buildings and other improvements located or to be constructed on the Land.

Financial Assistance: has the meaning given to such term in Section 854(14) of the Act.

Governmental Authority: means any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign.

Land: means the improved real property located at 220-22 Teall Avenue in the City of Syracuse, County of Onondaga, New York, more particularly described on **Exhibit "A"** attached to the Agency 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. 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, warehousemen, and carriers liens and other similar encumbrances effecting real property. For purposes hereof, a Person shall be deemed to be the owner of any property which 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.

Mortgage: means one or more mortgages from the Agency and the Company to the Mortgagee and recorded in the Onondaga County Clerk's office subsequent to the filing and recording of the Memorandum of Agency Lease, securing construction and/or permanent financing for the Project Facility, executed in accordance with Section 4.5 of the Agency Lease, and securing the Note.

Mortgagee: means a lender, its successors and assigns, providing financing pursuant to the Note and Mortgage, relative to the costs of construction and/or equipping of the Project Facility.

Net Proceeds: means so much of the gross proceeds with respect to which that term is used as remain after payment of all expenses, costs and taxes (including attorneys' fees) incurred in obtaining such gross proceeds.

Note: means one or more notes given by the Company to the Mortgagee in connection with the Mortgage for construction or permanent financing relative to the Project Facility.

Permitted Encumbrances: means (A) utility, access and other easements and rights of way, and restrictions, encroachments and exceptions, that benefit or do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (B) artisans', mechanics', materialmen's, warehousemen's, carriers', landlords', bankers', workmen's compensation, unemployment compensation and social security, and other similar Liens to the extent permitted by the Agency Lease, including the lien of the Mortgage, (C) Liens for taxes (1) to the extent permitted by the Agency Lease or (2) at the time not delinquent, (D) any Lien on the Project Facility obtained through any Agency Document or Company Document or the Mortgage, (E) Liens of judgments or awards in respect of which an appeal or proceeding for review shall be pending (or is pending within ten days after entry) and a stay of execution shall have been obtained (or is obtained within ten days after entry), or in connection with any claim or proceeding, (F) Liens on any Property hereafter acquired by the Company or any subsidiary which liens are created contemporaneously with such acquisition to secure or provide for the payment or financing of any part of the purchase price thereof, (G) Liens consisting solely of restrictions under any applicable laws or any negative covenants in any applicable agreements (but only to the extent that such restrictions and covenants do not prohibit the

execution, delivery and performance by the Company of the Agency Lease and the Mortgage, and (H) existing mortgages or encumbrances on the Project Facility as of the Closing Date or thereafter incurred with the consent of the Mortgagee and the Agency.

Person: means an individual, partnership, corporation, limited liability company, trust, or unincorporated organization, and any government or agency or political subdivision or branch thereof.

PILOT Agreement : means the Payment in Lieu of Taxes Agreement dated as of November 1, 2018 among the City, the Agency and the Company, as amended or supplemented from time to time.

Plans and Specifications: means the representations, plans and specifications presented by the Company to the Agency in its application and any other presentation made to the Agency relating to the reconstruction, renovation and equipping of the Project Facility; and any plans and specifications approved by the Mortgagee.

Project: shall have the meaning ascribed thereto in the third **WHEREAS** clause of this Agency Lease.

Project Agreement: means the Project Agreement dated as of November 1, 2018 between the Company and the Agency setting forth rights and obligations of the parties with respect to the Financial Assistance.

Project Facility: means the Land, the Facility and the Equipment.

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

Resolution or Resolutions: means the Agency's resolutions adopted on August 21, 2018 authorizing the undertaking of the Project and the execution and delivery of certain documents by the Agency in connection therewith.

Sales and Use Tax or State Sales and Use Taxes: means, when used with respect to State sales and use taxes, sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

SEQRA: means the State Environmental Quality Review Act constituting Article 8 of the State Environmental Conservation Law and the regulations promulgated thereunder, as amended.

State: means the State of New York.

Unassigned Rights: means:

- (i) the right of the Agency in its own behalf to receive all opinions of counsel, reports, financial statements, certificates, insurance policies, binders or certificates, or other notices or communications, if any, required to be delivered to the Agency under the Agency Lease;
- (ii) the right of the Agency to grant or withhold any consents or approvals required of the Agency under the Agency Lease;
- (iii) the right of the Agency to enforce or otherwise exercise in its own behalf all agreements of the Company with respect to ensuring that the Project Facility shall always constitute a qualified “project” as defined in and as contemplated by the Act;
- (iv) the right of the Agency to require and enforce any right of defense and any indemnity from any Person;
- (v) the right of the Agency in its own behalf (or on behalf of the appropriate taxing authorities) to enforce, receive amounts payable under or otherwise exercise its rights under Sections 2.2(f), 2.2(h), 2.2(m), 2.2(q), 4.1, 4.5, 5.3, 5.4, 6.2, 6.3, 6.4, 8.2, 8.3, 8.5, 8.7, 8.9, 8.12, 10.2, 10.4, 11.9, 11.11 and 11.12 of the Agency Lease and Sections 2.6(g), 4.8 and 4.9 of the Company Lease; and
- (vi) the right of the Agency in its own behalf to declare an Event of Default and enforce its remedies under Article X of the Agency Lease or with respect to any of the Agency’s Unassigned Rights.

EXHIBIT "D"

FORM OF ANNUAL REPORTING QUESTIONNAIRE

SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
201 East Washington Street, 6th Floor, Syracuse, New York 13202

Date

COMPANY
COMPANY ADDRESS

Dear _____:

Our auditors, _____, CPAs are conducting an audit of our financial statements for the year ended December 31, _____. In connection with that audit, we request that you furnish certain information directly to our auditor with regard to the following security issued by/through the City of Syracuse Industrial Development Agency:

Sale - Leaseback Financing

Project: _____

Date of Financing:

Principal Amount Financed:

Maturity Date:

Original Interest Rate:

Please provide the following information as of December 31, [year]:

Name of Lender

Debt Retired in [year] Yes/No

Debt Refinanced in [year] Yes/No

(If Yes, please update information in Paragraph 1 above)

Debt in Default as of [date] Yes/No

Current Interest Rate(s)

Rate range, if Variable

Principal balance outstanding as of [date]

Principal payments made during [year]

Payments in Lieu of Taxes (PILOT)

paid in [year]

Total cost of goods/services purchased: \$ _____

New York State Sales Tax Exemptions Claimed [year]

New York Local Sales Tax Exemptions Claimed: [year]

New York State Mortgage Recording

Tax Exemption: [year]

Form of Syracuse Industrial Development Agency — Project Jobs Data [year]

From:

To: _____, CPAs

Re:

The following jobs information is furnished to you with regard to the above cited project:

A. Job Retention/Creation:

I. Construction Jobs:

Provide the name of your general contractor: _____.

Provide the address (including county) of your general contractor: _____.

Is the general contractor MWBE qualified? _____.

Is the general contractor Service-Disabled Veteran-Owned Business Enterprises (SDVOBE) qualified? _____.

For each contractor and/or sub-contractor, provide the following information for the reporting period:

Bid awarded to (Name/Address/County*)	Value of contract	MWBE (Yes/No)	SDVOBE (Yes/No)	Number of jobs (FTE)

***Must include county**

II. Permanent (non-construction) Jobs:

Number of FTEs retained at the Project prior to date of application: _____.

Number of FTEs created by the Project during the reporting calendar year (*exclusive of construction jobs*): _____.

Of the jobs created by the Project during the reporting year (*exclusive of construction jobs*) identify how many are in each of the following categories:

Professional/Managerial/Technical - includes jobs which involve skill or competence of extraordinary degree and may include supervisory responsibilities (examples: architect, engineer, accountant, scientist, medical doctor, financial manager, programmer). **Number of jobs created in reporting year** _____.

Skilled - includes jobs that require specific skill sets, education, training, and experience and are generally characterized by high education or expertise level (examples: electrician, computer operator, administrative assistant, carpenter, sales representative). **Number of jobs created in reporting year** _____.

Unskilled or Semi-Skilled - includes jobs that require little or no prior acquired skills and involve the performance of simple duties that require the exercise of little or no independent judgment (examples: general cleaner, truck driver, typist, gardener, parking lot attendant, line operator, messenger, information desk clerk, crop harvester, retail salesperson, security guard, telephone solicitor, file clerk). **Number of jobs created in reporting year** _____.

Identify:

the average annual salary range of the FTEs (*exclusive of construction jobs*) created during the reporting year: \$ _____.

the total number of jobs (*exclusive of construction jobs*) created by the Project from the date of application through the reporting date: _____.

the total number of jobs (retained and created, *but exclusive of construction jobs*) at the Project from the date of application through the reporting date: _____.

What is the annual average salary range of the FTEs (*exclusive of construction jobs*) created at the Project to date: \$ _____.

B. Geographical Hiring Data:

1. Construction jobs:

Of the construction jobs created during the reporting period, provide the zip codes for the hires (based upon hire's residence); and, if more than one (1) FTE hired during the reporting period, identify the number of FTEs hired from each zip code.

2. FTEs hired (*exclusive of construction jobs*)

Of the FTE jobs created during the reporting period, provide the zip codes for the hires (based upon hire's residence); and, if more than one (1) FTE hired during the reporting period, identify the number of FTEs hired from each zip code.

Provide the same information reflecting FTEs hired from the date of application through the reporting date at the Project.

Comments:

Signature

Print Name

Title

Date

EXHIBIT "E"

FORM OF SUB-AGENT AGREEMENT

THIS SUB-AGENT APPOINTMENT AGREEMENT (the "*Agreement*"), dated as of _____, 20__, is by and between **SAGE TEALL PROPERTIES, LLC** (the "*Company*"), with a mailing address of 6146 East Molloy Road, East Syracuse, New York 13057 and (the "*Company*"), and [NAME OF SUB-AGENT], a _____ of the State of New York, having an office for the transaction of business at _____ (the "*Sub-Agent*").

WITNESSETH:

WHEREAS, the City of Syracuse Industrial Development Agency (the "*Agency*") was created by Chapter 641 of the Laws of 1979 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "*Act*") as a body corporate and politic and as a public benefit corporation of the State of New York (the "*State*"); and

WHEREAS, by resolution of its members adopted on August 21, 2018 (the "*Resolution*"), the Agency agreed to undertake a project for the benefit of the Company (the "*Project*") consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the "*Land*"); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the "*Facility*"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "*Equipment*" and together with the Land and the Facility, the "*Project Facility*"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the "*Financial Assistance*"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, under the Resolution and in the Agency Lease Agreement by and between the Company and the Agency dated as of November 1, 2018 (the "*Agency Lease*") the Agency appointed the Company as its agent for purposes of completing the Project and delegated to the Company the authority to appoint as agents of the Agency a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (the "*Additional Agents*" or "*Sub-Agents*"), for the purpose of completing the Project and benefitting

from the State and local sales and use tax exemption that forms a portion of the Financial Assistance all in accordance with the terms of the Resolution and the Agency Lease; and

WHEREAS, the Company and the Agency entered into a Project Agreement dated as of November 1, 2018 (the “**Project Agreement**”).

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. The Company hereby appoints the Sub-Agent as an Additional Agent of the Agency for the purpose of assisting the Company and the Agency in the completion of the Project and benefitting from the State and local sales and use tax exemption relative to expenditures made in furtherance thereof. The Sub-Agent is only an agent of the Agency for the aforementioned purposes. The Sub-Agent hereby agrees to limit its activities as agent for the Agency under the authority of this Agreement to acts reasonably related to the completion of the Project Facility.

2. The Sub-Agent covenants, agrees and acknowledges:

a. to make all records and information regarding State and local sales and use tax exemption benefits claimed by it in connection with the Project available to the Company and the Agency upon request. The Sub-Agent agrees to comply with all procedures and policies established by the State Department of Taxation and Finance, or any similar entity, regarding the documenting or reporting of any State and local sales and use tax exemption benefits, including providing to the Company all information of the Sub-Agent necessary for the Company to complete the State Department of Taxation and Finance’s “Annual Report of Sales and Use Tax Exemptions” (Form ST-340).

b. to be bound by and comply with the terms and conditions of the Agency’s policies, the Resolution and Section 875(3) of the Act (as if such section were fully set forth herein). Without limiting the scope of the foregoing, the Sub-Agent acknowledges and agrees to be bound by the Agency’s Suspension, Discontinuation and Recapture of Benefits Policy (the “**Recapture Policy**”), a copy of which is attached hereto as **Schedule “A”**.

c. that the failure of the Sub-Agent to promptly pay such Recapture Amount to the Agency will be grounds for the Agency, the State Commissioner of Taxation and Finance or such other entity, to collect sales and use taxes from the Sub-Agent under Article 28 of the Tax Law, or other applicable law, policy or contract, together with interest and penalties. In addition to the foregoing, the Sub-Agent acknowledges and agrees that for purposes of exemption from State sales and use taxation, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the Tax Law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

d. that all purchases made by the Sub-Agent in connection with the Project shall be made using Form ST-123 (IDA Agent or Project Operator Exempt Purchase Certificate), a copy of which is attached hereto as **Exhibit “A”**). It shall be the responsibility of the Sub-

Agent (and not the Company or the Agency) to complete Form ST-123. The failure to furnish a completed Form ST-123 with each purchase will result in loss of the exemption for that purchase.

e. that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Sub-Agent is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Sub-Agent acknowledges and agrees that the bill of invoice should state, "I, [NAME OF SUB-AGENT], certify that I am a duly appointed agent of the City of Syracuse Industrial Development Agency and that I am purchasing the tangible personal property or services for use in the following Agency project and that such purchases qualify as exempt from sales and use taxes under my Sub-Agent Appointment Agreement." The Sub-Agent further acknowledges and agrees that the following information shall be used by the Sub-Agent to identify the Project on each bill and invoice: GERHARZ EQUIPMENT PROJECT, 220-22 TEALL AVENUE, SYRACUSE, NEW YORK, IDA PROJECT NO.: 31021805.

f. that for purposes of any exemption from the State sales and use taxation as part of any Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

g. that the Sub-Agent shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), for such claims or liabilities that arise as a result of the Sub-Agent acting as agent for the Agency pursuant to this Agreement or otherwise.

The Sub-Agent shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation only to Sub-Agent's work on or for the Project Facility, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

The foregoing defenses and indemnities shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

h. that as agent for the Agency or otherwise, the Sub-Agent will comply at the Sub-Agent's sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Sub-Agent with respect to the Project Facility.

i. that Section 875(7) of the Act requires the Agency to post on its website all resolutions and agreements relating to the Sub-Agent's appointment as an agent of the Agency or otherwise related to the Project, including this Agreement, and that Public Officers Law Article 6 declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Sub-Agent feels that there is information about the Sub-Agent in the Agency's possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Sub-Agent's competitive position, the Sub-Agent must identify such elements in writing, supply same to the Agency prior to or contemporaneously with the execution hereof and request that such elements be kept confidential in accordance with Public Officers Law Article 6. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the Act.

j. The Sub-Agent agrees Local contractors and suppliers will be used for the construction and equipping of the Project unless a waiver is first received from the Agency in writing. Such waiver shall be in the Agency's sole discretion. The Sub-Agent agrees that such Local contractors shall be provided the opportunity to bid on contracts related to the Project. Local shall mean, for the purposes of this Agreement, Onondaga, Oswego, Madison, Cayuga, Cortland and Oneida Counties. Failure to comply with the local labor requirements of this Section (j) (collectively, the "**Local Labor Requirements**") may result in the revocation or recapture of benefits provided/approved to the Project by the Agency.

k. that the Sub-Agent must timely provide the Company with the necessary information to permit the Company, pursuant to General Municipal Law §874(8), to timely file an Annual Statement with the New York State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions the Additional Agent claimed pursuant to the agency conferred on it by the Company with respect to this Project on an annual basis.

l. that the failure to comply with the foregoing will result in the loss of the exemption.

m. that if the Sub-Agent is the general contractor for the Project, then at all times following the execution of this Agreement, and during the term thereof, the Sub-Agent shall maintain or cause to be maintained the following insurance policies with an insurance company licensed in the State that has an A.M. Best rating of not less than A-:

(a) Insurance against loss or damage by fire, lightning, and other casualties customarily insured against (with a uniform standard extended coverage endorsement), such insurance to be in an amount not less than the full replacement value of the completed Project Facility, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the general contractor.

(b) Workers' compensation insurance, disability benefits' insurance, and each other form of insurance which the general contractor is required by law to provide covering loss resulting from injury, sickness, disability, or death of employees of the general contractor who are located at or assigned to the Project Facility;

(c) A policy of commercial general liability insurance with a limit of liability of not less than \$1,000,000 per occurrence on an "occurrence" basis and \$2,000,000 in the aggregate for bodily injury, including death, and property damage, including but not limited to, contractual liability under this Agency Lease and personal injury, with blanket excess liability coverage in an amount not less than \$2,000,000, covering the Project Facility and Equipment and the Company's and the Agency's use or occupancy thereof against all claims on account of bodily injury or death and property damage occurring upon, in or about the Project Facility or in connection with the ownership, maintenance, use and/or occupancy of the Project Facility and all appurtenant areas.

In addition, all insurance required by this section shall be with insurance companies of recognized financial standing selected by the general contractor and licensed to write such insurance in the State of New York. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other Persons engaged in businesses similar in size, character, and other respects to those in which the general contractor is engaged. All policies evidencing such insurance except the Workers' Compensation policy shall name the general contractor as insured and the Agency as an additional insured, as its interests may appear, and shall provide that such coverage with respect to the Agency be primary and non-contributory with any insurance secured by the Agency and require at least thirty (30) days' prior written notice to the Agency of cancellation, reduction in policy limits, or material change in coverage thereof.

Prior to the effective date of this Agreement, the general contractor shall deliver to the Agency, satisfactory to the Agency in form and substance: (i) Certificates evidencing all insurance required hereby; (ii) the additional insured endorsement(s) applicable to the Agency; (iii) the final insurance binder addressed to the general contractor covering the Project Facility; and (iv) evidence that the insurance so required is on a primary and non-contributory basis. In addition, the general contractor shall provide, if so requested by the Agency, a final and complete copy of each insurance policy within thirty (30) days of the execution of this Agreement.

The general contractor shall deliver or cause to be delivered to the Agency on or before the first business day of each January thereafter each of the items set forth in the immediately preceding paragraphs, 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 hereby for so long as the general contractor is performing, supervising or causing work to be done on or at the Project Facility. The general contractor shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement in each such year.

n. that every controversy, dispute or claim arising out of or relating to this Agreement shall be governed by the laws of the State of New York, without regard to its conflicts-of-laws provisions that if applied might require the application of the laws of another

jurisdiction; and that the Sub-Agent irrevocably and expressly submits to the exclusive personal jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Northern District of New York, to the exclusion of all other courts, for the purposes of litigating every controversy, dispute or claim arising out of or relating to this Agreement.

3. Failure of the Sub-Agent to comply with any of the provisions of this Agreement shall result in the immediate nullification of the appointment of the Sub-Agent and the immediate termination of this Agreement and may result in the loss of the Company's State and local sales and use tax exemption with respect to the Project at the sole discretion of the Agency. In addition, such failure may result in the recapture of the State and local sales and use taxes avoided.

4. The Company acknowledges that the assumption of certain obligations by the Sub-Agent in accordance with this Agreement does not relieve the Company of its obligations under any provisions of the Agency Lease or of any other agreement entered into by the Company in connection with the Project.

5. The Company and the Sub-Agent agree that the Agency is a third-party beneficiary of this Agreement.

6. This Agreement shall be in effect until the earlier of: (i) the completion of the work on the Project by the Sub-Agent; or (ii) the Sub-Agent's loss of status as an agent of the Agency as set forth herein. Notwithstanding the foregoing, the provisions of Sections 2(b), 2(c), 2(f), 2(g), 2(j), and 2(l) shall survive the termination of this Agreement.

IN WITNESS WHEREOF, the Company and the Sub-Agent have caused this Agreement to be executed in their respective names by their respective duty authorized officers, all as of the day and year first above written.

SAGE TEALL PROPERTIES, LLC

By: _____

Name:

Title:

[NAME OF SUB-AGENT]

By: _____

Name:

Title:

EXHIBIT "A"
to Sub-Agent Agreement

FORM ST-123



**IDA Agent or Project Operator
Exempt Purchase Certificate**

Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. Do not use this form to purchase motor fuel or diesel motor fuel exempt from tax. See Form FT-123, *IDA Agent or Project Operator Exempt Purchase Certificate for Fuel*.

Name of seller			Name of agent or project operator		
Street address			Street address		
City, town, or village	State	ZIP code	City, town, or village	State	ZIP code
Agent or project operator sales tax ID number (see instructions)					

Mark an **X** in one: Single-purchase certificate Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Name of IDA		
Name of project	IDA project number (see OSC numbers)	
Street address of project site		
City, town, or village	State	ZIP code
Enter the date that you were appointed agent or project operator (mm/dd/yyyy)	/	/
Enter the date that agent or project operator status ends (mm/dd/yyyy)	/	/

Exempt purchases

(Mark an **X** in boxes that apply)

- A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
- B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
- C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1939 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter *N/A*.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1118(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, *Contractor Exempt Purchase Certificate*, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(18). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- A. Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- B. Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- C. Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority* if you are required to be registered as a vendor. See TSS-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?



Visit our Web site at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features



Sales Tax Information Center: (516) 485-2889

To order forms and publications: (516) 457-5431



Text Telephone (TTY) Hotline
(for persons with hearing and speech disabilities using a TTY): (516) 485-5082

SCHEDULE "A"
to Sub-Agent Agreement

RECAPTURE POLICY

City of Syracuse
Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, NY 13202
Tel (315) 473-3275 Fax (315) 435-3669

RECAPTURE POLICY

I. STATEMENT OF PURPOSE

The City of Syracuse Industrial Development Agency (the “Agency”) has adopted this Recapture Policy (the “*Recapture Policy*”) in accordance with Sections 874(10) and 874(11) of the New York State General Municipal Law. This Recapture Policy shall be consistent with and in compliance with the provisions of Chapter 1030 of Laws of 1969 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 641 of the Laws of 1979 of the State of New York, as amended from time to time (said Chapter and the Enabling Act being hereinafter collectively referred to as the “*Act*”), and any other applicable law.

II. MANDATORY RECAPTURE OF THE NEW YORK STATE PORTION OF SALES AND USE TAX

The Agency shall recapture from project applicants New York State sales and use tax benefits, in accordance with the provisions of the General Municipal Law, from projects that utilized State sales and use tax exemptions:

- a) To which the project was not entitled;
- b) In excess of the amounts authorized by the Agency;
- c) For property or services not authorized by the Agency; and/or
- d) For a project that has failed to comply with a material term or condition to use the property or services in the manner required by any of the project documents between the company and the Agency.

The approving resolution(s) and project documents granting financial assistance in the form of State sales and use tax exemption benefits shall include the terms and conditions of the foregoing recapture provision. Within thirty (30) days of the recapture, the recapture amount shall be remitted to the New York State Department of Taxation and Finance. Such remittances shall include interest, at the legal rate, imposed by the Agency. The failure to pay over such amounts to the Agency shall be grounds for the New York State Tax Commissioner to assess and

determine State sales and use taxes due from the company under article twenty-eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

In order to determine if one of the foregoing events have occurred (a “*State Mandated Recapture Event*”) and to effectuate this recapture of New York State sales and use tax benefits the Agency shall:

- a) Keep records of the New York State and local sales tax exemptions provided to each project, with such records available to the New York State Tax Commissioner upon request.
- b) Report within thirty days of providing any financial assistance in the form of a sales and use tax exemption, the project, the estimated amount of the exemption and other information as may be required by the New York State Tax Commissioner (Form ST-60).
- c) The Agency shall file an annual report with the New York State Tax Commissioner detailing its terms and conditions and its activities in recapturing any unauthorized New York State sales and use tax exemptions.

III. SUSPENSION, DISCONTINUATION, RECAPTURE AND TERMINATION OF OTHER FORMS OF FINANCIAL ASSISTANCE

With respect to all other financial assistance provided to a project (other than the State portion of sales and use tax exemptions) the Agency shall have the right to suspend, discontinue, recapture or terminate financial assistance to any company for a project to the extent that:

- a) for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency, and/or such exemptions were for property or services not authorized by the Agency (each, a “*Local Sales Tax Benefit Violation*”);
- b) the company, upon completion of the project, fails to reach and maintain at least 85 percent of its employment requirements for job creation and/or retention (“*Job Deficit*”);
- c) the total investment actually made with respect to the project at the project’s completion date is less than 85 percent of its investment requirement (“*Investment Deficit*”);
- d) the company fails to provide annually to the Agency certain information to confirm that the project is achieving the investment, job retention, job creation, and other objectives of the Project (“*Reporting Failure*”); or

- e) there otherwise occurs any event of default under any project document (each, an “Event of Default”) or a material violation of the terms and conditions of any project document (a “*Material Violation*”).

IV. ANNUAL ASSESSMENT

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a State Mandated Recapture Event, a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure Event of Default or Material Violation (each a “*Noncompliance Event*”) has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any project document in accordance with the terms of the project document.

At the time of any Noncompliance Event (other than a State Mandated Recapture Event), the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the financial assistance provided to a project, and shall consider the following in making its determination:

- a) Whether the company has proceeded in good faith.
- b) Whether the project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the company.
- c) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create a more adverse situation for the company, such as the company going out of business or declaring bankruptcy, which would not occur if the Agency’s rights were not exercised.
- d) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create an adverse situation for the residents of the City of Syracuse.
- e) The assessment prepared in accordance with the Agency’s Annual Assessment Policy.
- f) Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the financial assistance (the “*Determination*”). The Determination shall provide terms, if any, by which a company may remedy any Noncompliance Event (other than a State Mandated Recapture Event) upon which the Determination was based. The

company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume financial assistance to the company (which will be at the Agency's sole discretion).

The project agreement entered into between the Agency and the company (the "*Project Agreement*") shall include the terms and conditions of the foregoing provisions. The Agency shall also include in the Project Agreement a requirement that the company comply with the Agency's right to suspend, discontinue, recapture or terminate the financial assistance and that the company shall repay all or a portion of the financial assistance granted by the Agency to the company pursuant to any Determination.

Any such amount constituting local tax exemptions shall be redistributed to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction.

IV. RECAPTURE PERIOD

Except as otherwise provided by the General Municipal Law, the recapture period will be the longer of: (1) the term of the Lease Agreement; or (2) five years following the project's completion date. A project will remain "active" for purposes of Section 874(12) of General Municipal Law and the Agency's Annual Assessment Policy during the term of the Project Agreement.

Adopted: June 21, 2016

EXHIBIT "F"
RECAPTURE POLICY

City of Syracuse
Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, NY 13202
Tel (315) 473-3275 Fax (315) 435-3669

RECAPTURE POLICY

I. STATEMENT OF PURPOSE

The City of Syracuse Industrial Development Agency (the “Agency”) has adopted this Recapture Policy (the “*Recapture Policy*”) in accordance with Sections 874(10) and 874(11) of the New York State General Municipal Law. This Recapture Policy shall be consistent with and in compliance with the provisions of Chapter 1030 of Laws of 1969 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 641 of the Laws of 1979 of the State of New York, as amended from time to time (said Chapter and the Enabling Act being hereinafter collectively referred to as the “*Act*”), and any other applicable law.

II. MANDATORY RECAPTURE OF THE NEW YORK STATE PORTION OF SALES AND USE TAX

The Agency shall recapture from project applicants New York State sales and use tax benefits, in accordance with the provisions of the General Municipal Law, from projects that utilized State sales and use tax exemptions:

- e) To which the project was not entitled;
- f) In excess of the amounts authorized by the Agency;
- g) For property or services not authorized by the Agency; and/or
- h) For a project that has failed to comply with a material term or condition to use the property or services in the manner required by any of the project documents between the company and the Agency.

The approving resolution(s) and project documents granting financial assistance in the form of State sales and use tax exemption benefits shall include the terms and conditions of the foregoing recapture provision. Within thirty (30) days of the recapture, the recapture amount shall be remitted to the New York State Department of Taxation and Finance. Such remittances shall include interest, at the legal rate, imposed by the Agency. The failure to pay over such amounts to the Agency shall be grounds for the New York State Tax Commissioner to assess and

determine State sales and use taxes due from the company under article twenty-eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

In order to determine if one of the foregoing events have occurred (a “*State Mandated Recapture Event*”) and to effectuate this recapture of New York State sales and use tax benefits the Agency shall:

- d) Keep records of the New York State and local sales tax exemptions provided to each project, with such records available to the New York State Tax Commissioner upon request.
- e) Report within thirty days of providing any financial assistance in the form of a sales and use tax exemption, the project, the estimated amount of the exemption and other information as may be required by the New York State Tax Commissioner (Form ST-60).
- f) The Agency shall file an annual report with the New York State Tax Commissioner detailing its terms and conditions and its activities in recapturing any unauthorized New York State sales and use tax exemptions.

III. SUSPENSION, DISCONTINUATION, RECAPTURE AND TERMINATION OF OTHER FORMS OF FINANCIAL ASSISTANCE

With respect to all other financial assistance provided to a project (other than the State portion of sales and use tax exemptions) the Agency shall have the right to suspend, discontinue, recapture or terminate financial assistance to any company for a project to the extent that:

- f) for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency, and/or such exemptions were for property or services not authorized by the Agency (each, a “*Local Sales Tax Benefit Violation*”);
- g) the company, upon completion of the project, fails to reach and maintain at least 85 percent of its employment requirements for job creation and/or retention (“*Job Deficit*”);
- h) the total investment actually made with respect to the project at the project’s completion date is less than 85 percent of its investment requirement (“*Investment Deficit*”);
- i) the company fails to provide annually to the Agency certain information to confirm that the project is achieving the investment, job retention, job creation, and other objectives of the Project (“*Reporting Failure*”); or

- j) there otherwise occurs any event of default under any project document (each, an “Event of Default”) or a material violation of the terms and conditions of any project document (a “*Material Violation*”).

IV. ANNUAL ASSESSMENT

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a State Mandated Recapture Event, a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure Event of Default or Material Violation (each a “*Noncompliance Event*”) has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any project document in accordance with the terms of the project document.

At the time of any Noncompliance Event (other than a State Mandated Recapture Event), the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the financial assistance provided to a project, and shall consider the following in making its determination:

- g) Whether the company has proceeded in good faith.
- h) Whether the project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the company.
- i) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create a more adverse situation for the company, such as the company going out of business or declaring bankruptcy, which would not occur if the Agency’s rights were not exercised.
- j) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create an adverse situation for the residents of the City of Syracuse.
- k) The assessment prepared in accordance with the Agency’s Annual Assessment Policy.
- l) Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the financial assistance (the “*Determination*”). The Determination shall provide terms, if any, by which a company may remedy any Noncompliance Event (other than a State Mandated Recapture Event) upon which the Determination was based. The

company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume financial assistance to the company (which will be at the Agency's sole discretion).

The project agreement entered into between the Agency and the company (the "*Project Agreement*") shall include the terms and conditions of the foregoing provisions. The Agency shall also include in the Project Agreement a requirement that the company comply with the Agency's right to suspend, discontinue, recapture or terminate the financial assistance and that the company shall repay all or a portion of the financial assistance granted by the Agency to the company pursuant to any Determination.

Any such amount constituting local tax exemptions shall be redistributed to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction.

IV. RECAPTURE PERIOD

Except as otherwise provided by the General Municipal Law, the recapture period will be the longer of: (1) the term of the Lease Agreement; or (2) five years following the project's completion date. A project will remain "active" for purposes of Section 874(12) of General Municipal Law and the Agency's Annual Assessment Policy during the term of the Project Agreement.

Adopted: June 21, 2016

Lisa Dell, County Clerk
401 Montgomery Street
Room 200
Syracuse, NY 13202
(315) 435-2229

Onondaga County Clerk Recording Cover Sheet

Received From :
STEWART-VAL

Return To :
BOND SCHOENECK & KING
PICK UP BOX

Method Returned : MAIL

First PARTY 1

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

First PARTY 2

SAG TEALL PROPERTIES LLC

Index Type : Land Records

Instr Number : 2018-00057758

Book : Page :

Type of Instrument : Deed

Type of Transaction : Deed Misc

Recording Fee: \$70.50

Recording Pages : 5

The Property affected by this instrument is situated in Syracuse, in the County of Onondaga, New York

Real Estate Transfer Tax

RETT # : 5530

Deed Amount : \$0.00

RETT Amount : \$0.00

Total Fees : \$70.50

State of New York

County of Onondaga

I hereby certify that the within and foregoing was recorded in the Clerk's office for Onondaga County, New York

On (Recorded Date) : 12/13/2018

At (Recorded Time) : 10:32:54 AM



Doc ID - 0328566100005

Lisa Dell, County Clerk



**AMENDED MEMORANDUM OF
AGENCY LEASE AGREEMENT**

NAME AND ADDRESS OF LESSOR: City of Syracuse Industrial Development Agency
201 East Washington Street, 6th Floor
Syracuse, New York 13202

NAME AND ADDRESS OF LESSEE: Sage Teall Properties, LLC
6146 East Molloy Road
East Syracuse, New York 13057

DESCRIPTION OF LEASED PREMISES:

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being more particularly described in **Exhibit "A"** annexed hereto, together with the improvements thereon.

DATE OF EXECUTION OF AGENCY LEASE AGREEMENT:

As of November 1, 2018

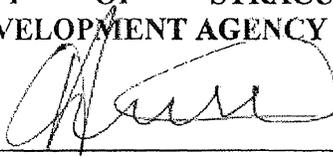
TERM OF AGENCY LEASE AGREEMENT:

The term of this Agency Lease shall commence on the date hereof and continue in full force and effect until the earlier of: (1) **June 30, 2029**; or (2) an earlier termination in accordance with the terms of the Agency Lease Agreement.

This Amended Memorandum of Agency Lease Agreement is being filed solely to correct the recording order of the Memorandum of Agency Lease Agreement and Memorandum of Company Lease Agreement previously filed in the Onondaga County Clerk's Office on November 19, 2018 as Instrument Numbers 2018-00053119 and 2018-00053120, respectively. The Memorandum of Agency Lease Agreement was to be filed and recorded after the Memorandum of Company Lease Agreement. However, the Memoranda were inadvertently filed and recorded in the incorrect order. This Amended Memorandum of Agency Lease is intended to replace the previously recorded Memorandum of Agency Lease Agreement to correct the error in the original recording order.

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 7th day of December, 2018.

CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By: 

Honora Spillane, Executive Director

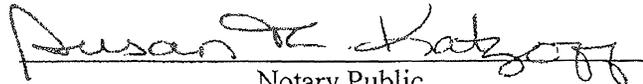
SAGE TEALL PROPERTIES, LLC

By: 

Scott Gerharz, Manager

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

On this 10th day of December 2018, before me, the undersigned, personally appeared, **HONORA SPILLANE**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

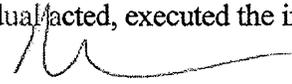


Notary Public

SUSAN R. KATZOFF
Notary Public, State of New York
Qual. in Onondaga Co. No. 02KA6120102
Commission Expires on December 13, 2020

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

On this 12th day of December, 2018, before me, the undersigned, personally appeared, **SCOTT GERHARZ**, 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

KEVIN M. POLE
Notary Public, State of New York
Qualified in Onondaga Co. No. 02P06076749
My Commission Expires July 1, 2022

EXHIBIT "A"

LEGAL DESCRIPTION OF THE LAND

ALL that tract or parcel of land, situate in the City of Syracuse, (formerly part of Lot No. 223 of the Salt Springs Reservation), County of Onondaga and State of New York, bounded and described as follows: beginning at a point in the easterly line of Teall Avenue at the intersection of the northerly line of Lynch Street and the easterly line of Teall Avenue; thence N 03° 19' 30" W along Teall Avenue a distance of 396.64 feet to a point; thence N 66° 31' 00" E a distance of 473.51 feet to a point; thence S 03° 16' 38" E a distance of 141.58 feet to a point; thence S 08° 20' 35" W a distance of 82.0 feet to a point; thence S 17° 32' 39" W a distance of 91.84 feet to a point; thence N 66° 28' 00" E a distance of 55.92 feet to a point; thence S 21° 53' 40" E a distance of 100.04 feet to a point in the northerly line of Lynch Street; thence S 66° 28' 00" W along Lynch Street a distance of 510.87' to a point in the east line of Teall Avenue, said point being the place and point of beginning.



Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax

Recording office time stamp

See Form TP-584-I, Instructions for Form TP-584, before completing this form. Print or type.

Schedule A - Information relating to conveyance

Form with sections for Grantor/Transferor and Grantee/Transferee, including fields for Name, Mailing address, City, State, ZIP code, Federal EIN, and Social security number.

Location and description of property conveyed

Table with 5 columns: Tax map designation, SWIS code, Street address, City, town, or village, and County.

Type of property conveyed (check applicable box)

Form with checkboxes for property types (One- to three-family house, Commercial/Industrial, etc.) and a date of conveyance field.

Condition of conveyance (check all that apply)

Form with multiple checkboxes (a through s) describing conditions of conveyance such as fee interest, leasehold grant, etc.

Form for recording officer's use with fields for Amount received, Date received, and Transaction number.

Schedule B — Real estate transfer tax return (Tax Law, Article 31)

Part I – Computation of tax due

- 1 Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) **Exemption claimed**
- 2 Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)
- 3 Taxable consideration (subtract line 2 from line 1)
- 4 Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3
- 5 Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)
- 6 Total tax due* (subtract line 5 from line 4)

1.		0 00
2.		0 00
3.		0 00
4.		0 00
5.		0 00
6.		0 00

Part II – Computation of additional tax due on the conveyance of residential real property for \$1 million or more

- 1 Enter amount of consideration for conveyance (from Part I, line 1)
- 2 Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A) ...
- 3 Total additional transfer tax due* (multiply line 2 by 1% (.01))

1.		
2.		
3.		

Part III – Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada)..... a
- b. Conveyance is to secure a debt or other obligation..... b
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts d
- e. Conveyance is given in connection with a tax sale..... e
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F..... f
- g. Conveyance consists of deed of partition..... g
- h. Conveyance is given pursuant to the federal Bankruptcy Act h
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property i
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) See Schedule "A"..... k

*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)**Complete the following only if the interest being transferred is a fee simple interest.**

I (we) certify that: (check the appropriate box)

1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
- The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
- The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
- The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
- The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.
- Please note:** for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.
- Other (attach detailed explanation).
3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
- A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
- A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the **NYC Department of Finance**.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

City of Syracuse Industrial Development Agency

Executive
Director

Sage Teall Properties, LLC

Manager


Grantor signature
Honora Spillane

Title

Grantee signature
Scott Gerharz

Title

Grantor signature

Title

Grantee signature

Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: (check the appropriate box)

1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

 - Other (attach detailed explanation).
3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the **NYC Department of Finance**.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

City of Syracuse Industrial Development Agency _____ Grantor signature Honora Spillane	Executive Director _____ Title	Sage Teall Properties, LLC  _____ Grantee signature Scott Gerharz	Manager _____ Title
Grantor signature	Title	Grantee signature	Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under Exemptions for nonresident transferor(s)/seller(s) and sign at bottom.

Part I - New York State residents

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, **each** resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

Part II - Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. **Each** nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-I.

Exemption for nonresident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from _____ Date to _____ Date (see instructions).
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

SCHEDULE "A"

The document being recorded for which this NYS Form TP-584 is being provided is a Memorandum of Lease between the Grantor and the Grantee. The sum of the term of the lease and any options for renewal do not exceed forty-nine (49) years, and therefore said lease is not a Conveyance within the meaning of Article 31 of the Tax Law.

CERTIFICATION

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Agency Lease Agreement by and between the parties dated as of November 1, 2018.

The undersigned, Scott Gerharz, Manager and authorized signatory of Sage Teall Properties, LLC (the “**Company**”), does hereby certify and confirm:

(1) that the Company has reviewed and understands the Agency’s Local Access Policy (the “**Policy**”) which states as follows:

The Company understands and agrees that local labor, contractors and suppliers will be used for the construction, renovation and equipping of the Project unless a written waiver is first received in accordance with the terms of the Policy. Failure to comply may result in the revocation or recapture of benefits awarded to the Project by the Agency.

For purposes of this Policy, the term “local” shall mean: Cayuga, Cortland, Madison, Onondaga, Oneida and Oswego Counties.

(2) that the Company has complied, and will, for so long as the Agency has an interest in the Project, continue to comply with, the Agency’s Local Labor Policy.

Dated: November 12, 2018

SAGE TEALL PROPERTIES, LLC

By: _____

Scott Gerharz, Manager



EVIDENCE OF PROPERTY INSURANCE

DATE (MM/DD/YYYY)
10/25/2018

THIS EVIDENCE OF PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

AGENCY Mirabito-Gresham Insurance & Bonds Agency, LLC 423 Commerce Road Vestal, NY 13850		PHONE (A/C, No, Ext): (607) 217-4610	COMPANY Ohio Security Insurance Company	
FAX (A/C, No): (607) 237-0279		E-MAIL ADDRESS: service@mirabitagresham.com		
CODE: AGENCY CUSTOMER ID #: GERHEQU-01		SUB CODE:		
INSURED Sage Teall Properties, LLC 6146 East Molloy Road East Syracuse, NY 13057		LOAN NUMBER		POLICY NUMBER BKS58436057
		EFFECTIVE DATE 11/1/2018	EXPIRATION DATE 11/1/2019	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
THIS REPLACES PRIOR EVIDENCE DATED:				

PROPERTY INFORMATION

LOCATION/DESCRIPTION
Loc # 3, Bldg # 1, 222 Teall Avenue, Syracuse, NY 13210, Restaurant Equipment Distributor

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION

PERILS INSURED	BASIC	BROAD	SPECIAL	AMOUNT OF INSURANCE	DEDUCTIBLE
Loc # 3, Bldg # 1 Building, Special (Including theft), Replacement Cost				\$9,135,000	5,000

REMARKS (Including Special Conditions)

Special Conditions:
Re: 222 Teall Avenue, Syracuse, NY 13210

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

NAME AND ADDRESS City of Syracuse Industrial Development Agency Attn: Chairman 201 East Washington Street, 6th Floor Syracuse, NY 13202	ADDITIONAL INSURED	LENDER'S LOSS PAYABLE	LOSS PAYEE
	MORTGAGEE		
LOAN #			
AUTHORIZED REPRESENTATIVE <i>Adam Baulby</i>			

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

2. Mailing Address:

ATTN: CHAIRMAN
201 E WASHINGTON ST, 6TH FL
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

2. Mailing Address:

ATTN: CHAIRMAN
201 E WASHINGTON ST, 6TH FL
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL GENERAL LIABILITY EXTENSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

INDEX

<u>SUBJECT</u>	<u>PAGE</u>
NON-OWNED AIRCRAFT	2
NON-OWNED WATERCRAFT	2
PROPERTY DAMAGE LIABILITY - ELEVATORS	2
EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)	2
MEDICAL PAYMENTS EXTENSION	3
EXTENSION OF SUPPLEMENTARY PAYMENTS - COVERAGES A AND B	3
ADDITIONAL INSUREDS - BY CONTRACT, AGREEMENT OR PERMIT	3
PRIMARY AND NON-CONTRIBUTORY- ADDITIONAL INSURED EXTENSION	5
ADDITIONAL INSUREDS - EXTENDED PROTECTION OF YOUR "LIMITS OF INSURANCE"	6
WHO IS AN INSURED - INCIDENTAL MEDICAL ERRORS/MALPRACTICE AND WHO IS AN INSURED - FELLOW EMPLOYEE EXTENSION - MANAGEMENT EMPLOYEES	6
NEWLY FORMED OR ADDITIONALLY ACQUIRED ENTITIES	7
FAILURE TO DISCLOSE HAZARDS AND PRIOR OCCURRENCES	7
KNOWLEDGE OF OCCURRENCE, OFFENSE, CLAIM OR SUIT	7
LIBERALIZATION CLAUSE	7
BODILY INJURY REDEFINED	7
EXTENDED PROPERTY DAMAGE	8
WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - WHEN REQUIRED IN A CONTRACT OR AGREEMENT WITH YOU	8

With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

A. NON-OWNED AIRCRAFT

Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, exclusion g. Aircraft, Auto Or Watercraft does not apply to an aircraft provided:

1. It is not owned by any insured;
2. It is hired, chartered or loaned with a trained paid crew;
3. The pilot in command holds a currently effective certificate, issued by the duly constituted authority of the United States of America or Canada, designating her or him a commercial or airline pilot; and
4. It is not being used to carry persons or property for a charge.

However, the insurance afforded by this provision does not apply if there is available to the insured other valid and collectible insurance, whether primary, excess (other than insurance written to apply specifically in excess of this policy), contingent or on any other basis, that would also apply to the loss covered under this provision.

B. NON-OWNED WATERCRAFT

Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, Subparagraph (2) of exclusion g. Aircraft, Auto Or Watercraft is replaced by the following:

This exclusion does not apply to:

- (2) A watercraft you do not own that is:
 - (a) Less than 52 feet long; and
 - (b) Not being used to carry persons or property for a charge.

C. PROPERTY DAMAGE LIABILITY - ELEVATORS

1. Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, Subparagraphs (3), (4) and (6) of exclusion j. Damage To Property do not apply if such "property damage" results from the use of elevators. For the purpose of this provision, elevators do not include vehicle lifts. Vehicle lifts are lifts or hoists used in automobile service or repair operations.
2. The following is added to Section IV - Commercial General Liability Conditions, Condition 4. Other Insurance, Paragraph b. Excess Insurance:

The insurance afforded by this provision of this endorsement is excess over any property insurance, whether primary, excess, contingent or on any other basis.

D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)

If Damage To Premises Rented To You is not otherwise excluded from this Coverage Part:

1. Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability:
 - a. The fourth from the last paragraph of exclusion j. Damage To Property is replaced by the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion, smoke, or leakage from an automatic fire protection system) to:

 - (i) Premises rented to you for a period of 7 or fewer consecutive days; or
 - (ii) Contents that you rent or lease as part of a premises rental or lease agreement for a period of more than 7 days.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" to contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in Section III - Limits of Insurance.

- b. The last paragraph of subsection **2. Exclusions** is replaced by the following:

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III - Limits Of Insurance.**

2. Paragraph **6.** under **Section III - Limits Of Insurance** is replaced by the following:

6. Subject to Paragraph **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to:

- a. Any one premise:

(1) While rented to you; or

(2) While rented to you or temporarily occupied by you with permission of the owner for damage by fire, lightning, explosion, smoke or leakage from automatic protection systems; or

- b. Contents that you rent or lease as part of a premises rental or lease agreement.

3. As regards coverage provided by this provision **D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)** - Paragraph **9.a.** of **Definitions** is replaced with the following:

9.a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with the permission of the owner, or for damage to contents of such premises that are included in your premises rental or lease agreement, is not an "insured contract".

E. MEDICAL PAYMENTS EXTENSION

If **Coverage C Medical Payments** is not otherwise excluded, the Medical Payments provided by this policy are amended as follows:

Under Paragraph **1. Insuring Agreement** of **Section I - Coverage C - Medical Payments**, Subparagraph **(b)** of Paragraph **a.** is replaced by the following:

(b) The expenses are incurred and reported within three years of the date of the accident; and

F. EXTENSION OF SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

1. Under **Supplementary Payments - Coverages A and B**, Paragraph **1.b.** is replaced by the following:

b. Up to **\$3,000** for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

2. Paragraph **1.d.** is replaced by the following:

d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to **\$500** a day because of time off from work.

G. ADDITIONAL INSUREDS - BY CONTRACT, AGREEMENT OR PERMIT

1. Paragraph **2.** under **Section II - Who Is An Insured** is amended to include as an insured any person or organization whom you have agreed to add as an additional insured in a written contract, written agreement or permit. Such person or organization is an additional insured but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by:

a. Your acts or omissions, or the acts or omissions of those acting on your behalf, in the performance of your on going operations for the additional insured that are the subject of the written contract or written agreement provided that the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" is committed, subsequent to the signing of such written contract or written agreement; or



- b. Premises or facilities rented by you or used by you; or
- c. The maintenance, operation or use by you of equipment rented or leased to you by such person or organization; or
- d. Operations performed by you or on your behalf for which the state or political subdivision has issued a permit subject to the following additional provisions:
 - (1) This insurance does not apply to "bodily injury", "property damage", or "personal and advertising injury" arising out of the operations performed for the state or political subdivision;
 - (2) This insurance does not apply to "bodily injury" or "property damage" included within the "completed operations hazard".
 - (3) Insurance applies to premises you own, rent, or control but only with respect to the following hazards:
 - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - (b) The construction, erection, or removal of elevators; or
 - (c) The ownership, maintenance, or use of any elevators covered by this insurance.

However:

- 1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to Paragraph 1.a. above, a person's or organization's status as an additional insured under this endorsement ends when:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

With respect to Paragraph 1.b. above, a person's or organization's status as an additional insured under this endorsement ends when their written contract or written agreement with you for such premises or facilities ends.

With respects to Paragraph 1.c. above, this insurance does not apply to any "occurrence" which takes place after the equipment rental or lease agreement has expired or you have returned such equipment to the lessor.

The insurance provided by this endorsement applies only if the written contract or written agreement is signed prior to the "bodily injury" or "property damage".

We have no duty to defend an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured as required in Paragraph b. of Condition 2. **Duties In the Event Of Occurrence, Offense, Claim Or Suit under Section IV - Commercial General Liability Conditions.**

2. With respect to the insurance provided by this endorsement, the following are added to Paragraph 2. **Exclusions under Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This insurance does not apply to:

- a. "Bodily injury" or "property damage" arising from the sole negligence of the additional insured.
- b. "Bodily injury" or "property damage" that occurs prior to you commencing operations at the location where such "bodily injury" or "property damage" occurs.
- c. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

- d. "Bodily injury" or "property damage" occurring after:
 - (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 - (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- e. Any person or organization specifically designated as an additional insured for ongoing operations by a separate **ADDITIONAL INSURED -OWNERS, LESSEES OR CONTRACTORS** endorsement issued by us and made a part of this policy.

3. With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement; or
- b. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

H. PRIMARY AND NON-CONTRIBUTORY ADDITIONAL INSURED EXTENSION

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

Condition 4. Other Insurance of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended as follows:

- a. The following is added to Paragraph a. **Primary Insurance:**

If an additional insured's policy has an Other Insurance provision making its policy excess, and you have agreed in a written contract or written agreement to provide the additional insured coverage on a primary and noncontributory basis, this policy shall be primary and we will not seek contribution from the additional insured's policy for damages we cover.

b. The following is added to Paragraph b. Excess Insurance:

When a written contract or written agreement, other than a premises lease, facilities rental contract or agreement, an equipment rental or lease contract or agreement, or permit issued by a state or political subdivision between you and an additional insured does not require this insurance to be primary or primary and non-contributory, this insurance is excess over any other insurance for which the additional insured is designated as a Named Insured.

Regardless of the written agreement between you and an additional insured, this insurance is excess over any other insurance whether primary, excess, contingent or on any other basis for which the additional insured has been added as an additional insured on other policies.

I. ADDITIONAL INSURED - EXTENDED PROTECTION OF YOUR "LIMITS OF INSURANCE"

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

1. The following is added to Condition 2. Duties In The Event Of Occurrence, Offense, Claim or Suit:

An additional insured under this endorsement will as soon as practicable:

- a. Give written notice of an "occurrence" or an offense that may result in a claim or "suit" under this insurance to us;
- b. Tender the defense and indemnity of any claim or "suit" to all insurers whom also have insurance available to the additional insured; and
- c. Agree to make available any other insurance which the additional insured has for a loss we cover under this Coverage Part.
- d. We have no duty to defend or indemnify an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured.

2. The limits of insurance applicable to the additional insured are those specified in a written contract or written agreement or the limits of insurance as stated in the Declarations of this policy and defined in Section III - Limits of Insurance of this policy, whichever are less. These limits are inclusive of and not in addition to the limits of insurance available under this policy.

**J. WHO IS AN INSURED - INCIDENTAL MEDICAL ERRORS / MALPRACTICE
WHO IS AN INSURED - FELLOW EMPLOYEE EXTENSION - MANAGEMENT EMPLOYEES**

Paragraph 2.a.(1) of Section II - Who Is An Insured is replaced with the following:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1) (a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1) (a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services. However, if you are not in the business of providing professional health care services or providing professional health care personnel to others, or if coverage for providing professional health care services is not otherwise excluded by separate endorsement, this provision (Paragraph (d)) does not apply.

Paragraphs (a) and (b) above do not apply to "bodily injury" or "personal and advertising injury" caused by an "employee" who is acting in a supervisory capacity for you. Supervisory capacity as used herein means the "employee's" job responsibilities assigned by you, includes the direct supervision of other "employees" of yours. However, none of these "employees" are insureds for "bodily injury" or "personal and

advertising injury" arising out of their willful conduct, which is defined as the purposeful or willful intent to cause "bodily injury" or "personal and advertising injury", or caused in whole or in part by their intoxication by liquor or controlled substances.

The coverage provided by provision J. is excess over any other valid and collectable insurance available to your "employee".

K. NEWLY FORMED OR ADDITIONALLY ACQUIRED ENTITIES

Paragraph 3. of **Section II - Who Is An Insured** is replaced by the following:

3. Any organization you newly acquire or form and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. Coverage under this provision is afforded only until the expiration of the policy period in which the entity was acquired or formed by you;
 - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
 - d. Records and descriptions of operations must be maintained by the first Named Insured.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations or qualifies as an insured under this provision.

L. FAILURE TO DISCLOSE HAZARDS AND PRIOR OCCURRENCES

Under **Section IV - Commercial General Liability Conditions**, the following is added to Condition 6. **Representations**:

Your failure to disclose all hazards or prior "occurrences" existing as of the inception date of the policy shall not prejudice the coverage afforded by this policy provided such failure to disclose all hazards or prior "occurrences" is not intentional.

M. KNOWLEDGE OF OCCURRENCE, OFFENSE, CLAIM OR SUIT

Under **Section IV - Commercial General Liability Conditions**, the following is added to Condition 2. **Duties In The Event of Occurrence, Offense, Claim Or Suit**:

Knowledge of an "occurrence", offense, claim or "suit" by an agent, servant or "employee" of any insured shall not in itself constitute knowledge of the insured unless an insured listed under Paragraph 1. of **Section II - Who Is An Insured** or a person who has been designated by them to receive reports of "occurrences", offenses, claims or "suits" shall have received such notice from the agent, servant or "employee".

N. LIBERALIZATION CLAUSE

If we revise this Commercial General Liability Extension Endorsement to provide more coverage without additional premium charge, your policy will automatically provide the coverage as of the day the revision is effective in your state.

O. BODILY INJURY REDEFINED

Under **Section V - Definitions**, Definition 3. is replaced by the following:

3. "Bodily Injury" means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death that results from such physical injury, sickness or disease.

P. EXTENDED PROPERTY DAMAGE

Exclusion a. of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is replaced by the following:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

Q. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - WHEN REQUIRED IN A CONTRACT OR AGREEMENT WITH YOU

Under **Section IV - Commercial General Liability Conditions**, the following is added to Condition **8. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have against a person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard" provided:

1. You and that person or organization have agreed in writing in a contract or agreement that you waive such rights against that person or organization; and
2. The injury or damage occurs subsequent to the execution of the written contract or written agreement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EACH LOCATION GENERAL AGGREGATE LIMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- 
- A. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **Section I - Coverage A - Bodily Injury And Property Damage Liability**, and for all medical expenses caused by accidents under **Section I - Coverage C Medical Payments**, which can be attributed only to operations at a single "location" owned by or rented to you:
1. A separate Each Location General Aggregate Limit applies to each "location", and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 2. The Each Location General Aggregate Limit is the most we will pay for the sum of all damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage C regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
 3. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the Each Location General Aggregate Limit for that "location". Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Each Location General Aggregate Limit for any other "location".
 4. The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Each Location General Aggregate Limit.
- B. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **Section I - Coverage A - Bodily Injury And Property Damage Liability**, and for all medical expenses caused by accidents under **Section I - Coverage C Medical Payments**, which cannot be attributed only to operations at a single "location" owned by or rented to you:
1. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
 2. Such payments shall not reduce any Each Location General Aggregate Limit.
- C. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Each Location General Aggregate Limit.
- D. For the purposes of this endorsement, the following definition is added to **Section V - Definitions**:
"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.
- E. The provisions of **Section III - Limits Of Insurance** not otherwise modified by this endorsement shall continue to apply as stipulated.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PROPERTY DAMAGE - CUSTOMERS' GOODS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Under **Section I - Coverages, Coverage A - Bodily Injury And Property Damage Liability, 2. Exclusions, j. Damage To Property**, items **(3), (4)** and **(6)** do not apply to "property damage" to "customers' goods" while on your premises.
- B. Under **Section IV - Commercial General Liability Conditions, 4. Other Insurance, b. Excess Insurance**, the following is added:

The insurance afforded by this endorsement is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is property insurance.

- C. Under **Section V - Definitions**, the following definition is added:

"Customers' goods" means property of your customer on your premises for the purpose of being worked on or used in your manufacturing process.

Nothing contained in this endorsement shall be held to vary, alter, waive, or extend any of the terms, conditions, provisions, agreements or limitations of the policy, other than as stated above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - BLANKET VENDORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. Section II - Who Is An Insured is amended to include as an additional insured any person(s) or organization(s) (referred to throughout this endorsement as vendor) whom you have agreed to add as an additional insured in a written contract or written agreement, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these vendors, the following exclusions apply:

1. The insurance afforded the vendor does not apply to:
 - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;
 - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - (1) The exceptions contained in Subparagraphs d. or f.; or
 - (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

C. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BUSINESS AUTO COVERAGE ENHANCEMENT ENDORSEMENT
NEW YORK**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

COVERAGE INDEX

<u>SUBJECT</u>	<u>PROVISION NUMBER</u>
ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMIT	3
ACCIDENTAL AIRBAG DEPLOYMENT	12
AMENDED FELLOW EMPLOYEE EXCLUSION	5
AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE	13
BROAD FORM INSURED	1
BODILY INJURY REDEFINED	19
EMPLOYEES AS INSUREDS (including employee hired auto)	2
EXTRA EXPENSE – BROADENED COVERAGE	10
GLASS REPAIR – WAIVER OF DEDUCTIBLE	14
HIRED AUTO PHYSICAL DAMAGE(including employee hired auto)	6
HIRED AUTO COVERAGE TERRITORY	18
PARKED AUTO COLLISION COVERAGE (WAIVER OF DEDUCTIBLE)	15
PERSONAL EFFECTS COVERAGE	11
PHYSICAL DAMAGE – ADDITIONAL TRANSPORTATION EXPENSE COVERAGE	8
RENTAL REIMBURSEMENT	9
SUPPLEMENTARY PAYMENTS	4
TOWING AND LABOR	7
UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS	16
WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US	17

SECTION II – LIABILITY COVERAGE is amended as follows:

1. BROAD FORM INSURED

SECTION II – LIABILITY COVERAGE, paragraph **A.1.** – WHO IS AN INSURED is amended to include the following as an insured:

- d.** Any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period. However, “insured” does not include any organization that:
- (1)** Is a partnership or joint venture; or
 - (2)** Is an insured under any other automobile policy; or
 - (3)** Has exhausted its Limit of Insurance under any other automobile policy.

Paragraph **d. (2)** of this provision does not apply to a policy written to apply specifically in excess of this policy.

- e.** Any organization you newly acquire or form, other than a partnership or joint venture, of which you own more than 50 percent of the voting stock. This automatic coverage is afforded only for 180 days from the date of acquisition or formation. However, coverage under this provision does not apply:

- (1)** If there is similar insurance or a self-insured retention plan available to that organization;

- (2) If the Limits of Insurance of any other insurance policy have been exhausted; or
- (3) To "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

2. EMPLOYEES AS INSURED

SECTION II – LIABILITY COVERAGE, paragraph A.1. – WHO IS AN INSURED is amended to include the following as an insured:

- f. Any "employee" of yours while using a covered "auto" you do not own, hire or borrow, but only for acts within the scope of their employment by you. Insurance provided by this endorsement is excess over any other insurance available to any "employee".
- g. An "employee" of yours while operating an "auto" hired or borrowed under a written contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business and within the scope of their employment. Insurance provided by this endorsement is excess over any other insurance available to the "employee".

3. ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMIT

SECTION II – LIABILITY COVERAGE, paragraph A.1. – WHO IS AN INSURED is amended to include the following as an insured:

- h. Any person or organization with respect to the operation, maintenance or use of a covered "auto", provided that you and such person or organization have agreed in a written contract, agreement, or permit issued to you by governmental or public authority, to add such person, or organization, or governmental or public authority to this policy as an "insured".

However, such person or organization is an "insured":

- (1) Only with respect to the operation, maintenance or use of a covered "auto";
- (2) Only for "bodily injury" or "property damage" caused by an "accident" which takes place after you executed the written contract or agreement, or the permit has been issued to you; and
- (3) Only for the duration of that contract, agreement or permit.

4. SUPPLEMENTARY PAYMENTS

SECTION II – LIABILITY COVERAGE, Coverage Extensions, 2.a. Supplementary Payments, paragraphs (2) and (4) are replaced by the following:

- (2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request, including actual loss of earnings up to \$500 a day because of time off from work.

5. AMENDED FELLOW EMPLOYEE EXCLUSION

In those jurisdictions where, by law, fellow employees are not entitled to the protection afforded to the employer by the workers compensation exclusivity rule, or similar protection, the following provision is added:

SECTION II – LIABILITY, exclusion B.5. FELLOW EMPLOYEE does not apply if the "bodily injury" results from the use of a covered "auto" you own or hire.

SECTION III – PHYSICAL DAMAGE COVERAGE is amended as follows:

6. HIRED AUTO PHYSICAL DAMAGE

Paragraph A.4. Coverage Extensions of SECTION III – PHYSICAL DAMAGE COVERAGE, is amended by adding the following:

If hired "autos" are covered "autos" for Liability Coverage, and if Comprehensive, Specified Causes of Loss or Collision coverage are provided under the Business Auto Coverage Form for any "auto" you own, then the Physical Damage coverages provided are extended to "autos":

- a. You hire, rent or borrow; or
- b. Your "employee" hires or rents under a written contract or agreement in that "employee's" name, but only if the damage occurs while the vehicle is being used in the conduct of your business,

subject to the following limit and deductible:

- A. The most we will pay for "loss" in any one "accident" or "loss" is the smallest of:
- (1) \$50,000; or
 - (2) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
 - (3) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality, minus a deductible.
- B. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage.
- C. Subject to the limit, deductible and excess provisions described in this provision, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.
- D. Subject to a maximum of \$750 per "accident", we will also cover the actual loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss.
- E. This coverage extension does not apply to:
- (1) Any "auto" that is hired, rented or borrowed with a driver; or
 - (2) Any "auto" that is hired, rented or borrowed from your "employee".

The insurance provided under this provision is excess over any other collectible insurance, either from another insurance policy or from the collision damage waiver of a credit card.

For the purposes of this provision, SECTION V – DEFINITIONS is amended by adding the following:

"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

7. TOWING AND LABOR

SECTION III – PHYSICAL DAMAGE COVERAGE, paragraph A.2. Towing, is amended by the addition of the following:

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" classified and rated as a private passenger type, "light truck" or "medium truck" is disabled:

- a. For private passenger type vehicles, we will pay up to \$50 per disablement.
- b. For "light trucks", we will pay up to \$50 per disablement. "Light trucks" are trucks that have a gross vehicle weight (GVW) of 10,000 pounds or less.
- c. For "medium trucks", we will pay up to \$150 per disablement. "Medium trucks" are trucks that have a gross vehicle weight (GVW) of 10,001 – 20,000 pounds.

However, the labor must be performed at the place of disablement.

If CA 85 50, Towing – Commercial Autos, is attached to this policy, the limits indicated in CA 85 50 replace the limits indicated in this provision.

The insurance provided under this provision is excess over any other collectible insurance.

8. PHYSICAL DAMAGE - ADDITIONAL TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a., Coverage Extension of SECTION III – PHYSICAL DAMAGE COVERAGE, is amended to provide a limit of \$50 per day and a maximum limit of \$1,500.

9. RENTAL REIMBURSEMENT

SECTION III – PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

- a. We will pay up to \$75 per day for rental reimbursement expenses incurred by you for the rental of an "auto" because of "accident" or "loss", to an "auto" for which we also pay a "loss" under Comprehensive, Specified Causes of Loss or Collision Coverages. We will pay only for those expenses incurred after the first 24 hours following the "accident" or "loss" to the covered "auto."

- b. Rental Reimbursement will be based on the rental of a comparable vehicle, which in many cases may be substantially less than \$75 per day, and will only be allowed for the period of time it should take to repair or replace the vehicle with reasonable speed and similar quality, up to a maximum of 30 days.
- c. We will also pay up to \$500 for reasonable and necessary expenses incurred by you to remove and replace your tools and equipment from the covered "auto".
- d. This coverage does not apply unless you have a business necessity that other "autos" available for your use and operation cannot fill.
- e. If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided under Paragraph 4. Coverage Extension.
- f. No deductible applies to this coverage.

For the purposes of this endorsement provision, materials and equipment do not include "personal effects" as defined in provision 11.

The insurance provided under this provision is excess over any other collectible insurance.

10. EXTRA EXPENSE - BROADENED COVERAGE

Under SECTION III – PHYSICAL DAMAGE COVERAGE, A. COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you. The maximum amount we will pay is \$1,000.

11. PERSONAL EFFECTS COVERAGE

A. SECTION III – PHYSICAL DAMAGE COVERAGE, A. COVERAGE, is amended by adding the following:

If you have purchased Comprehensive Coverage on this policy for an "auto" you own and that "auto" is stolen, we will pay, without application of a deductible, up to \$600 for "personal effects" stolen with the "auto."

The insurance provided under this provision is excess over any other collectible insurance.

B. SECTION V – DEFINITIONS is amended by adding the following:

For the purposes of this provision, "personal effects" mean tangible property that is worn or carried by an insured." "Personal effects" does not include tools, equipment, jewelry, money or securities.

12. ACCIDENTAL AIRBAG DEPLOYMENT

SECTION III – PHYSICAL DAMAGE COVERAGE, B. EXCLUSIONS is amended by adding the following:

If you have purchased Comprehensive or Collision Coverage under this policy, the exclusion for "loss" relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

Any insurance we provide shall be excess over any other collectible insurance or reimbursement by manufacturer's warranty. However, we agree to pay any deductible applicable to the other coverage or warranty.

13. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE

SECTION III – PHYSICAL DAMAGE COVERAGE, B. EXCLUSIONS, exception paragraph a. to exclusions 4.c. and 4.d. is deleted and replaced with the following:

Exclusion 4.c. and 4.d. do not apply to:

- a. Electronic equipment that receives or transmits audio, visual or data signals, whether or not designed solely for the reproduction of sound, if the equipment is permanently installed in the covered "auto" at the time of the "loss" and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto" and physical damage coverages are provided for the covered "auto"; or

If the "loss" occurs solely to audio, visual or data electronic equipment or accessories used with this equipment, then our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by a \$100 deductible.

14. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Paragraph **D. Deductible** of SECTION III – PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

No deductible applies to glass damage if the glass is repaired rather than replaced.

15. PARKED AUTO COLLISION COVERAGE

Paragraph **D. Deductible** of SECTION III– PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

A \$100 deductible will apply to “loss” caused by collision to such covered “auto” of the private passenger type or light weight truck with a gross vehicle weight of 10,000 lbs. or less as defined by the manufacturer as maximum loaded weight the “auto” is designed to carry while it is:

- a. Legally parked; and
- b. Unoccupied.

This provision will only apply if the covered "auto", of the type described above, was in the charge of, being used by, or in the possession of, and "insured" at the time it was legally parked and left unoccupied.

The “loss” must be reported to the police authorities within 24 hours of known damage.

The total amount of the damage to the covered “auto” must exceed the deductible shown in the Declarations.

This provision does not apply to any “loss” if the covered “auto” is in the charge of, being used by, or in the possession of, any person or organization engaged in the business of selling, servicing, repairing, parking or storing “autos”, at the time it was legally parked and left unoccupied.

SECTION IV – BUSINESS AUTO CONDITIONS is amended as follows:

16. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

SECTION IV- BUSINESS AUTO CONDITIONS, Paragraph **B.2.** is amended by adding the following:

If you unintentionally fail to disclose any hazards, exposures or material facts existing as of the inception date or renewal date of the Business Auto Coverage Form, the coverage afforded by this policy will not be prejudiced.

However, you must report the undisclosed hazard of exposure as soon as practicable after its discovery, and we have the right to collect additional premium for any such hazard or exposure.

17. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

SECTION IV – BUSINESS AUTO CONDITIONS, paragraph **A.5.**, Transfer of Rights of Recovery Against Others to Us, is amended by the addition of the following:

If the person or organization has waived those rights before an “accident” or “loss”, our rights are waived also.

18. HIRED AUTO COVERAGE TERRITORY

SECTION IV – BUSINESS AUTO CONDITIONS, paragraph **B.7.**, Policy Period, Coverage Territory, is amended by the addition of the following:

- f. For “autos” hired 30 days or less, the coverage territory is anywhere in the world, provided that the insured’s responsibility to pay for damages is determined in a “suit”, on the merits, in the United States, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

This extension of coverage does not apply to an “auto” hired, leased, rented or borrowed with a driver.

SECTION V – DEFINITIONS is amended as follows:

19. BODILY INJURY REDEFINED

Under SECTION V – DEFINITIONS, definition **C.** is replaced by the following:

“Bodily injury” means physical injury, sickness or disease sustained by a person, including mental anguish, mental injury, shock, fright or death resulting from any of these at any time.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL GENERAL LIABILITY EXTENSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

INDEX

<u>SUBJECT</u>	<u>PAGE</u>
NON-OWNED AIRCRAFT	2
NON-OWNED WATERCRAFT	2
PROPERTY DAMAGE LIABILITY – ELEVATORS	2
EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant’s Property Damage)	2
MEDICAL PAYMENTS EXTENSION	3
EXTENSION OF SUPPLEMENTARY PAYMENTS – COVERAGES A AND B	3
ADDITIONAL INSURED – BY CONTRACT, AGREEMENT OR PERMIT	3
PRIMARY AND NON-CONTRIBUTORY – ADDITIONAL INSURED EXTENSION	5
ADDITIONAL INSURED – EXTENDED PROTECTION OF YOUR “LIMITS OF INSURANCE”	6
WHO IS AN INSURED – INCIDENTAL MEDICAL ERRORS/MALPRACTICE AND WHO IS AN INSURED – FELLOW EMPLOYEE EXTENSION – MANAGEMENT EMPLOYEES	6
NEWLY FORMED OR ADDITIONALLY ACQUIRED ENTITIES	7
FAILURE TO DISCLOSE HAZARDS AND PRIOR OCCURRENCES	7
KNOWLEDGE OF OCCURRENCE, OFFENSE, CLAIM OR SUIT	7
LIBERALIZATION CLAUSE	7
BODILY INJURY REDEFINED	7
EXTENDED PROPERTY DAMAGE	8
WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US – WHEN REQUIRED IN A CONTRACT OR AGREEMENT WITH YOU	8

With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

A. NON-OWNED AIRCRAFT

Under Paragraph 2. Exclusions of Section I – Coverage A - Bodily Injury And Property Damage Liability, exclusion g. Aircraft, Auto Or Watercraft does not apply to an aircraft provided:

1. It is not owned by any insured;
2. It is hired, chartered or loaned with a trained paid crew;
3. The pilot in command holds a currently effective certificate, issued by the duly constituted authority of the United States of America or Canada, designating her or him a commercial or airline pilot; and
4. It is not being used to carry persons or property for a charge.

However, the insurance afforded by this provision does not apply if there is available to the insured other valid and collectible insurance, whether primary, excess (other than insurance written to apply specifically in excess of this policy), contingent or on any other basis, that would also apply to the loss covered under this provision.

B. NON-OWNED WATERCRAFT

Under Paragraph 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability, Subparagraph (2) of exclusion g. Aircraft, Auto Or Watercraft is replaced by the following:

This exclusion does not apply to:

- (2) A watercraft you do not own that is:
 - (a) Less than 52 feet long; and
 - (b) Not being used to carry persons or property for a charge.

C. PROPERTY DAMAGE LIABILITY – ELEVATORS

1. Under Paragraph 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability, Subparagraphs (3), (4) and (6) of exclusion j. Damage To Property do not apply if such “property damage” results from the use of elevators. For the purpose of this provision, elevators do not include vehicle lifts. Vehicle lifts are lifts or hoists used in automobile service or repair operations.
2. The following is added to Section IV – Commercial General Liability Conditions, Condition 4. Other Insurance, Paragraph b. Excess Insurance:

The insurance afforded by this provision of this endorsement is excess over any property insurance, whether primary, excess, contingent or on any other basis.

D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant’s Property Damage)

If Damage To Premises Rented To You is not otherwise excluded from this Coverage Part:

1. Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability:

- a. The fourth from the last paragraph of exclusion j. Damage To Property is replaced by the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion, smoke, or leakage from an automatic fire protection system) to:

- (i) Premises rented to you for a period of 7 or fewer consecutive days; or
- (ii) Contents that you rent or lease as part of a premises rental or lease agreement for a period of more than 7 days.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" to contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in Section III – Limits of Insurance.

- b. The last paragraph of subsection **2. Exclusions** is replaced by the following:
 Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III – Limits Of Insurance.**
- 2. Paragraph **6.** under **Section III – Limits Of Insurance** is replaced by the following:
 - 6. Subject to Paragraph **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to:
 - a. Any one premise:
 - (1) While rented to you; or
 - (2) While rented to you or temporarily occupied by you with permission of the owner for damage by fire, lightning, explosion, smoke or leakage from automatic protection systems; or
 - b. Contents that you rent or lease as part of a premises rental or lease agreement.
- 3. As regards coverage provided by this provision **D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)** - Paragraph **9.a.** of **Definitions** is replaced with the following:
 - 9.a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with the permission of the owner, or for damage to contents of such premises that are included in your premises rental or lease agreement, is not an "insured contract".

E. MEDICAL PAYMENTS EXTENSION

If **Coverage C Medical Payments** is not otherwise excluded, the Medical Payments provided by this policy are amended as follows:

Under Paragraph **1. Insuring Agreement** of **Section I – Coverage C – Medical Payments**, Subparagraph **(b)** of Paragraph **a.** is replaced by the following:

- (b)** The expenses are incurred and reported within three years of the date of the accident; and

F. EXTENSION OF SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

- 1. Under **Supplementary Payments – Coverages A and B**, Paragraph **1.b.** is replaced by the following:
 - b. Up to **\$3,000** for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- 2. Paragraph **1.d.** is replaced by the following:
 - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to **\$500** a day because of time off from work.

G. ADDITIONAL INSURED - BY CONTRACT, AGREEMENT OR PERMIT

- 1. Paragraph **2.** under **Section II – Who Is An Insured** is amended to include as an insured any person or organization whom you have agreed to add as an additional insured in a written contract, written agreement or permit. Such person or organization is an additional insured but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by:
 - a. Your acts or omissions, or the acts or omissions of those acting on your behalf, in the performance of your on going operations for the additional insured that are the subject of the written contract or written agreement provided that the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" is committed, subsequent to the signing of such written contract or written agreement; or

- b. Premises or facilities rented by you or used by you; or
- c. The maintenance, operation or use by you of equipment rented or leased to you by such person or organization; or
- d. Operations performed by you or on your behalf for which the state or political subdivision has issued a permit subject to the following additional provisions:
 - (1) This insurance does not apply to "bodily injury", "property damage", or "personal and advertising injury" arising out of the operations performed for the state or political subdivision;
 - (2) This insurance does not apply to "bodily injury" or "property damage" included within the "completed operations hazard".
 - (3) Insurance applies to premises you own, rent, or control but only with respect to the following hazards:
 - a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - (b) The construction, erection, or removal of elevators; or
 - (c) The ownership, maintenance, or use of any elevators covered by this insurance.

However:

- 1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to Paragraph 1.a. above, a person's or organization's status as an additional insured under this endorsement ends when:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

With respect to Paragraph 1.b. above, a person's or organization's status as an additional insured under this endorsement ends when their written contract or written agreement with you for such premises or facilities ends.

With respects to Paragraph 1.c. above, this insurance does not apply to any "occurrence" which takes place after the equipment rental or lease agreement has expired or you have returned such equipment to the lessor.

The insurance provided by this endorsement applies only if the written contract or written agreement is signed prior to the "bodily injury" or "property damage".

We have no duty to defend an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured as required in Paragraph b. of Condition 2. **Duties In the Event Of Occurrence, Offense, Claim Or Suit** under **Section IV – Commercial General Liability Conditions**.

2. With respect to the insurance provided by this endorsement, the following are added to Paragraph 2. **Exclusions under Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This insurance does not apply to:

- a. "Bodily injury" or "property damage" arising from the sole negligence of the additional insured.
- b. "Bodily injury" or "property damage" that occurs prior to you commencing operations at the location where such "bodily injury" or "property damage" occurs.
- c. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

- d. "Bodily injury" or "property damage" occurring after:
 - (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 - (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- e. Any person or organization specifically designated as an additional insured for ongoing operations by a separate **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS** endorsement issued by us and made a part of this policy.

3. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement; or
 - b. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

H. **PRIMARY AND NON-CONTRIBUTORY ADDITIONAL INSURED EXTENSION**

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

Condition 4. **Other Insurance of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

- a. The following is added to Paragraph a. **Primary Insurance:**

If an additional insured's policy has an Other Insurance provision making its policy excess, and you have agreed in a written contract or written agreement to provide the additional insured coverage on a primary and noncontributory basis, this policy shall be primary and we will not seek contribution from the additional insured's policy for damages we cover.

- b. The following is added to Paragraph **b. Excess Insurance**:

When a written contract or written agreement, other than a premises lease, facilities rental contract or agreement, an equipment rental or lease contract or agreement, or permit issued by a state or political subdivision between you and an additional insured does not require this insurance to be primary or primary and non-contributory, this insurance is excess over any other insurance for which the additional insured is designated as a Named Insured.

Regardless of the written agreement between you and an additional insured, this insurance is excess over any other insurance whether primary, excess, contingent or on any other basis for which the additional insured has been added as an additional insured on other policies.

I. ADDITIONAL INSURED - EXTENDED PROTECTION OF YOUR "LIMITS OF INSURANCE"

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

1. The following is added to Condition **2. Duties In The Event Of Occurrence, Offense, Claim or Suit**:

An additional insured under this endorsement will as soon as practicable:

- a. Give written notice of an "occurrence" or an offense that may result in a claim or "suit" under this insurance to us;
 - b. Tender the defense and indemnity of any claim or "suit" to all insurers whom also have insurance available to the additional insured; and
 - c. Agree to make available any other insurance which the additional insured has for a loss we cover under this Coverage Part.
 - d. We have no duty to defend or indemnify an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured.
2. The limits of insurance applicable to the additional insured are those specified in a written contract or written agreement or the limits of insurance as stated in the Declarations of this policy and defined in **Section III – Limits of Insurance** of this policy, whichever are less. These limits are inclusive of and not in addition to the limits of insurance available under this policy.

**J. WHO IS AN INSURED - INCIDENTAL MEDICAL ERRORS / MALPRACTICE
WHO IS AN INSURED - FELLOW EMPLOYEE EXTENSION - MANAGEMENT EMPLOYEES**

Paragraph **2.a.(1)** of **Section II - Who Is An Insured** is replaced with the following:

- (1) "Bodily injury" or "personal and advertising injury":
- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1) (a) above;
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1) (a) or (b) above; or
 - (d) Arising out of his or her providing or failing to provide professional health care services. However, if you are not in the business of providing professional health care services or providing professional health care personnel to others, or if coverage for providing professional health care services is not otherwise excluded by separate endorsement, this provision (Paragraph (d)) does not apply.

Paragraphs **(a)** and **(b)** above do not apply to “bodily injury” or “personal and advertising injury” caused by an “employee” who is acting in a supervisory capacity for you. Supervisory capacity as used herein means the “employee’s” job responsibilities assigned by you, includes the direct supervision of other “employees” of yours. However, none of these “employees” are insureds for “bodily injury” or “personal and advertising injury” arising out of their willful conduct, which is defined as the purposeful or willful intent to cause “bodily injury” or “personal and advertising injury”, or caused in whole or in part by their intoxication by liquor or controlled substances.

The coverage provided by provision **J.** is excess over any other valid and collectable insurance available to your “employee”.

K. NEWLY FORMED OR ADDITIONALLY ACQUIRED ENTITIES

Paragraph **3.** of **Section II - Who Is An Insured** is replaced by the following:

- 3.** Any organization you newly acquire or form and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a.** Coverage under this provision is afforded only until the expiration of the policy period in which the entity was acquired or formed by you;
 - b.** Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c.** Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
 - d.** Records and descriptions of operations must be maintained by the first Named Insured.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations or qualifies as an insured under this provision.

L. FAILURE TO DISCLOSE HAZARDS AND PRIOR OCCURRENCES

Under **Section IV – Commercial General Liability Conditions**, the following is added to Condition **6. Representations**:

Your failure to disclose all hazards or prior “occurrences” existing as of the inception date of the policy shall not prejudice the coverage afforded by this policy provided such failure to disclose all hazards or prior “occurrences” is not intentional.

M. KNOWLEDGE OF OCCURRENCE, OFFENSE, CLAIM OR SUIT

Under **Section IV – Commercial General Liability Conditions**, the following is added to Condition **2. Duties In The Event of Occurrence, Offense, Claim Or Suit**:

Knowledge of an “occurrence”, offense, claim or “suit” by an agent, servant or “employee” of any insured shall not in itself constitute knowledge of the insured unless an insured listed under Paragraph **1.** of **Section II – Who Is An Insured** or a person who has been designated by them to receive reports of “occurrences”, offenses, claims or “suits” shall have received such notice from the agent, servant or “employee”.

N. LIBERALIZATION CLAUSE

If we revise this Commercial General Liability Extension Endorsement to provide more coverage without additional premium charge, your policy will automatically provide the coverage as of the day the revision is effective in your state.

O. BODILY INJURY REDEFINED

Under **Section V – Definitions**, Definition **3.** is replaced by the following:

- 3.** “Bodily Injury” means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death that results from such physical injury, sickness or disease.

P. EXTENDED PROPERTY DAMAGE

Exclusion a. of COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY is replaced by the following:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

Q. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US – WHEN REQUIRED IN A CONTRACT OR AGREEMENT WITH YOU

Under **Section IV – Commercial General Liability Conditions**, the following is added to Condition **8. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have against a person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard" provided:

1. You and that person or organization have agreed in writing in a contract or agreement that you waive such rights against that person or organization; and
2. The injury or damage occurs subsequent to the execution of the written contract or written agreement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - AUTOMATIC STATUS WHEN
REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU -
CONTRACTORS - COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Paragraph 2. of **Section II - Who Is An Insured** is amended to include as an insured any person or organization whom you have agreed to add as an additional insured in a written contract or written agreement. Such person or organization is an additional insured but only with respect to liability for "bodily injury" or "property damage":

1. Caused by "your work" performed for that additional insured that is the subject of the written contract or written agreement; and
2. Included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

The insurance provided by this endorsement applies only if the written contract or written agreement is signed prior to the "bodily injury" or "property damage".

We have no duty to defend an additional insured under this endorsement until we receive written notice of a claim or "suit" by the additional insured as required in Paragraph b. of Condition 2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit** under **Section IV - Commercial General Liability Conditions**.

B. With respect to the insurance provided by this endorsement, the following are added to Paragraph 2. **Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This insurance does not apply to:

1. "Bodily injury" or "property damage" that occurs prior to you commencing operations at the location where such "bodily injury" or "property damage" occurs.
2. "Bodily injury" or "property damage" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services including:
 - a. The preparing, approving or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawing and specifications; and
 - b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations.

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

D. With respect to the insurance afforded by this endorsement, **Section IV - Commercial General Liability Conditions** is amended as follows:

1. The following is added to Paragraph 2. **Duties In The Event Of Occurrence, Offense, Claims Or Suit:**

An additional insured under this endorsement will as soon as practicable:

- a. Give written notice of an "occurrence" or an offense that may result in a claim or "suit" under this insurance to us;
- b. Tender the defense and indemnity of any claim or "suit" to all insurers whom also have insurance available to the additional insured; and
- c. Agree to make available any other insurance which the additional insured has for a loss we cover under this Coverage Part.
- d. We have no duty to defend or indemnify an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured.

2. Paragraph 4. of **Section IV - Commercial General Liability Conditions** is amended as follows:

a. The following is added to Paragraph a. **Primary Insurance:**

If an additional insured's policy has an Other Insurance provision making its policy excess, and you have agreed in a written contract or written agreement to provide the additional insured coverage on a primary and noncontributory basis, this policy shall be primary and we will not seek contribution from the additional insured's policy for damages we cover.

b. The following is added to Paragraph b. **Excess Insurance:**

When a written contract or written agreement, other than a premises lease, facilities rental contract or agreement, an equipment rental or lease contract or agreement, or permit issued by a state or political subdivision between you and an additional insured does not require this insurance to be primary or primary and non-contributory, this insurance is excess over any other insurance for which the additional insured is designated as a Named Insured.

Regardless of the written agreement between you and an additional insured, this insurance is excess over any other insurance whether primary, excess, contingent or on any other basis for which the additional insured has been added as an additional insured on other policies.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT OF CANCELLATION PROVISIONS - SCHEDULED
PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA COVERAGE PART

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

- 1. Name or Person or Organization:
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

- 2. Mailing Address:
201 EAST WASHINGTON ST
6TH FLOOR, ATTN: CHAIRMAN
SYRACUSE, NY 13202

- 3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. **Name:**
CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY
2. **Address:**
201 EAST WASHINGTON STREET
6TH FLOOR ATTN CHAIRMAN
SYRACUSE, NY 13202
3. **Number of days advance notice:**
30

All other terms and conditions of this policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED - NONCONTRIBUTING

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

Schedule

Name of Person(s) or Organization(s):

Any person or organization where the named insured has agreed by written contract to include such person or organization as a designated insured

Regarding Designated Contract or Project:

Various

Each person or organization shown in the Schedule of this endorsement is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in Section II of the Coverage Form.

The following is added to the Other Insurance Condition:

If you have agreed in a written agreement that this policy will be primary and without right of contribution from any insurance in force for an Additional Insured for liability arising out of your operations, and the agreement was executed prior to the "bodily injury" or "property damage", then this insurance will be primary and we will not seek contribution from such insurance.

Coverage Is Provided In:

American Fire and Casualty Compan
9450 Seward Road, Fairfield, Ohio 45014

POLICY NUMBER
XWA (19) 58436057

Policy Period:
From: 04/01/2018 To 04/01/2019
Endorsement Period:
From: 10/01/2018 To 04/01/2019
*12:01 am Standard Time
at Insured's Mailing Address*

Z

NCCI Co. No. 11266

Endorsement



Named Insured

Agent

GERHARZ EQUIPMENT INC

Andrukat, Kathleen

DESCRIPTION OF CHANGE(S)

STATE: NEW YORK

COMPLETE ADDRESS UNDER
WC992075 FOR City of Syracuse Industrial
Development Agency Attn: Chairman
IS TO READ:
201 East Washington Street, 6th Floor
Syracuse, NY 13202

NOTICE OF CANCELLATION TO THIRD PARTIES

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the persons or organizations shown in the Schedule below. We will send notice to the email or mailing address listed below at least 10 days, or the number of days listed below, if any, before cancellation becomes effective. In no event does the notice to the third party exceed the notice to the first named insured.
- B. This advance notification of a pending cancellation of coverage is intended as a courtesy only. Our failure to provide such advance notification will not extend the policy cancellation date nor negate cancellation of the policy.

SCHEDULE

Name of Other Person(s) / Organization(s):	Email Address or mailing address:	Number Days Notice:
SEE WC990650A FOR COMPLETION	SEE WC990650A FOR COMPLETION	30

All other terms and conditions of this policy remain unchanged.

Issued by American Fire and Casualty Company 11266

For attachment to Policy No. XWA (19) 58 43 60 57 Effective Date 10/01/2018 Premium \$ \$0.0 0

Issued to GERHARZ EQUIPMENT INC

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**AMENDMENT OF OTHER INSURANCE - DESIGNATED PERSONS
OR ORGANIZATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA COVERAGE PART

SCHEDULE

Name of Person or Organization:

WHERE REQUIRED BY WRITTEN CONTRACT OR WRITTEN
AGREEMENT PRIOR TO LOSS AND ALLOWED BY LAW.

The following is added to Condition **J. Other Insurance** under **SECTION VI. CONDITIONS**:

However, with respect to a person or organization shown in the Schedule, that qualifies as an additional "Insured" under paragraph **F.5.** of **SECTION V. DEFINITIONS**, if a written contract in which you have agreed to provide insurance for that person or organization expressly requires that this insurance applies on a primary or a primary and non-contributory basis, this insurance will apply as if other insurance available to that person or organization which designates that person or organization as a Named Insured does not exist, and we will not share with that other insurance. Regardless of the written contract between you and the person or organization shown in the Schedule, this insurance is still excess over any other valid and collectible insurance available to that person or organization, whether such insurance is primary, contributing, excess, contingent or otherwise, as respects "autos" or when that person or organization is an additional insured under such other insurance.

This endorsement does not change any other provision of the policy.



Coverage is provided in:
PEERLESS INSURANCE COMPANY - A STOCK COMPANY

This policy has been prepared for:

GERHARZ EQUIPMENT INC,
GERHARZ FAMILY PARTNERSHIP
6146 E MOLLOY RD
EAST SYRACUSE NY 13057

Agent Name and Address:

MIRABITO-GRESHAM INS & BONDS A
GENCY LLC
423 COMMERCE RD STE 2
VESTAL NY 13850-2203

Agent Code: 4811644

Agent's Phone Number: (607)-217-4610

Your insurance policy is enclosed. Please place it with your important papers.

Thank you for selecting us to service your insurance needs!

INSURED COPY

ENDORSEMENT



Policy Number: BA 1003628	Prior Policy: 1003628
Billing Type: DIRECT BILL	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured and Mailing Address: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP 6146 E MOLLOY RD EAST SYRACUSE NY 13057	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC 423 COMMERCE RD STE 2 VESTAL NY 13850-2203 NY 13850- Agent Code: 4811644 Agent Phone: (607)-217-4610

POLICY CHANGE ENDORSEMENT

POLICY PERIOD: From: 11/01/2017 To: 11/01/2018 at 12:01 AM Standard Time at your mailing address shown above.

DESCRIPTION OF CHANGE CHANGE EFFECTIVE DATE: 10/01/2018

ADDED FORM 17-490, AMENDMENT OF CANCELLATION
 PROVISIONS FOR CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT
 AGENCY.

Original Annual Premium	\$	12,870.00		
New Annualized Premium	\$	12,870.00	NO PREMIUM CHANGE	\$ 0.00

Countersigned: By _____
Authorized Representative Date

Date Issued: 09/28/2018

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

WELCH CONSTRUCTION INC

2. Mailing Address:

PO BOX 228
4331 SLATE HILL ROAD
MARCELLUS, NY 13108

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

CAMPBELL SAVONA CENTRAL SCHOOL DISTRICT

2. Mailing Address:

8455 COUNTY ROUTE 125
CAMPBELL, NY 14821

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

HUNT ENGINEERS

2. Mailing Address:

AIRPORT CORPORATE PARK
100 HUNT CENTER
HORSEHEADS, NY 14845-1019

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

EDGER ENTERPRISES OF ELMIRA, INC.

2. Mailing Address:

330 EAST 14TH STREET
ELMIRA HEIGHTS, NY 14903

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

DIVERSE FOOD PRODUCTS LLC

2. Mailing Address:

PO BOX 5430
SYRACUSE, NY 13220

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

© 2010 Liberty Mutual Insurance. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

17-490 (10/10)

INSURED COPY

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

THE HAYNER HOYT CORPORATION

2. Mailing Address:

625 ERIE BLVD WEST
SYRACUSE, NY 13204

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

VIP STRUCTURES

2. Mailing Address:

1 WEBSTER LANDING
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

DESTINY USA REAL ESTATE LLC
C/O PYRAMID MANAGEMENT GROUP LLC

2. Mailing Address:

4 CLINTON STREET
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

EAST HAMPTON GRILL

2. Mailing Address:

99 N MAIN STREET
EAST HAMPTON, NY 11937

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

HOTEL DEVCO LLC
C/O PYRAMID MANAGEMENT GROUP LLC

2. Mailing Address:

4 CLINTON STREET
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

DGA BUILDERS LLC

2. Mailing Address:

1170 PITTSFORD-VICTOR ROAD
SUITE 100
PITTSFORD, NY 14534

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

© 2010 Liberty Mutual Insurance. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

NOCO INCORPORATED

2. Mailing Address:

ATTN: RISK MANAGEMENT
2440 SHERIDAN DRIVE
TONAWANDA, NY 14150

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

THE PIKE COMPANY

2. Mailing Address:

ONE CIRCLE STREET
ROCHESTER, NY 14607

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

- 1. **Name or Person or Organization:**
RJ ORTLIEB CONSTRUCTION CO

 - 2. **Mailing Address:**
PO BOX 682
BALDWINVILLE, NY 13027

 - 3. **Number Days Advance Notice:** 30
- All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

MURNANE BUILDING CONTRACTORS INC

2. Mailing Address:

104 SHARON AVENUE
PLATTSBURGH, NY 12901

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

DREXELBROOK ASSOCIATES LP

2. Mailing Address:

4812 DREXELBROOK DRIVE
DREXEL HILL, PA 19026

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

VISIONS HOTELS LLC

2. Mailing Address:

11751 EAST CORNING RD
CORNING, NY 14830

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

PARSONS-MCKENNA CONSTRUCTION COMPANY, INC

2. Mailing Address:

117 METROPOLITAN DRIVE
LIVERPOOL, NY 13088

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: BA 1003628	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

2. Mailing Address:

ATTN: CHAIRMAN
201 E WASHINGTON ST, 6TH FL
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.



Coverage is provided in:
PEERLESS INSURANCE COMPANY - A STOCK COMPANY

This policy has been prepared for:
GERHARZ EQUIPMENT INC,
GERHARZ FAMILY PARTNERSHIP
6146 E MOLLOY RD
EAST SYRACUSE NY 13057

Agent Name and Address:

MIRABITO-GRESHAM INS & BONDS A
GENCY LLC
423 COMMERCE RD STE 2
VESTAL NY 13850-2203

Agent Code: 4811644

Agent's Phone Number: (607)-217-4610

Your insurance policy is enclosed. Please place it with your important papers.

Thank you for selecting us to service your insurance needs!

INSURED COPY

ENDORSEMENT



Policy Number: CBP1003627	Prior Policy: 1003627
Billing Type: DIRECT BILL	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured and Mailing Address: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP 6146 E MOLLOY RD EAST SYRACUSE NY 13057 REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC 423 COMMERCE RD STE 2 VESTAL NY 13850-2203 NY 13850- Agent Code: 4811644 Agent Phone: (607)-217-4610

POLICY CHANGE ENDORSEMENT

POLICY PERIOD: From: 11/01/2017 To: 11/01/2018 at 12:01 AM Standard Time at your mailing address shown above.

DESCRIPTION OF CHANGE CHANGE EFFECTIVE DATE: 10/01/2018

ADDED FORM 17-490, AMENDMENT OF CANCELLATION PROVISIONS FOR CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY.

AMENDED NAMED INSURED PER ATTCHED FORM 17-59.

AMENDED EXPOSURES PER ATTACHED FORMS 21-7 & 22-19.

Original Annual Premium	\$	44,480.33		
New Annualized Premium	\$	35,046.95	TOTAL RETURN PREMIUM	\$ 803.98

Countersigned: By _____
Authorized Representative Date

Date Issued: 10/24/2018

ENDORSEMENT



Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

DECLARATIONS EXTENSION

FORM 17-58 NAMED INSURED SCHEDULE INCLUDES THE
FOLLOWING:
SAGE TEALL PROEPRTIES LLC

Date Issued:10/24/2018

ENDORSEMENT



Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

COMMERCIAL PROPERTY COVERAGE PART DECLARATIONS

DESCRIPTION OF PREMISES

Prem. No.	Bldg. No.	Location Occupancy, Construction/Fire Protection
1	1	6146 E MOLLOY RD ONONDAGA CO EAST SYRACUSE NY 13057 HEAT EQUIP DEALER/DISTRIBUTOR MASONRY NON-COMBUSTIBLE
2	1	642 N SALINA STREET #652 SYRACUSE NY 13218 RESTAURANT EQUIPMENT DISTRIBUTOR MASONRY NON-COMBUSTIBLE
3	1	222 TEALL AVE ONONDAGA CO SYRACUSE NY 13210 RESTAURANT EQUIPMENT DISTRIBUTOR JOISTED MASONRY

COVERAGES PROVIDED:

Insurance at the described premises applies only for coverages for which a limit of insurance is shown or for which an entry is made. (The Coinsurance column reflects Coinsurance %, Extra Expense %, Limits on Loss Payment or Value Reporting Symbol.)

Prem. No.	Bldg. No.	Coverage	Limit of Insurance	Causes of Loss Form	Coinsurance
1	1	BUILDING	\$ 2,674,920	SPECIAL	80%
1	1	YOUR BUSINESS PERSONAL PROPERTY	\$ 618,675	SPECIAL	80%
1	1	BUSINESS INCOME AND EXTRA EXPENSE OTHER THAN "RENTAL VALUE"	12 CONS MOS	SPECIAL	
2	1	YOUR BUSINESS PERSONAL PROPERTY	\$ 400,000	SPECIAL	80%
3	1	BUILDING	\$ 9,135,000	SPECIAL	90%
3	1	BUSINESS INCOME AND EXTRA EXPENSE	12 CONS MOS	SPECIAL	

21-7 (01/02)

INSURED COPY

COMMERCIAL PROPERTY COVERAGE PART DECLARATIONS (continued)

COVERAGES PROVIDED:

Insurance at the described premises applies only for coverages for which a limit of insurance is shown or for which an entry is made. (The Coinsurance column reflects Coinsurance %, Extra Expense %, Limits on Loss Payment or Value Reporting Symbol.)

Prem. No.	Bldg. No.	Coverage	Limit of Insurance	Causes of Loss Form	Coinsurance
INCLUDING "RENTAL VALUE"					

OPTIONAL COVERAGES:

Prem. No.	Bldg. No.	Coverage	Agreed Value Amount Expiration Date	Replacement Cost	Inflation Guard
1	1	BUILDING		INCLUDED	4%
1	1	YOUR BUSINESS PERSONAL PROPERTY		INCLUDED	4%
2	1	YOUR BUSINESS PERSONAL PROPERTY		INCLUDED	4%
3	1	BUILDING		INCLUDED	4%

* Replacement cost for Your Business Personal Property also applies to Stock if an asterisk (*) is present.

DEDUCTIBLE: \$ 500

EQUIPMENT BREAKDOWN COVERAGE DEDUCTIBLE – Refer to Equipment Breakdown Coverage Schedule 41-14

MORTGAGE HOLDERS: REFER TO ADDITIONAL INTERESTS SCHEDULE

FORMS AND ENDORSEMENTS

Forms and Endorsements applying to this Coverage Part and made part of this policy:

Form Number	Description
21-30A - 0207	BUSINESS INCOME COVERAGE-ACTUAL LOSS SUSTAINED
21-87A - 0307	WHOLESALE CUSTOM PROTECTOR ENDORSEMENT
41-13 - 0599	EQUIPMENT BREAKDOWN COVERAGE ENDORSEMENT
41-14 - 0599	EQUIPMENT BREAKDOWN COVERAGE ENDORSEMENT SCHEDULE
CF175 - 0186	QUICK REFERENCE-COMMERCIAL PROPERTY COVERAGE PART
CP0010 - 0695	BUILDING AND PERSONAL PROPERTY COVERAGE FORM
CP0030 - 0695	BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM
CP0090 - 0788	COMMERCIAL PROPERTY CONDITIONS
CP0178 - 0107	NEW YORK EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA
CP1030 - 0695	CAUSES OF LOSS-SPECIAL FORM
CP1032 - 0808	WATER EXCLUSION ENDORSEMENT
21-8 - 1094	ADDITIONAL INTERESTS SCHEDULE
CP1218 - 0695	LOSS PAYABLE PROVISIONS
21-100A - 0609	CUSTOM PROTECTOR ENDORSEMENT
21-115 - 0108	IDENTITY THEFT COVERAGE
21-128 - 0709	NEW YORK CHANGES
21-28 - 0399	NEW YORK CHANGES

Includes copyrighted material of Insurance Services Office, Inc. with its permission. Copyright, Insurance Services Office, Inc. 1982,1983, 1984, 1985.

Date Issued: 10/24/2018

21-7 (01/02)

INSURED COPY

COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS (continued)

PREMIUM

Class Code	Classification Description		Rates		Advance Premium		
			Prods/Comp Ops	All Other	Prods/Comp Ops	All Other	
	Premium Base	Territory Code					

NY

45631	PRIMARY NON-CONTRIBUTE FORM 22-123 (SPECIFIC)						
	IF ANY	999				\$	250

45638	PER PROJECT AGGREGATE FORM 22-127						
	IF ANY	999				\$	127

LOCATION 001

12362	DISTRIBUTORS-NO FOOD OR DRINK						
	16,000,000	021	\$ 0.237	\$ 0.200	\$ 3,792	\$	3,200
	GROSS SALES PER \$1000						

45629	ADDITIONAL INSURED COMPLETED OPS 22-135						
	IF ANY	999				\$	932

45642	ADDITIONAL INSURED FORM 22-132						
	IF ANY	999				\$	299

45676	WAIVER OF TRANSFER OF RIGHTS OF RECOVERY 22-126						
	IF ANY	999				\$	250

LOCATION 002

12362	DISTRIBUTORS-NO FOOD OR DRINK						
	3,500,000	004	\$ 0.239	\$ 0.144	\$ 837	\$	504
	GROSS SALES PER \$1000						

Audit Period: ANNUAL Total Advance Premium INCLUDED

22-19 (12/02)

INSURED COPY

ENDORSEMENT

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS (continued)

FORMS AND ENDORSEMENTS

Forms and Endorsements applying to this Coverage Part and made part of this policy:

Form Number	Description
IL0017	- 1198 COMMON POLICY CONDITIONS
17-490	- 1010 AMENDMENT OF CANCELLATION PROVISIONS
17-98	- 1202 EXCLUSION - ASBESTOS
22-106	- 0107 EACH LOCATION GENERAL AGGREGATE LIMIT
22-109	- 0608 ADDITIONAL INSURED - VENDORS
22-110NY	- 0107 CUSTOM PROTECTOR LIABILITY EXTENSION ENDORSEMENT
22-123	- 0107 AMENDMENT OF OTHER INSURANCE CONDITION
22-126	- 0108 WAIVER OF TRANSFER OF RIGHTS OR RECOVERY
22-127	- 0108 CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT
22-132	- 0411 ADDITIONAL INSURED-OWNERS, LESSEES & CONTRACTORS
22-135	- 0411 ADDITIONAL INSURED-AUTOMATIC STATUS WHEN REQUIRED
22-163	- 0111 LIMITED CYBER LIABILITY AMENDMENT
22-164	- 0910 RECORDING AND DISTRIBUTION OF MATERIAL OR INFORMATION
CG0001	- 1001 COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CG0062	- 1202 WAR LIABILITY EXCLUSION
CG0104	- 1201 NEW YORK CHANGES - PREMIUM AUDIT
CG0163	- 0711 NY CHANGES - COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CG0436	- 1001 LIMITED PRODUCT WITHDRAWAL EXPENSE ENDORSEMENT
CG2147	- 0798 EMPLOYMENT RELATED PRACTICES EXCLUSION
CG2173	- 0115 EXCLUSION OF CERTIFIED ACTS OF TERRORISM
CG2621	- 1091 NEW YORK CHANGES-TRANS OF DUTIES-WHEN A LMT OF INS USED
CG2624	- 0892 NEW YORK CHANGES-LEGAL ACTION AGAINST US

22-19 (12/02)

INSURED COPY

COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS (continued)

FORMS AND ENDORSEMENTS

Forms and Endorsements applying to this Coverage Part and made part of this policy:

Form Number	Description
CL175	- 0286 QUICK REFERENCE COMML GENERAL LIABILITY COVERAGE PART
17-59	- 0694 DECLARATIONS EXTENSION

Includes copyrighted material of Insurance Services Office, Inc. with its permission. Copyright, Insurance Services Office, Inc. 1982,1983, 1984, 1985, 2000.

Date Issued: 10/24/2018

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

EAST HAMPTON GRILL

2. Mailing Address:

99 N MAIN STREET
EAST HAMPTON, NY 11937

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

DESTINY USA REAL ESTATE LLC
C/O PYRAMID MANAGEMENT GROUP LLC

2. Mailing Address:

4 CLINTON SQUARE
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

WELCH CONSTRUCTION INC

2. Mailing Address:

PO BOX 228
4331 SLATE HILL ROAD
MARCELLUS, NY 13108

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

CAMPBELL SAVONA CENTRAL SCHOOL DISTRICT

2. Mailing Address:

8455 COUNTY ROUTE 125
CAMPBELL, NY 14821

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

HUNT ENGINEERS

2. Mailing Address:

AIRPORT CORPORATE PARK
100 HUNT CENTER
HORSEHEADS, NY 14845-1019

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

EDGER ENTERPRISES OF ELMIRA, INC.

2. Mailing Address:

330 EAST 14TH STREET
ELMIRA HEIGHTS, NY 14903

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

VIP STRUCTURES

2. Mailing Address:

1 WEBSTER LANDING
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

DIVERSE FOOD PRODUCTS, LLC

2. Mailing Address:

P.O. BOX 5430
SYRACUSE, NY 13220

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

THE HAYNER HOYT CORPORATION

2. Mailing Address:

625 ERIE BLVD WEST
SYRACUSE, NY 13204

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

HOTEL DEVCO LLC
C/O PYRAMID MANAGEMENT GROUP LLC

2. Mailing Address:

4 CLINTON SQUARE
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

DGA BUILDERS LLC

2. Mailing Address:

1170 PITTSFORD-VICTOR ROAD
SUITE 100
PITTSFORD, NY 14534

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

NOCO INCORPORATED

2. Mailing Address:

ATTN: RISK MANAGEMENT
2440 SHERIDAN DRIVE
TONAWANDA, NY 14150

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

THE PIKE COMPANY

2. Mailing Address:

ONE CIRCLE STREET
ROCHESTER, NY 14607

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

- 1. Name or Person or Organization:**
RJ ORTLIEB CONSTRUCTION CO

 - 2. Mailing Address:**
PO BOX 682
BALDWINSVILLE, NY 13027

 - 3. Number Days Advance Notice:** 30
- All other terms and conditions of this policy remain unchanged.

© 2010 Liberty Mutual Insurance. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

17-490 (10/10)

INSURED COPY

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

MURNANE BUILDING CONTRACTORS INC

2. Mailing Address:

104 SHARON AVENUE
PLATTSBURGH, NY 12901

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

DREXELBROOK ASSOCIATES LP

2. Mailing Address:

4812 DREXELBROOK DRIVE
DREXEL HILL, PA 19026

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

VISIONS HOTELS LLC

2. Mailing Address:

11751 EAST CORNING RD
CORNING, NY 14830

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

PARSONS-MCKENNA CONSTRUCTION COMPANY, INC.

2. Mailing Address:

117 METROPOLITAN DRIVE
LIVERPOOL, NY 13088

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

ITHACA DOWNTOWN ASSOC INC

2. Mailing Address:

15 FISHERS RD
SUITE 201
PITTSFORD, NY 14534

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CBP 1003627	
Coverage Is Provided In PEERLESS INSURANCE COMPANY - A STOCK COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP REFER TO NAMED INSURED SCHEDULE	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

2. Mailing Address:

ATTN: CHAIRMAN
201 E WASHINGTON ST, 6TH FL
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.



Coverage is provided in:
EXCELSIOR INSURANCE COMPANY

This policy has been prepared for:

GERHARZ EQUIPMENT INC,
GERHARZ FAMILY PARTNERSHIP
6146 E MOLLOY RD
EAST SYRACUSE NY 13057

Agent Name and Address:

MIRABITO-GRESHAM INS & BONDS A
GENCY LLC
423 COMMERCE RD STE 2
VESTAL NY 13850-2203

Agent Code: 4811644

Agent's Phone Number: (607)-217-4610

Your insurance policy is enclosed. Please place it with your important papers.

Thank you for selecting us to service your insurance needs!

INSURED COPY

ENDORSEMENT



Policy Number: CU 8871385	Prior Policy: 8871385
Billing Type: DIRECT BILL	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured and Mailing Address: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP 6146 E MOLLOY RD EAST SYRACUSE NY 13057	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC 423 COMMERCE RD STE 2 VESTAL NY 13850-2203 NY 13850- Agent Code: 4811644 Agent Phone: (607)-217-4610

POLICY CHANGE ENDORSEMENT

POLICY PERIOD: From: 11/01/2017 To: 11/01/2018 at 12:01 AM Standard Time at your mailing address shown above.

DESCRIPTION OF CHANGE CHANGE EFFECTIVE DATE: 10/01/2018

ADDED FORM 17-490, AMENDMENT OF CANCELLATION
 PROVISIONS FOR CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT
 AGENCY.

Original Annual Premium	\$	3,001.00		
New Annualized Premium	\$	3,001.00	NO PREMIUM CHANGE	\$ 0.00

Countersigned: By _____
Authorized Representative Date

Date Issued: 09/28/2018

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

EAST HAMPTON GRILL

2. Mailing Address:

99 N MAIN STREET
EAST HAMPTON, NY 11937

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

DESTINY USA REAL ESTATE GROUP LLC
C/O PYRAMID MANAGEMENT GROUP LLC

2. Mailing Address:

4 CLINTON SQUARE
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

WELCH CONSTRUCTION INC

2. Mailing Address:

PO BOX 228
4331 SLATE HILL ROAD
MARCELLUS, NY 13108

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

CAMPBELL SAVONA CENTRAL SCHOOL DISTRICT

2. Mailing Address:

8455 COUNTY ROUTE 125
CAMPBELL, NY 14821

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

HUNT ENGINEERS

2. Mailing Address:

AIRPORT CORPORATE PARK
100 HUNT CENTER
HORSEHEADS, NY 14845-1019

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

EDGER ENTERPRISES OF ELMIRA INC.

2. Mailing Address:

330 EAST 14TH STREET
ELMIRA HEIGHTS, NY 14903

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

VIP STRUCTURES

2. Mailing Address:

1 WEBSTER LANDING
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

THE HAYNER HOYT CORPORATION

2. Mailing Address:

625 ERIE BLVD WEST
SYRACUSE, NY 13204

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

DIVERSE FOOD PRODUCTS LLC

2. Mailing Address:

P.O. BOX 5430
SYRACUSE, NY 13220

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

HOTEL DEVCO LLC
C/O PYRAMID MANAGEMENT GROUP LLC

2. Mailing Address:

4 CLINTON SQUARE
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

DGA BUILDERS LLC

2. Mailing Address:

1170 PITTSFORD-VICTOR ROAD
SUITE 100
PITTSFORD, NY 14534

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

NOCO INCORPORATED

2. Mailing Address:

ATTN: RISK MANAGEMENT
2440 SHERIDAN DRIVE
TONAWANDA, NY 14150

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

THE PIKE COMPANY

2. Mailing Address:

ONE CIRCLE STREET
ROCHESTER, NY 14607

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

RJ ORTLIEB CONSTRUCTION CO

2. Mailing Address:

PO BOX 682
BALDWINSVILLE, NY 13027

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

MURNANE BUILDING CONTRACTORS INC

2. Mailing Address:

104 SHARON AVENUE
PLATTSBURGH, NY 12901

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

DREXELBROOK ASSOCIATES LP

2. Mailing Address:

4812 DREXELBROOK DRIVE
DREXEL HILL, PA 19026

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

VISIONS HOTELS LLC

2. Mailing Address:

11751 EAST CORNING RD
CORNING, NY 14830

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

© 2010 Liberty Mutual Insurance. All rights reserved.
Includes copyrighted material of Insurance Services Office, Inc. with its permission.

17-490 (10/10)

INSURED COPY

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

PARSONS-MCKENNA CONSTRUCTION COMPANY, INC.

2. Mailing Address:

117 METROPOLITAN DRIVE
LIVERPOOL, NY 13088

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

Forming a part of

Policy Number: CU 8871385	
Coverage Is Provided In EXCELSIOR INSURANCE COMPANY	
Named Insured: GERHARZ EQUIPMENT INC, GERHARZ FAMILY PARTNERSHIP	Agent: MIRABITO-GRESHAM INS & BONDS A GENCY LLC Agent Code: 4811644 Agent Phone: (607)-217-4610

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

- A. If we cancel this policy for any reason other than nonpayment of premium, we will notify the person or organization shown in the Schedule below. In no event will the notice to the person or organization scheduled below exceed the notice to the first named insured.
- B. Our obligation to send notice to the person or organization listed in the Schedule below will terminate at the earlier of the current policy period expiration or when you no longer have a legal or contractual obligation to such person or organization to maintain insurance coverage under a policy which requires that such person or organization be notified in the event of cancellation.

SCHEDULE

1. Name or Person or Organization:

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

2. Mailing Address:

ATTN: CHAIRMAN
201 E WASHINGTON ST, 6TH FL
SYRACUSE, NY 13202

3. Number Days Advance Notice: 30

All other terms and conditions of this policy remain unchanged.

ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT

THIS ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT (the "*Agreement*") is made as of the 1st day of November, 2018, between SAGE TEALL PROPERTIES, LLC (the "*Indemnitor*" or the "*Company*"), for the benefit of the CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY (the "*Agency*").

RECITALS

WHEREAS, the Agency has undertaken at the request of the Indemnitor, a project (the "*Project*") consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York, as more fully described on Schedule A attached hereto (the "*Land*"); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the "*Facility*"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "*Equipment*" and together with the Land and the Facility, the "*Project Facility*"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the "*Financial Assistance*"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

NOW, THEREFORE, in consideration of the premises, Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Indemnitor, intending to be legally bound, hereby agrees as follows:

1. **Recitals; Definitions.**

(a) The foregoing recitals are incorporated into this Agreement by this reference.

(b) Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Table of Definitions attached to the Agency Lease as Exhibit "C."

2. **Representations and Warranties.**

(a) Except as disclosed in the reports listed in Schedule B annexed hereto, Indemnitor represents and warrants that it has no knowledge of any deposit, storage, disposal, burial, discharge, spillage, uncontrolled loss, seepage or filtration of oil, petroleum or chemical liquids or solids, liquid or gaseous products or any hazardous wastes or hazardous substances

(collectively, “*Hazardous Substances*”), as those terms are used in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or in any other federal, state or local law governing hazardous substances, as such laws may be amended from time to time (collectively, the “*Hazardous Waste Laws*”), at, upon, under or within the Project Facility or any contiguous real estate, and (ii) it has not caused or permitted to occur, and shall not permit to exist, any condition which may cause a discharge of any Hazardous Substances at, upon, under or within the Project Facility or on any contiguous real estate.

(b) Except as disclosed in the reports listed on Schedule B annexed hereto, Indemnitor further represents and warrants that (i) it has not been nor will be involved in operations at or near the Project Facility which operations could lead to (A) the imposition of liability on Indemnitor or on any subsequent or former owner of the Project Facility or (B) the creation of a lien on the Project Facility under the Hazardous Waste Laws or under any similar laws or regulations; and (ii) it has not permitted, and will not permit, any tenant or occupant of the Project Facility to engage in any activity that could impose liability under the Hazardous Waste Laws on such tenant or occupant, on Agency, the Indemnitor or on any other owner of any of the Project Facility.

3. **Covenants.**

(a) Indemnitor shall comply strictly and in all respects with the requirements of the Hazardous Waste Laws and related regulations and with all similar laws and regulations and shall notify Agency immediately in the event of any discharge or discovery of any Hazardous Substance at, upon, under or within the Project Facility which is not otherwise already disclosed in Schedule B. Indemnitor shall promptly forward to Agency copies of all orders, notices, permits, applications or other communications and reports in connection with any discharge or the presence of any Hazardous Substance or any other matters relating to the Hazardous Waste Laws or any similar laws or regulations, as they may affect the Project Facility.

(b) Promptly upon the written request of Agency, Indemnitor shall provide Agency, at Indemnitor’s expense, with an environmental site assessment or environmental audit report prepared by an environmental engineering firm acceptable to the requesting Person, to assess with a reasonable degree of certainty the presence or absence of any Hazardous Substances and the potential costs in connection with abatement, cleanup or removal of any Hazardous Substances found on, under, at or within the Project Facility.

4. **Indemnity.**

(a) Indemnitor shall at all times indemnify and hold harmless Agency against and from any and all claims, suits, actions, debts, damages, costs, losses, obligations, judgments, charges, and expenses, of any nature whatsoever suffered or incurred by Agency, whether as contract vendor, owner, mortgagee, as mortgagee in possession, or as successor-in-interest to Indemnitor by foreclosure deed or deed in lieu of foreclosure, under or on account of the Hazardous Waste Laws or any similar laws or regulations, including the assertion of any lien thereunder, with respect to:

(1) any discharge of Hazardous Substances, the threat of a discharge of any Hazardous Substances, or the presence of any Hazardous Substances affecting the Project Facility whether or not the same originates or emanates from the Project Facility or any contiguous real estate including any loss of value of the Project Facility as a result of any of the foregoing;

(2) any costs of removal or remedial action incurred by the United States Government or any costs incurred by any other person or damages from injury to, destruction of, or loss of natural resources, including reasonable costs of assessing such injury, destruction or loss incurred pursuant to any Hazardous Waste Laws;

(3) liability for personal injury or property damage arising under any statutory or common law tort theory, including, without limitation, damages assessed for the maintenance of a public or private nuisance or for the carrying on of an abnormally dangerous activity at or near the Project Facility; and/or

(4) any other environmental matter affecting the Project Facility within the jurisdiction of the Environmental Protection Agency, any other federal agency, or any state or local agency.

The obligations of Indemnitor under this Agreement shall arise whether or not the Environmental Protection Agency, any other federal agency or any state or local agency has taken or threatened any action in connection with the presence of any Hazardous Substances.

(b) In the event of any discharge of Hazardous Substances, the threat of a discharge of any Hazardous Substances, or the presence of any Hazardous Substances affecting the Project Facility, whether or not the same originates or emanates from the Project Facility or any contiguous real estate, and/or if Indemnitor shall fail to comply with any of the requirements of the Hazardous Waste Laws or related regulations or any other environmental law or regulation, Agency may at its election, but without the obligation so to do, give such notices and/or cause such work to be performed at the Project Facility and/or take any and all other actions as Agency shall deem necessary or advisable in order to abate the discharge of any Hazardous Substance, remove the Hazardous Substance or cure the noncompliance of Indemnitor.

(c) Indemnitor acknowledges that Agency has relied upon the representations, warranties, covenants and indemnities of Indemnitor in this Agreement. All of the representations, warranties, covenants and indemnities of this Agreement shall survive the repayment of Indemnitor's obligations under the Agency Lease or other Company Documents.

5. **Attorney's Fees.** If Agency retains the services of any attorney in connection with the subject of the indemnity herein, Indemnitor shall pay Agency's costs and reasonable attorneys' fees thereby incurred. Agency may employ an attorney of its own choice.

6. **Interest.** In the event that Agency incurs any obligations, costs or expenses under this Agreement, Indemnitor shall pay such Person immediately on demand, and if such payment is not received within ten (10) days, interest on such amount shall, after the expiration of the ten-

day period, accrue at the interest rate set forth in the Agency Lease until such amount, plus interest, is paid in full.

7. **No Waiver.** Notwithstanding any terms of the Company Documents to the contrary, the liability of Indemnitor under this Agreement shall in no way be limited or impaired by: (i) any extensions of time for performance required by any of the Company Documents; (ii) any sale, assignment or foreclosure of the Agency Lease or any sale or transfer of all or part of the Project Facility; (iii) the accuracy or inaccuracy of the representations and warranties made by Indemnitor under any of the Company Documents; or (iv) the release of Indemnitor or any other person from performance or observance of any of the agreements, covenants, terms or conditions contained in the Company Documents by operation of law, Agency's voluntary act, or otherwise; and, in any such case, whether with or without notice to Indemnitor and with or without consideration.

8. **Waiver by Indemnitor.** Indemnitor waives any right or claim of right to cause a marshalling of Indemnitor's assets or to cause Agency to proceed against any of the security for the Agency Lease before proceeding under this Agreement against Indemnitor or to proceed against Indemnitor in any particular order; Indemnitor agrees that any payments required to be made hereunder shall become due on demand; Indemnitor expressly waives and relinquishes all rights and remedies (including any rights of subrogation) accorded by applicable law to indemnitors or guarantors.

9. **Releases.** Any one or more of Indemnitor and any other party liable upon or in respect of this Agreement or the Agency Lease may be released without affecting the liability of any party not so released.

10. **Amendments.** No provision of this Agreement may be changed, waived, discharged or terminated orally, by telephone or by any other means except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

11. **Joint and Several Liability.** In the event that this Agreement is executed by more than one party as Indemnitor, the liability of such parties is joint and several. A separate action or actions may be brought and prosecuted against each Indemnitor, whether or not an action is brought against any other person or whether or not any other person is joined in such action or actions.

12. **Consent to Jurisdiction.** Indemnitor consents to the exercise of personal jurisdiction over Indemnitor by any federal or state court in the State of New York and consent to the laying of venue in any jurisdiction or locality in the City of Syracuse. Service shall be effected by any means permitted by the court in which any action is filed.

13. **Notices.** All notices, certificates, and other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the Person who attempted to effect such delivery. The

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

(a) If to the Agency, to:

City of Syracuse Industrial Development Agency
201 East Washington Street, 6th Floor
Syracuse, New York 13202
Attention: Chairman

With a copy to:

City of Syracuse
233 East Washington Street
Syracuse, New York 13202
Attn: Corporation Counsel

and

Bousquet Holstein PLLC
110 West Fayette Street, Suite 1000
Syracuse, New York 13202
Attn: Susan R. Katzoff, Esq.

(b) To the Company:

Sage Teall Properties, LLC
6146 East Molloy Road
East Syracuse, New York 13057
Attn: Scott Gerharz, Manager

With a copy to:

Bond, Schoeneck & King PLLC
One Lincoln Center
110 West Fayette Street
Syracuse, New York 13202
Attn: Kevin Pole, Esq.

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.

14. **Waivers.** The parties waive trial by jury in any action brought on, under or by virtue of this Agreement. Indemnitor waives any right to require Agency at any time to pursue any remedy in such Person's power whatsoever. The failure of Agency to insist upon strict compliance with any of the terms hereof shall not be considered to be a waiver of any such

terms, nor shall it prevent Agency from insisting upon strict compliance with this Agreement or any other Company Document at any time thereafter.

15. **Severability**. If any clause or provisions herein contained operates or would prospectively operate to invalidate this Agreement in whole or in part, then such clause or provision shall be held for naught as though not contained herein, and the remainder of this Agreement shall remain operative and in full force and effect.

16. **Inconsistencies Among the Company Documents**. Nothing contained herein is intended to modify in any way the obligations of Indemnitor under the Agency Lease or any other Company Document. Any inconsistencies among the Company Documents shall be construed, interpreted and resolved so as to benefit Agency.

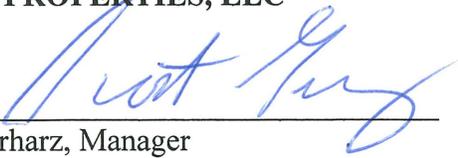
17. **Successors and Assigns**. This Agreement shall be binding upon Indemnitor's successors, assigns, heirs, personal representatives and estate and shall inure to the benefit of Agency and its successors and assigns.

18. **Controlling Laws**. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[Remainder of page intentionally left blank]

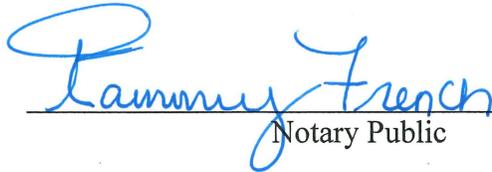
IN WITNESS WHEREOF, Indemnitor has executed this Agreement as of the date first above written.

SAGE TEALL PROPERTIES, LLC

By: 
Scott Gerharz, Manager

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

On the 12 day of November, in the year 2018 before me, the undersigned, a notary public in and for said state, personally appeared Scott Gerharz, 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

TAMMY FRENCH
Notary Public - State of New York
No. 01FR6300646
Qualified in Oswego County
My Commission Expires 08/22/2022

SCHEDULE "A"

LEGAL DESCRIPTION

ALL that tract or parcel of land, situate in the City of Syracuse, (formerly part of Lot No. 223 of the Salt Springs Reservation), County of Onondaga and State of New York, bounded and described as follows: beginning at a point in the easterly line of Teall Avenue at the intersection of the northerly line of Lynch Street and the easterly line of Teall Avenue; thence N 03° 19' 30" W along Teall Avenue a distance of 396.64 feet to a point; thence N 66° 31' 00" E a distance of 473.51 feet to a point; thence S 03° 16' 38" E a distance of 141.58 feet to a point; thence S 08° 20' 35" W a distance of 82.0 feet to a point; thence S 17° 32' 39" W a distance of 91.84 feet to a point; thence N 66° 28' 00" E a distance of 55.92 feet to a point; thence S 21° 53' 40" E a distance of 100.04 feet to a point in the northerly line of Lynch Street; thence S 66° 28' 00" W along Lynch Street a distance of 510.87' to a point in the east line of Teall Avenue, said point being the place and point of beginning.

SCHEDULE "B"

EXCEPTIONS

Environmental conditions disclosed in the following reports which are on file with the Agency:

1. Limited Subsurface Investigation Report dated November 16, 2017, prepared by Certified Environmental Services, Inc.
2. Completed Project Document Package prepared by CRAL Contracting, Inc.
3. Limited Hazardous Materials Pre-Renovation Survey Report, dated October 4, 2018, prepared by Arctic Enterprises, Inc.

CLOSING RECEIPT

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY LEASE/SUBLEASE TRANSACTION GERHARZ EQUIPMENT PROJECT

CLOSING RECEIPT executed November __, 2018 by the City of Syracuse Industrial Development Agency (the "**Agency**") and **SAGE TEALL PROPERTIES, LLC** (the "**Company**") in connection with a certain project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

WITNESSETH:

(1) The Agency has executed, delivered, sealed and acknowledged, where appropriate, the documents to which it is a party, and acknowledges receipt from the Company of its administrative fee.

(2) The Company has executed, delivered, sealed and acknowledged, where appropriate, the documents to which it is a party.

(Signature page to Closing Receipt)

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By:  _____
Honora Spillane, Executive Director

SAGE TEALL PROPERTIES, LLC

By: _____
Scott Gerharz, Manager

(Signature page to Closing Receipt)

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Honora Spillane, Executive Director

SAGE TEALL PROPERTIES, LLC

By:  _____
Scott Gerharz, Manager

City of Syracuse
Industrial Development Agency
City Hall Commons, 6th Floor
201 East Washington Street
Syracuse, NY 13202
Tel (315) 473-3275 Fax (315) 435-3669

November 1, 2018

Sage Teall Properties, LLC
6146 East Molloy Road
East Syracuse, New York 13057
Attn: Scott Gerharz, Manager

Re: City of Syracuse Industrial Development Agency
Sage Teall Properties, LLC
Gerharz Equipment Project
Sales Tax Appointment Letter

Dear Mr. Gerharz:

Pursuant to a resolution duly adopted on August 21, 2018, the City of Syracuse Industrial Development Agency (the “**Agency**”) appointed Sage Teall Properties, LLC (the “**Company**”) the true and lawful agent of the Agency to undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

November 1, 2018

Page 2

The amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved by the Agency for the benefit of the Project shall not exceed **\$96,000**.

This appointment includes, and this letter evidences, authority to purchase on behalf of the Agency all materials to be incorporated into and made an integral part of the Project Facility and the following activities as they relate to any reconstruction, renovation, improvement, equipping and completion of any of any buildings, whether or not any materials, equipment or supplies described below are incorporated into or become an integral part of such buildings: (1) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with reconstruction, renovation, improvement and equipping; (2) all purchases, rentals, uses or consumption of supplies, materials, utilities and services of every kind and description used in connection with reconstruction, renovation, improvement and equipping; and (3) all purchases, leases, rentals and uses of equipment, machinery and other tangible personal property (including installation costs), installed or placed in, upon or under such building or facility, including all repairs and replacements of such property, and with respect to such specific purchases or rentals, are exempt from any sales or use tax imposed by the State of New York or any governmental instrumentality located within the State of New York.

This agency appointment includes the power to delegate such agency, in whole or in part, to a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "***Additional Agents***"). Additional Agents must be specifically appointed by the Company in accordance and compliance with the terms of the Agency Lease dated as of November 1, 2018 by and between the Agency and the Company (the "***Agency Lease***"). The Company hereby agrees to complete "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (Form ST-60) for itself and each Additional Agent who provide materials, equipment, supplies or services to the Project Facility and deliver said form to the Agency within fifteen (15) days of appointment such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment. The Agency's obligation to execute any Form ST-60 relative to an Additional Agent is subject to the satisfaction of the conditions in the Agency Lease relative to such appointments.

The Company agrees, whenever requested by the Agency, to provide, or cause its Additional Agents to provide and certify, or cause to be certified, such information regarding use of local labor, job creation, exemptions from State and local sales and use tax, real property taxes and mortgage recording taxes 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 law or governmental regulation, including but not limited to those required by §875 of the Act.

The Company acknowledges and agrees that pursuant to Section 875(3) of the Act, and in conjunction with the Agency’s Recapture of Benefits Policy (the “**Recapture Policy**”) dated as of June 21, 2016 and the Project Agreement between the Agency and the Company dated as of November 1, 2018, the Agency shall, and in some circumstances may, recover, recapture, receive or otherwise obtain from the Company some or all of the Financial Assistance (the “**Recapture Amount**”).

Each supplier or vendor should identify the Project Facility on each bill or invoice and indicate thereon which of the Company or its Additional Agents acted as agent for the Agency in making the purchase.

In order to be entitled to use this exemption, you and each Additional Agent should present to the supplier or other vendor of materials for the Project Facility, a completed “IDA Agent or Project Operator Exempt Purchase Certificate” (Form ST-123).

In addition, General Municipal Law §874(8) requires you to file an Annual Statement with the New York State Department of Taxation and Finance (“**NYS DTF**”) on “Annual Report of Sales and Use Tax Exemptions” (Form ST-340) regarding the value of sales and use tax exemptions you and your Additional Agents have claimed pursuant to the agency we have conferred on you with respect to this Project. The penalty for failure to file such statement is the removal of your authority to act as our agent. In addition, you must provide a copy of the completed Form ST-340 to the Agency within ten (10) days of the date it is due to be filed with the NYS DTF.

The agency created by this letter is limited to the Project Facility and will expire on the earlier of: (i) sixty (60) days after the issuance of a certificate of occupancy or similar document by the applicable municipality in which the Project Facility is located; or (i) **April 1, 2020 based on the schedule below¹**; unless the Agency Lease is terminated early in accordance with its terms in which case this appointment shall terminate at that time.

¹

<u>Description</u>	<u>Estimated Completion Date</u>	<u>Estimated Costs</u>		<u>Estimated Sales Tax Exemption Needed</u>	
		<u>Construction</u>	<u>FF&E</u>	<u>Construction</u>	<u>FF&E</u>
Exterior work and Company-controlled space	July 1, 2019	\$1,950,000	\$230,000	\$47,000 (by 07/01/19)	\$18,400 (by 07/01/19)
Leased space	April 1, 2020	\$850,000	\$120,000	\$21,000 (by 04/01/20)	\$9,600 (by 04/01/20)

Any portion of the amounts to be used by July 1, 2019 not expended shall be forfeited unless an extension is obtained as set forth in Section 3.01 of the Project Agreement between the Agency and the Company dated as of November 1, 2018.

November 1, 2018

Page 4

This letter is provided for the sole purpose of evidencing, in part, the exemption from New York State Sales and Use Taxes **for this project only**. No other principal/agent relationship is intended or may be implied or inferred by this letter.

The Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder. By acceptance of this letter, the vendor hereby acknowledges the limitations on liability described herein.

Very truly yours,

CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By:



Honora Spillane, Executive Director



IDA Appointment of Project Operator or Agent For Sales Tax Purposes

The industrial development agency or authority (IDA) **must** submit this form within **30 days** of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

For IDA use only

IDA information

Name of IDA City of Syracuse Industrial Development Agency			IDA project number (use OSC numbering system for projects after 1998) 31021805	
Street address 201 E. Washington Street, 6th Floor			Telephone number (315) 448-8127	
City Syracuse	State NY	ZIP code 13202	Email address (optional)	

Project operator or agent information

Name of IDA project operator or agent Sage Teall Properties, LLC		Mark an X in the box if directly appointed by the IDA: <input checked="" type="checkbox"/>	Employer identification or Social Security number 83-1824176	
Street address 6146 East Molloy Road		Telephone number (315) 463-6039	Primary operator or agent? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
City Syracuse	State NY	ZIP code 13202	Email address (optional)	

Project information

Name of project Gerharz Equipment Project			
Street address of project site 220-22 Teall Avenue			
City Syracuse	State NY	ZIP code	Email address (optional)
Purpose of project other - commercial			

Description of goods and services intended to be exempted from New York State and local sales and use taxes building materials, equipment, fixtures and furnishings installed in and at the Project Facility			
Date project operator or agent appointed (mmddyy) 110118	Date project operator or agent status ends (mmddyy) 040120	Mark an X in the box if this is an extension to an original project: <input checked="" type="checkbox"/>	
Estimated value of goods and services that will be exempt from New York State and local sales and use tax: 1,200,000.00		Estimated value of New York State and local sales and use tax exemption provided: 96,000.00	

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer or employee signing on behalf of the IDA Honora Spillane		Print title Executive Director	
Signature 	Date 11/7/18	Telephone number (315) 448-8127	



BOUSQUET HOLSTEIN PLLC

110 WEST FAYETTE STREET • ONE LINCOLN CENTER • SUITE 1000 • SYRACUSE, NEW YORK 13202 • PH: 315.422.1500 • FX: 315.422.3549*

November 14, 2018

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7017 0530 0000 5692 7141

New York State Tax Department
IDA Unit
Building 8, Room 738
W.A. Harriman Campus
Albany, New York 12227

Re: IDA Appointment of Project Operator or Agent for Sales Tax Purposes
City of Syracuse Industrial Development Agency Appointment of
Sage Teall Properties, LLC
Gerharz Equipment Project

Dear Ladies and Gentlemen:

Enclosed for filing on behalf of the City of Syracuse Industrial Development Agency, please find form ST-60 in connection with the appointment by the IDA of Sage Teall Properties, LLC as its agent for sales tax purposes in connection with the IDA project identified therein.

Please do not hesitate to contact me with any questions. Thank you.

Very truly yours,

Susan R. Katzoff

SRK:llm
Enclosure

LAURENCE G. BOUSQUET
PHILIP S. BOUSQUET
CECELIA R. S. CANNON
CHRISTINE WOODCOCK DETTOR
JEAN S. EVERETT #
AARON D. FRISHMAN •
DAVID A. HOLSTEIN
SUSAN R. KATZOFF
EMILEE K. LAWSON HATCH ###
SHARON A. McAULIFFE
L. MICHA ORDWAY, JR.
STEVEN A. PAQUETTE
J.P. PARASCHOS
PAUL M. PREDMORE
JAMES L. SONNEBORN
RYAN S. SUSER
THOMAS E. TAYLOR ..
JOHN L. VALENTINO
ROBERT K. WEILER
JOSHUA S. WERBECK

OF COUNSEL:

VIRGINIA A. HOVEMAN
KAVITHA JANARDHAN
GARY J. LAVINE ..
BRYN LOVEJOY-GRINNELL
SIDNEY L. MANES
JANA K. McDONALD +
ANNA V. PUTINSEVA
CATERINA A. RANIERI
EVA K. WOJTALEWSKI

ASSOCIATES:

CAMERON T. BERNARD
REBECCA R. COHEN ...
GEORGIA G. CRINNIN
GREGORY D. ERIKSEN
COLLEEN M. GIBBONS
GWEN Z. GOU
NATALIE P. HEMPSON-ELLIOTT
CASEY A. JOHNSON
IRENE K. KABUNDUH
JULIA J. MARTIN
AIDAN C. MITCHELL-EATON
KEVIN M. SAYLES
MICHAEL W. TYSZKO
JANE YUE ZHANG

ALSO ADMITTED TO CO BAR •
ALSO ADMITTED TO DC BAR ..
ALSO ADMITTED TO MA ...
ALSO ADMITTED TO IL BAR
ALSO ADMITTED TO FL BAR
ALSO ADMITTED TO CA BAR

ALSO ADMITTED TO THE NJ BAR
ALSO ADMITTED TO DC, FL & NJ BAR +
ALSO ADMITTED TO DC, MA & PA BAR ++
ALSO ADMITTED TO CO & MA BAR ###
NOT FOR SERVICE OF PROCESS *

WWW.BHLAWPLLC.COM

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

New York State Tax Department
 IDA Unit
 Building 8, Room 738
 W.A. Harriman Campus
 Albany, New York 12227



9590 9402 3800 8032 2235 97

2. Article Number (Transfer from service label)

7017 0530 0000 5692 7141

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

REC'D NY TAX DEPT.

- D. Is delivery address different from item 1? Yes
- If YES, enter delivery address below: No

NOV 19 2018

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE ✓

Certified Mail Fee \$ _____

Extra Services & Fees (check box, add fee as appropriate)

- Return Receipt (hardcopy) \$ _____
- Return Receipt (electronic) \$ _____
- Certified Mail Restricted Delivery \$ _____
- Adult Signature Required \$ _____
- Adult Signature Restricted Delivery \$ _____

Postage \$ _____

Total Postage and Fee \$ _____

Sent To _____

Street and Apt. No., or _____

City, State, ZIP+4® _____

New York State Tax Department
 DA Unit
 Building 8, Room 738
 W.A. Harriman Campus
 Albany, New York 12227

FEDERAL FINANCE STATION
 SYRACUSE, NY
 NOV 19 2018
 Postmark Here

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

7017 0530 0000 5692 7141

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

and

SAGE TEALL PROPERTIES, LLC

PAYMENT IN LIEU OF TAX AGREEMENT

Dated as of: November 1, 2018

SAGE TEALL PROPERTIES, LLC

Federal Tax ID #: 83-1824176

THIS PAYMENT IN LIEU OF TAX AGREEMENT, (this *“Agreement”*) dated as of November 1, 2018 by and among the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation organized and existing under the laws of the State of New York (hereinafter referred to as the *“Agency”*), having an office at 201 East Washington Street, 6th Floor, Syracuse, New York 13202 and **SAGE TEALL PROPERTIES, LLC**, a limited liability company organized under the laws of the State of New York, with offices at 6146 East Molloy Road, East Syracuse, New York 13057 (hereinafter referred to as the *“Company”*).

W I T N E S S E T H:

WHEREAS, the New York State Industrial Development Agency Act, being Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of the State of New York, as amended (hereinafter referred to as the *“Enabling Act”*) authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and furnish real and personal property, whether or not now in existence or under construction, which shall be suitable for, among others, manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their recreation opportunities, prosperity and standard of living; and

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

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, Chapter 641 of the 1979 Laws of the State of New York, as amended (said chapter and the Enabling Act being hereinafter collectively referred to as the *“Act”*) created the Agency for the benefit of the City of Syracuse (hereinafter referred to as the *“Municipality”*) and the inhabitants thereof; and

WHEREAS, the Agency, by Resolution adopted on August 21, 2018, (the *“Resolution”*), resolved to undertake the *“Project”* (as hereinafter defined); and

WHEREAS, the Project will consist of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency will lease the Land and Facility from the Company pursuant to that certain Company Lease Agreement dated as of November 1, 2018 (the “**Company Lease Agreement**”), between the Company and the Agency, obtain an interest in the Equipment pursuant to a bill of sale dated as of November 1, 2018 from the Company (the “**Bill of Sale**”), and sublease the Project Facility back to the Company pursuant to that certain Agency Lease Agreement dated as of November 1, 2018 (the “**Agency Lease Agreement**”), between the Agency and the Company (the Company Lease Agreement, the Bill of Sale and the Agency Lease Agreement are hereinafter collectively referred to as the “**Lease Agreements**”); and

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

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

ARTICLE I

REPRESENTATIONS AND WARRANTIES

Section 1.01. Representations and Warranties by Agency

The Agency does hereby represent and warrant as follows:

(a) Existence and Power. The Agency has been duly established under the provisions of the Act and has the power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

(b) Intentions. The Agency intends to acquire a leasehold interest in the Project Facility from the Company and to sublease the Project Facility back to the Company, all pursuant to the provisions of the Lease Agreements.

(c) Authorization. The Agency is authorized and has the corporate power under the Act, its by-laws and the laws of the State of New York to enter into this Agreement and the transactions contemplated hereby and to perform and carry out all the covenants and obligations on its part to be performed under and pursuant to this Agreement. By proper corporate action on the part of its members, the Agency has duly authorized the execution, delivery and performance of this Agreement and the consummation of the transactions herein contemplated.

(d) Validity. The Agency is not prohibited from entering into this Agreement and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement by the terms, conditions or provisions of the Act, any other law, any order of any court or other agency or authority of government, or any agreement or instrument to which the Agency is a party or by which the Agency is bound, and this Agreement is a legal, valid and binding obligation of the Agency enforceable in accordance with its terms.

Section 1.02. Representations and Warranties by Company

The Company does hereby represent and warrant as follows:

(a) Existence. The Company is a New York limited liability company duly organized, validly existing and in good standing under the laws of the State of New York.

(b) Authorization. The Company is authorized and has the power under the laws of the

State of New York to enter into this Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement. The Company has duly authorized the execution, delivery and performance of the Lease Agreements, this Agreement and the other Company Documents (as that term is defined in the Agency Lease), and the consummation of the transactions therein and herein contemplated. The Company is not prohibited from entering into this Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement by (and the execution, delivery and performance of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Agreement will not conflict with or violate or constitute a breach of or a default under) the terms, conditions or provisions of its Articles of Organization, Operating Agreement or any other restriction or any law, rule, regulation or order of any court or other agency or authority of government, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which the Company is a party or by which it or any of its property is bound, and the Company's discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement will neither be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any of the foregoing, nor result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any of the foregoing, and this Agreement is a legal, valid and binding obligation of the Company enforceable in accordance with its terms.

(c) Title. The Company has valid and marketable fee title to the Project Facility, free and clear of all liens and encumbrances except for Permitted Encumbrances (as defined in the Lease Agreements).

(d) Governmental Consent. No further consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Company is required as a condition to the execution, delivery or performance of this Agreement by the Company or as a condition to the validity of this Agreement.

ARTICLE II
COVENANTS AND AGREEMENTS

Section 2.01. Tax-Exempt Status of the Project Facility

(a) Assessment of the Project Facility. Pursuant to the Act and Section 412-a of the Real Property Tax Law, the parties hereto understand that, upon acquisition of ownership or control of the Project Facility by the Agency, and for so long thereafter as the Agency shall own or control the Project Facility, the Project Facility shall be entitled to an exemption upon the first available assessment roll of the Municipality prepared subsequent to the acquisition by the Agency of ownership or control of the Project Facility. The time of commencement of the Agency's exemption shall be controlled by the Municipality's taxable status date, in conformity with Section 412-a of the Real Property Tax Law. The Company will be required to pay to the Municipality all taxes and assessments lawfully levied and/or assessed against the Project Facility, in spite of the Agency's actual ownership or control of the Project Facility, until the Project Facility shall be entitled to exempt status on the tax roll of the Municipality.

(b) Special Assessments. The parties hereto understand that the tax exemption extended to the Agency by the Act and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies. The Company will be required at all times to pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Project Facility.

Section 2.02. Payments in Lieu of Taxes

(a) Agreement to Make Payments. The Company agrees that it shall make periodic payments in lieu of real property taxes in the amounts hereinafter provided. The said payments due to the Agency hereunder shall be paid by the Company, to the Municipality, on behalf of the Agency, by check made payable to "*Commissioner of Finance*". Upon receipt of the Company's payment, the Municipality, on behalf of the Agency, will disburse the appropriate portion of the said payment to the County of Onondaga and the Municipality, or such other taxing jurisdiction, pursuant to the Act. This Company obligation shall exist for so long as the Agency retains an interest in the Project Facility. Notwithstanding the appearance of the Agency's exemption on the Municipality's tax roll for the 2018/2019 City and School portion of the real property tax due on the Land and Facility, the year 1 payment due for the City and School portion of the year 1 payment

under **Exhibit "A"** shall commence on July 1, 2019. The year 1 payment due for the County and Water District portion of the year 1 payment under **Exhibit "A"** shall commence on January 1, 2020. Without regard to the Agency exemption, the Company shall continue paying real property tax through June 30, 2019 with respect to the City and School portion of the real property tax and through December 31, 2019 with respect to the County and Water District portion of the real property tax, based upon the assessment and the combined real property tax rate in effect for that period as if the Project Facility were privately owned and the Agency had no interest in the same.

(b) Amount of Payments in Lieu of Taxes. Unless otherwise stated, the Company's agreed upon annual payment in lieu of tax hereunder shall be an amount determined by reference to **Exhibit "A"**, attached hereto and made a part hereof. The payments in lieu of tax due, as set forth in **Exhibit "A"**, include any real property tax exemptions that might be afforded to the Company if the Project Facility were owned by the Company and not the Agency. As consideration for the benefits conferred on the Company pursuant to this Agreement, the Company hereby agrees to be bound by any determination by the City of Syracuse Board of Assessment Review resulting from a review of the assessment pertaining to the Project Facility and/or Additional Property throughout the term of this Agreement. The Company hereby agrees to waive any and all right to challenge or contest in a court of law (a "**Legal Challenge**"), those payments or the basis for those payments due pursuant to Exhibit "A." It shall also be an event of default under Article IV of this Agreement should the Company bring a Legal Challenge on the Project Facility and/or Additional Property.

(c) Additional Amounts in Lieu of Taxes. Commencing on the first tax year following the date on which any structural addition shall be made to the Facilities, or any new or additional building shall be constructed on the real property described in **Exhibit "B"** that is in addition to the Facilities (such structural additions and additional buildings being hereinafter referred to as "**Additional Property**"), the Company agrees to make additional periodic payments in lieu of real property taxes (such additional payments being hereinafter collectively referred to as "**Additional Payments**") to the Municipality on behalf of the Agency with respect to such Additional Property. Such Additional Payments shall be computed as follows:

By multiplying (1) the value placed on such Additional Property, as value is determined by the Municipality's assessor by (2) the tax rate or rates of the Municipality that would be applicable to such Additional Property if such Additional Property were owned or controlled by

the Company and not the Agency; and (3) then reducing the amount so determined by the amounts of any properly acquired tax exemptions that would be afforded to the Company by the Municipality for such Additional Property as if it was owned or controlled by the Company and not the Agency.

(d) Revaluation. In the event of a real property assessment revaluation by the Municipality, the Company shall continue to make its payments in accordance with this Agreement; however, in the event that Exhibit "A" is no longer in effect, but payments are still being made hereunder for any reason, (including, but not limited to, the Agency still having an interest in the Project Facility), and would be effected by revaluation, each year's payments subsequent to such revaluation shall be adjusted to properly reflect revaluation, it being the intent of the parties that the level of payments following revaluation shall be equal to those payments contemplated by this Agreement.

(e) Damage or Destruction. In the event that all or substantially all of the Project Facility is damaged or destroyed, the Company shall continue to make the payments required by this Agreement for as long as the Agency shall own or control the Project Facility, without regard to such damage or destruction.

(f) Time of Payments. The Company agrees to pay the amounts due the Agency hereunder to the Municipality for each year of this Agreement, within the period that the Municipality allows payment of taxes levied in such calendar year without penalty. The Company shall be entitled to receive receipts from the Municipality for such payments.

(g) Method of Payment. All payments by the Company hereunder shall be paid to the Municipality in lawful money of the United States of America, cash, money order or check.

Section 2.03. PILOT Statements

The Municipality and/or the Agency shall submit to the Company written semi-annual statements specifying the amount and due date or dates of any payments due to the Agency hereunder. Each semi-annual PILOT statement shall be submitted to the Company at the same time that tax statements/bills are mailed by the Municipality to the owners of privately owned property. Failure to receive a PILOT statement shall not relieve the Company of its obligation to make all payments provided for hereunder. If, for any reason, the Company does not receive an appropriate PILOT Statement, the Company shall have the responsibility and obligation to make

all reasonable inquiries to the Municipality and the Agency and to have such a statement issued, and thereafter to make payment of the same no later than the due dates provided herein.

Section 2.04. Obligations of Agency

Requirement that Mortgagees Subordinate to Payments. The Agency and the Company agree that any mortgages on the Project Facility, given by either of them, shall provide that the rights of the mortgagees thereunder shall be subordinate to this Agreement and to the right of the Municipality to receive payments in lieu of taxes pursuant to Article II hereof.

Section 2.05. Company to Furnish Information

The Company agrees to promptly comply with the reporting and information requirements of the Agency and the Act, and to promptly furnish the applicable information required or requested by the Agency and/or the State of New York. The Company further agrees to assist the Agency with the preparation of any reports, or answer any inquiries, required by the State of New York in connection with the Act or the Agency's participation in the Project.

Section 2.06. Interest

(a) Agreement to Pay Interest on Missed Payments. If the Company shall fail to make any payment required by this Agreement when due, its obligation to make the payment so in default shall continue as an obligation of the Company until such payment in default shall have been made in full, and the Company shall pay the same together with interest thereon, to the extent permitted by law, at the greater of: **(i) eighteen per cent (18%) per annum; or (ii) the rate per annum which would be payable if such amounts were delinquent taxes, until so paid in full.**

(b) Maximum Legal Rate. It is the intent of the Agency, the Municipality, and Company that in no event shall interest be payable at a rate in excess of the maximum rate permitted by applicable law (the "**Maximum Legal Rate**"). Solely to the extent necessary to prevent interest under this Agreement from exceeding the Maximum Legal Rate, any amount that would be treated as excessive under a final judicial interpretation of applicable law shall be deemed to have been a mistake and automatically canceled, and, if received by the Agency or Municipality, shall be refunded to the Company.

ARTICLE III

LIMITED OBLIGATION OF THE AGENCY

Section 3.01. No Recourse; Limited Obligation of the Agency

(a) No Recourse. All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency and not of any member, director, officer, agent, servant or employee of the Agency in his individual capacity, and no recourse under or upon any obligation, covenant or agreement contained in this Agreement, or otherwise based on or in respect of this Agreement, or for any claim based thereon or otherwise in respect thereof, shall be had against any past, present or future member, director, officer, agent, servant or employee, as such, of the Agency or any successor public benefit corporation or political subdivision or any person executing this Agreement on behalf of the Agency, either directly or through the Agency or any successor public benefit corporation or political subdivision or any person so executing this Agreement. It is expressly understood that this Agreement is a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, any such member, director, officer, agent, servant or employee of the Agency or of any successor public benefit corporation or political subdivision or any person so executing this Agreement under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom. Any and all such personal liability of, and any and all such rights and claims against, every such member, director, officer, agent, servant or employee under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom are, to the extent permitted by law, expressly waived and released as a condition of, and as a consideration for, the execution of this Agreement.

(b) Limited Obligation. The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or the Municipality, and neither the State of New York nor the Municipality shall be liable thereon. Furthermore, 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 Project.

(c) Further Limitation. Notwithstanding any provision of this Agreement to the

contrary, the Agency shall not be obligated to take any action pursuant to any provision hereof unless (i) the Agency shall have been requested to do so in writing by the Company and (ii) if compliance with such request is expected to result in the incurrence by the Agency (or any of its members, directors, officers, agents, servants or employees) of any liability, fees, expenses or other costs, the Agency shall have received from the Company security or indemnity satisfactory to the Agency for protection against all such liability, however remote, and for the reimbursement of all such fees, expenses and other costs.

ARTICLE IV
EVENTS OF DEFAULT

Section 4.01. Events of Default

Any one or more of the following events shall constitute an event of default under this Agreement, and the terms “*Event of Default*” or “*Default*” shall mean, whenever they are used in this Agreement, any one or more of the following events:

(a) Failure of the Company to pay any amount due and payable by it pursuant to this Agreement, the Lease Agreements or the Company Documents.

(b) Commencement by the Company of a Legal Challenge, as defined in Section 2.02(b), to those payments or the basis for those payments due pursuant to Exhibit “A.”

(c) Failure of the Company to observe and perform any other covenant, condition or agreement on its part to be observed and performed under this Agreement (other than as referred to in paragraph (a) above), the Lease Agreements, or any other Company Document and continuance of such failure for a period of thirty (30) days after written notice to the Company specifying the nature of such failure hereunder, or with respect to the Lease Agreements, continuance of such failure for the duration of any applicable cure period set forth therein after receipt of any required notice thereunder.

(d) Any warranty, representation or other statement by or on behalf of the Company contained in this Agreement or the Lease Agreements shall prove to have been false or incorrect in any material respect on the date when made or on the effective date of this Agreement or the Lease Agreements.

(e) The Company violates any federal, state or local environmental law or allows or causes any Hazardous Materials (as Hazardous Materials is defined and described in any federal,

state or local law) to be released at, on, to, into or from the Project Facility, except as permitted by the Lease Agreements or within the terms and conditions of a permit, certificate, license or other written approval of an authorized governmental body, and fails to remedy such violation within thirty (30) days; or if such failure cannot be cured within thirty (30) days, fails to commence a cure within thirty (30) days and thereafter diligently prosecute the cure thereof.

(f) The occurrence of any Event of Default or Default under this Agreement, the Lease Agreements or any other Company Documents.

(g) Failure of the Company to commence the acquisition, construction, renovation, equipping and completion of the Project Facility within eight (8) months of the date of this Agreement.

Section 4.02. Remedies on Company Default

Whenever any Event of Default under Section 4.01 shall have occurred and be continuing with respect to this Agreement, and/or the Company shall be in default under the Lease Agreements, the Agency may take whatever action at law or in equity, following applicable notice, as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of the Company under this Agreement and/or the Lease Agreements. Notwithstanding anything herein to the contrary, if the Lease Agreements is terminated for any reason, this Agreement shall automatically terminate without any further notice or action required hereunder and the Project Facility shall immediately become taxable and revert to the tax roll.

The payment schedule contained in Exhibit "A" is for the benefit of the Company and its Project Facility. In the event that the Company defaults hereunder, and the Lease Agreements cannot be terminated, and/or the Agency's participation in the Project and this Agreement is not or cannot be terminated, the Company, or any assignee, or successor shall no longer be entitled to make payments under this Agreement pursuant to Exhibit "A". In such an event, payments shall be made hereunder, for any remaining term of this Agreement, as if the Project Facility was privately owned and assessed and without any further regard to Exhibit "A".

Section 4.03. Recording of Lease Terminations and Other Documents

Whenever any Event of Default under Sections 4.01 shall have occurred and be continuing with respect to this Agreement or the Lease Agreements, the Agency may, upon notice to the

Company provided for in this Agreement or the Lease Agreements, if any, terminate the Lease Agreements and record such termination or other necessary documents in the Onondaga County Clerk's Office, terminating the Agency's interest in the Project Facility and terminating this Agreement.

The recording of such a termination and any other documentation shall constitute delivery to, and acceptance of such, by the Company. In order to facilitate such a termination, the Company hereby appoints the Chairman or the Vice Chairman of the Agency as its agent for the purpose of executing and delivering all documents necessary to allow such termination by the Agency.

In the event that the Lease Agreements, for any reason, is extended by its terms, or for any reason this Agreement expires or terminates, but the Agency retains an interest or remains in title to the Project Facility, the Company shall continue to make payments in lieu of taxes to the Municipality, on behalf of the Agency, for as long as the Agency retains an interest in, or remains in title to, the Project Facility. Those payments shall be the equivalent of the real property taxes that would be due on the Project Facility if it were owned by the Company and the Agency had no interest therein. It is the intention of the parties hereto, that for so long as the Agency shall possess title to, or an interest in, the Property, the Company, or any permitted successors or assigns, shall make payments in lieu of taxes to the Municipality, on behalf of the Agency, that are either based upon Exhibit "A", or if Exhibit "A" is no longer applicable for any reason, are the equivalent of the real property taxes that would be due and owing if the Project Facility were privately owned and the Agency had no interest therein.

Section 4.04. Payment of Attorney's Fees and Expenses

If the Company should default in performing any of its obligations, covenants and agreements under this Agreement and the Agency or the Municipality should employ attorneys (whether in-house or outside counsel) or incur other expenses for the collection of any amounts payable hereunder or for the enforcement of performance or observance of any obligation or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefor, pay to the Agency and/or the Municipality the reasonable fees and disbursements of such attorneys and such other reasonable expenses so incurred.

Furthermore, should the Company bring a Legal Challenge on the Project Facility and/or Additional Property during the term of this Agreement, and the Agency and/or the Municipality

waives its right to declare a default under this Agreement in regard to such Legal Challenge, or such Legal Challenge is determined not to be a default of this Agreement by any Court of competent jurisdiction, the Company agrees that in the event that the Company is unsuccessful in its Legal Challenge, it will, on demand, pay to the Agency and/or the Municipality the reasonable fees and disbursements of any attorneys employed (whether in-house or outside counsel) for the defense of such Legal Challenge as well as such other reasonable expenses so incurred.

Section 4.05. Remedies; Waiver and Notice

(a) No Remedy Exclusive. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

(b) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of any Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(c) Notice Not Required. In order to entitle the Agency to exercise any remedy reserved to it in this Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Agreement.

(d) No Waiver. In the event any provision contained in this Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Agreement shall be established by conduct, custom or course of dealing.

ARTICLE V

MISCELLANEOUS

Section 5.01. Term of Agreement

(a) General. This Agreement shall become effective and the obligations of the Agency and the Company shall arise absolutely and unconditionally upon the execution and delivery of this Agreement. This Agreement shall terminate on the earliest to occur of: (i) the same date that the Agency Lease Agreement terminates; (ii) on any earlier date permitted under the Agency Lease

Agreement; or (iii) upon the expiration on **June 30, 2029**, of the PILOT Schedule set forth in **Exhibit “A”** hereto. In the event of a termination of the Agency’s interest in the Project Facility, the Company's payments due hereunder shall be pro-rated to the extent necessary to allow the Municipality to issue a supplemental PILOT Statement based upon the Agency's transfer of ownership or control of the Project Facility to the Company, and the loss of the Agency's tax exemption on the said Project Facility.

(b) Conflict. In the event of a conflict between this Agreement or any of its terms on the one hand, and the Lease Agreements or any other Project documents on the other hand, the provisions most favorable to the Agency shall govern. The Agency and the Company agree that the Agency’s participation in this Agreement is for the benefit of the Company and that the Municipality must receive payments from the Company hereunder, during the entire term of this Agreement and/or the Agency’s ownership or control of the Project Facility.

Section 5.02. Company Acts

Where the Company is required to do or accomplish any act or thing hereunder, the Company may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Company.

Section 5.03. Amendment of Agreement

This Agreement may not be amended, changed, modified or altered unless such amendment, change, modification or alteration is in writing and signed by the Agency and the Company.

Section 5.04. Notices

All notices, certificates or other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the person who attempted to effect such delivery. The addresses to which notices, certificates, and other communications hereunder shall be delivered are as follows:

- (a) To the Agency:
City of Syracuse Industrial Development Agency
201 East Washington Street, 6th Floor

Syracuse, New York 13202
Attention: Chairman

With a copy to:

Bousquet Holstein PLLC
110 West Fayette Street, Suite 1000
Syracuse, New York 13202
Attn: Susan R. Katzoff, Esq.
And to:

Corporation Counsel
City of Syracuse
233 East Washington Street, Room 300
Syracuse, New York 13202

(b) To the Company:

Sage Teall Properties, LLC
6146 East Molloy Road
East Syracuse, New York 13057
Attn: Scott Gerharz, Manager

With a copy to:

Bond, Schoeneck & King PLLC
One Lincoln Center
110 West Fayette Street
Syracuse, New York 13202
Attn: Kevin Pole, Esq.

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

Section 5.05. Binding Effect

This Agreement shall inure to the benefit of, and shall be binding upon the Agency and the Company, and their respective successors and assigns.

Section 5.06. Severability

If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable

by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

Section 5.07. Counterparts

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

Section 5.08. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York. Venue of any action or proceeding brought hereunder shall be in the State or Federal Courts located in Onondaga County, New York.

Section 5.09. Assignment

This Agreement may not be assigned by the Company without the prior written consent of the Agency.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Agency and Company have caused this Agreement to be executed in their respective names on the date first above written and the Company hereby acknowledges receipt and review of this Agreement, and consents to, and approves of, the terms and provisions contained herein.

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

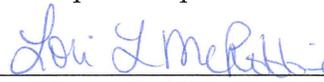
By: 
Honora Spillane, Executive Director

SAGE TEALL PROPERTIES, LLC

By: _____
Scott Gerharz, Manager

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On the 7th day of November, in the year 2018, before me the undersigned, a Notary Public in and for said state, personally appeared **Honora Spillane**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 22

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On the _____ day of November, in the year 2018, before me the undersigned, a notary public in and for said state, personally appeared **Scott Gerharz**, 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 he person upon behalf of which the individual acted, executed the instrument.

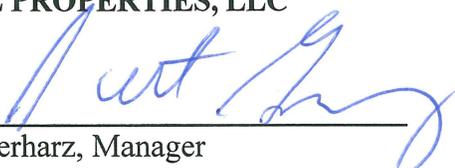
Notary Public

IN WITNESS WHEREOF, the Agency and Company have caused this Agreement to be executed in their respective names on the date first above written and the Company hereby acknowledges receipt and review of this Agreement, and consents to, and approves of, the terms and provisions contained herein.

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

By: _____
Honora Spillane, Executive Director

SAGE TEALL PROPERTIES, LLC

By: 

Scott Gerharz, Manager

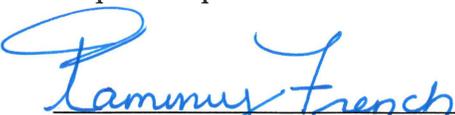
STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On the _____ day of November, in the year 2018, before me the undersigned, a Notary Public in and for said state, personally appeared **Honora Spillane**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On the 12 day of November, in the year 2018, before me the undersigned, a notary public in and for said state, personally appeared **Scott Gerharz**, 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 he person upon behalf of which the individual acted, executed the instrument.



Notary Public

TAMMY FRENCH
Notary Public - State of New York
No. 01FR6300646
Qualified in Oswego County
My Commission Expires 08/22/2022

EXHIBIT "A"

PILOT SCHEDULE

<i>Year</i>	<i>Amount</i>
1	\$66,000.70
2	\$67,320.71
3	\$68,667.12
4	\$70,040.47
5	\$71,441.28
6	\$72,870.10
7	\$74,327.50
8	\$80,661.56
9	\$87,219.24
10	\$94,006.97
Total	\$752,555.66

EXHIBIT "B"

LEGAL DESCRIPTION

ALL that tract or parcel of land, situate in the City of Syracuse, (formerly part of Lot No. 223 of the Salt Springs Reservation), County of Onondaga and State of New York, bounded and described as follows: beginning at a point in the easterly line of Teall Avenue at the intersection of the northerly line of Lynch Street and the easterly line of Teall Avenue; thence N 03° 19' 30" W along Teall Avenue a distance of 396.64 feet to a point; thence N 66° 31' 00" E a distance of 473.51 feet to a point; thence S 03° 16' 38" E a distance of 141.58 feet to a point; thence S 08° 20' 35" W a distance of 82.0 feet to a point; thence S 17° 32' 39" W a distance of 91.84 feet to a point; thence N 66° 28' 00" E a distance of 55.92 feet to a point; thence S 21° 53' 40" E a distance of 100.04 feet to a point in the northerly line of Lynch Street; thence S 66° 28' 00" W along Lynch Street a distance of 510.87' to a point in the east line of Teall Avenue, said point being the place and point of beginning.



NYS DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

RP-412-a (1/95)

INDUSTRIAL DEVELOPMENT AGENCIES
APPLICATION FOR REAL PROPERTY TAX EXEMPTION
(Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

1. INDUSTRIAL DEVELOPMENT AGENCY (IDA)

Name City of Syracuse Industrial Development Ag.
Street 201 East Washington Street, 7th Floor
City Syracuse
Telephone no. Day (315) 473-3275
Evening () N/A
Contact Honora Spillane
Title Executive Director

2. OCCUPANT (IF OTHER THAN IDA)
(If more than one occupant attach separate listing)

Name Sage Teall Properties, LLC
Street 6146 East Molloy Road
City Syracuse
Telephone no. Day () 315-463-0639
Evening () N/A
Contact Scott Gerharz
Title Manager

RECEIVED
DEC 27 2018
DEPT. OF ASSESSMENT

3. DESCRIPTION OF PARCEL

- a. Assessment roll description (tax map no./roll year) 032.1-01-27.0/2018
- b. Street address 220-22 Teall Avenue
- c. City, Town or Village Syracuse
- d. School District Syracuse
- e. County Onondaga
- f. Current assessment \$1,075,000
- g. Deed to IDA (date recorded; liber and page)
N/A lease/leaseback agreement -
see Schedule A

4. GENERAL DESCRIPTION OF PROPERTY (if necessary, attach plans or specifications)

- a. Brief description (include property use) renovation of an 85,000 sq.ft. building for use in the wholesale & retail sale of foodservice equipment, supplies & design solutions primarily to restaurants & food service operators
- b. Type of construction steel/wood
- c. Square footage approx. 4.5 acres
- d. Total cost \$4,965,000
- e. Date construction commenced 2018
- f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA)
June 30, 2029

5. SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION

(Attach copy of the agreement or extract of the terms relating to the project).

- a. Formula for payment See attached PILOT Agreement
- b. Projected expiration date of agreement June 30, 2029

c. Municipal corporations to which payments will be made

	Yes	No
County <u>Onondaga</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Town/City <u>Syracuse</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Village _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
School District <u>Syracuse</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. Person or entity responsible for payment

Name Sage Teall Properties, LLC
 Title _____
 Address 6146 East Molloy Road
East Syracuse, NY 13057

e. Is the IDA the owner of the property? Yes No (check one)

If "No" identify owner and explain IDA rights or interest in an attached statement. See Schedule A

Telephone _____

6. Is the property receiving or has the property ever received any other exemption from real property taxation? (check one) Yes No

If yes, list the statutory exemption reference and assessment roll year on which granted: exemption _____ assessment roll year _____

7. A copy of this application, including all attachments, has been mailed or delivered on 12-27-18 (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

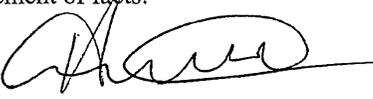
CERTIFICATION

I, Honora Spillane, Executive Director of

Name	Title
<u>City of Syracuse Industrial Development Agency</u>	_____
Organization	_____

hereby certify that the information on this application and accompanying papers constitutes a true statement of facts.

11-7-18
Date


Signature

FOR USE BY ASSESSOR

1. Date application filed _____

2. Applicable taxable status date _____

3a. Agreement (or extract) date _____

3b. Projected exemption expiration (year) _____

4. Assessed valuation of parcel in first year of exemption \$ _____

5. Special assessments and special as valorem levies for which the parcel is liable:

Date

Assessor's signature

SCHEDULE "A"

Response to Item 3.g *Deed to IDA:* Memorandum of Company Lease and Amended Memorandum of Agency Lease, both dated as of November 1, 2018, were each recorded in the office of the Clerk of Onondaga County on November 19, 2018 as Instrument No. 2018-00053120 and on December 13, 2018 as Instrument No. 2018-00057758, respectively.

Response to Item 5.e. *Is the IDA the owner of the property?*

No. The City of Syracuse Industrial Development Agency has a leasehold interest in the subject premises pursuant to a lease/leaseback arrangement as set forth in a certain Agency Lease and Company Lease each dated as of November 1, 2018, memorandums of which were filed as set forth above.

Lisa Dell, County Clerk
401 Montgomery Street
Room 200
Syracuse, NY 13202
(315) 435-2229

Onondaga County Clerk Recording Cover Sheet

Received From :
STEWART-CATHINA

Return To :
BARCLAY DAMON
125 E JEFFERSON ST 10TH FL
SYRACUSE, NY 13202

Method Returned : MAIL

First PARTY 1

SAGE TEALL PROPERTIES LLC

First PARTY 2

NBT BANK NATIONAL ASSOCIATION

Index Type : Land Records

Instr Number : 2018-00053121

Book : Page :

Type of Instrument : Mortgage

Type of Transaction : Mtg Type A

Recording Fee: \$395.50

Recording Pages : 70

The Property affected by this instrument is situated in Syracuse, in the County of Onondaga, New York

Mortgage Taxes

Property Located : Syracuse

Serial Number : DJ8767

Mortgage Amount : \$1,350,000.00

Basic Tax : \$0.00

Local Tax : \$0.00

Additional Tax : \$3,375.00

Transportation Auth Tax : \$0.00

SONYMA : \$0.00

County Tax : \$0.00

Total : \$3,375.00

Total Fees : \$3,770.50

State of New York

County of Onondaga

I hereby certify that the within and foregoing was recorded in the Clerk's office for Onondaga County, New York

On (Recorded Date) : 11/19/2018

At (Recorded Time) : 10:16:22 AM



Doc ID - 0316702300070

Lisa Dell
Lisa Dell, County Clerk



This sheet constitutes the Clerks endorsement required by Section 319 of Real Property Law of the State of New York

Entered By: RSWEENIE Printed On : 11/19/2018 At : 10:19:32AM

MORTGAGE INDENTURE AND SECURITY AGREEMENT

MADE BY

SAGE TEALL PROPERTIES, LLC ("MORTGAGOR")

JOINED BY

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY ("AGENCY")

IN FAVOR OF

NBT BANK, NATIONAL ASSOCIATION ("MORTGAGEE")

**DATED: AS OF NOVEMBER 13, 2018 IN THE
AMOUNT OF \$1,350,000**

**RELATING TO PREMISES LOCATED IN CITY OF SYRACUSE,
COUNTY OF ONONDAGA, STATE OF NEW YORK**

THIS AGREEMENT (A) AFFECTS TANGIBLE AND INTANGIBLE PERSONAL PROPERTY AS WELL AS REAL PROPERTY, (B) CONTAINS AFTER-ACQUIRED PROPERTY PROVISIONS, (C) IS INTENDED TO CONSTITUTE A SECURITY AGREEMENT UNDER THE UNIFORM COMMERCIAL CODE; AND (D) SECURES OBLIGATIONS UNDER WHICH THE INTEREST RATE MAY VARY.

RECORD AND RETURN TO:

BARCLAY DAMON LLP

Office and Post Office Address

Barclay Damon Tower

125 East Jefferson Street, 10th Floor

Syracuse, New York 13202

Attention: F. Paul Vellano, Jr., Esq.

MORTGAGE INDENTURE AND SECURITY AGREEMENT

THIS MORTGAGE INDENTURE AND SECURITY AGREEMENT ("Mortgage"), dated as of November 13, 2018, is made by **SAGE TEALL PROPERTIES, LLC**, a New York limited liability company with an address at 6146 East Molloy Road, East Syracuse, New York 13057 ("Mortgagor"), joined in by reason of the Rider to this Mortgage by the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a body corporate and politic and a public instrumentality of the State of New York with an address at 201 East Washington Street, 6th Floor, Syracuse, New York 13202 ("Agency") in favor of **NBT BANK, NATIONAL ASSOCIATION** a national banking association with offices located at 52 S. Broad Street, Norwich, New York 13815 ("Mortgagee").

RECITALS:

A. Mortgagor is the owner of that certain parcel of real property (the "Land"), such Land located in the City of Syracuse, County of Onondaga and State of New York (the "State"), more commonly known as 220-22 Teall Avenue, Syracuse, New York 13210, as more particularly described in Schedule A annexed hereto, together with the buildings and other improvements located thereon (the buildings and other improvements now or hereafter located on such parcel of Land being hereinafter referred to as the "Improvements"; the Land, together with such Improvements, being hereinafter collectively referred to as the "Premises");

B. Mortgagee is making a loan (the "Loan") in the original principal amount of One Million Three Hundred Fifty Thousand Dollars (\$1,350,000) and the Mortgagor has executed and delivered a Mortgage Loan Note of even date in the principal amount of One Million Three Hundred Fifty Thousand Dollars (\$1,350,000) (the "Note");

C. The Agency presently is the lessee of the Premises pursuant to a lease entered into between the Mortgagor and the Agency dated as of November 1, 2018 as same may be amended or supplemented from time to time (the "Company Lease") and leased back certain of its interest to the Mortgagor pursuant to a certain leaseback agreement between the Agency and the Mortgagor dated as of November 1, 2018 as same may be amended or supplemented from time to time ("Agency Lease");

D. To induce Mortgagee to make the Loan and to secure payment of the Note, together with interest thereon, Mortgagor and the Agency have agreed to the execution and delivery of this Mortgage; and

E. The Mortgagor desires to secure up to of the principal amount now owed by Mortgagor to the Mortgagee under the Note and any consolidations, modifications,

and renewals thereof, and all interest and fees due and to become due on account of said Note, as well as any other obligations which are now owed or to be owed from the Mortgagor to the Mortgagee, whether direct or indirect, or absolute or contingent. Notwithstanding any cross-collateralization language, this Mortgage will only be construed as securing the Note and any consolidation, modification or renewal thereof, if the Premises encumbered by this Mortgage is or becomes a "Special Flood Hazard Area" under the regulations of the National Flood Insurance Program.

THIS AGREEMENT, and all of its terms and provisions heretofore and hereinafter set forth, shall bind and inure to the benefit of the parties hereto and their successors and assigns, and any lawful holder of the Note, any guarantee of the Note and this Mortgage.

GRANTING CLAUSES

NOW, THEREFORE, in consideration of the mutual premises herein contained and other good and valuable consideration, the receipt and legal sufficiency whereof are hereby acknowledged, and as an inducement to Mortgagee to enter into the Loan, and to secure the payment of an indebtedness in the principal sum of One Million Three Hundred Fifty Thousand Dollars (\$1,350,000) or so much thereof as may have been advanced to Mortgagor together with all interest thereon, additional amounts referred to in the Note including, without limitation, all sums which may or shall become due hereunder or under the Note or any of the other documents evidencing, securing or executed in connection with the Loan (such other documents, including, without limitation that certain Assignment of Leases and Rents of even date herewith given by Mortgagor to Mortgagee with respect to the Premises (as such assignment may be amended from time to time, the "Assignment"), a Loan Agreement executed and delivered by and between the Mortgagor and Mortgagee, together with the Note and this Mortgage, any security agreement executed and delivered by the Mortgagor in favor of the Mortgagee or any guaranty executed and delivered by any guarantor of the Mortgagor in favor of the Mortgagee or any other documents arising or relating to any of the foregoing (as any of the same may, from time to time, be modified, amended or supplemented, all being hereinafter collectively referred to as the "Transaction Documents"), and including the costs and expenses of enforcing any provision of the Note, this Mortgage, any of the other Transaction Documents (all such sums being hereinafter collectively referred to as the "Debt"), and in order to charge with such performance and with such payments the Premises and other property hereinafter described and the rents, revenues, issues, income and profits thereof, Mortgagor has created a security interest in and DOES HEREBY WARRANT, PLEDGE, TRANSFER, SET OVER, ASSIGN, GIVE, GRANT, BARGAIN, SELL, CONVEY, CONFIRM AND MORTGAGE TO MORTGAGEE, ITS SUCCESSORS AND ASSIGNS, all right, title and interest of Mortgagor now owned, or hereafter acquired, in and to the Premises, and Agency DOES HEREBY PLEDGE, TRANSFER, SET OVER, ASSIGN, GIVEN, GRANT BARGAIN, SELL, CONVEY, CONFIRM AND MORTGAGE TO MORTGAGEE all right, title and interest of the Agency, now owned or hereafter acquired, in and to the Premises (except with respect to the Agency's "Unassigned Rights" (as that term is defined in the Agency Lease, hereafter the "Unassigned Rights").

TOGETHER WITH all right, title and interest of Mortgagor, if any, now owned, or hereafter acquired, in and to the following property, rights and interests (the Premises, together with such property, rights and interests, being hereinafter collectively referred to as the "Mortgaged Property"):

(a) all easements, rights-of-way, strips and gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, title, interests, privileges, liberties, tenements, hereditaments, and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Premises (including, without limitation, natural gas, oil and mineral rights, air rights, development rights and any other rights, however denominated, to construct floor area on the Land), and all right, title and interest of Mortgagor in, including any right to use and occupy, any land adjacent to the Land, and any land lying in the bed of any street, road or avenue, open or proposed, in front of or adjoining the Land, and any and all sidewalks, drives, curbs, passageways, streets, spaces and alleys adjacent to or used in connection with the Premises;

(b) all machinery, apparatus, equipment, fittings, fixtures and other property of every kind and nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall have an interest (to the extent same can be mortgaged or an interest therein can be granted if not owned by Mortgagor), now or hereafter located upon the Premises or any portion thereof, or appurtenances thereto, and used in connection with the present or future operation and occupancy of the Premises or any portion thereof, and all building equipment, materials and supplies of any nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall have an interest (to the extent same can be mortgaged or an interest therein can be granted if not owned by Mortgagor), now or hereafter located in or upon the Premises or any portion thereof, and any building equipment, materials and supplies obtained for use in connection with the Premises or any portion thereof, and all additions, replacements, modifications and alterations of any of the foregoing, including, but without limiting the generality of the foregoing, all heating, lighting, incinerating, waste removal and power equipment, engines, pipes, tanks, motors, conduits, switchboards, radio, television, security and alarm systems, plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating, and communications apparatus, air cooling and air conditioning apparatus, escalators, elevators, ducts and compressors (collectively, the "Equipment"). All Equipment is part and parcel of the real estate and appropriated to the use of the real estate and, whether or not affixed or annexed to the Premises, shall for the purpose of this Mortgage be deemed conclusively to be real estate and mortgaged hereby;

(c) all other furniture, furnishings, decorations, fixtures and equipment owned by Mortgagor and now or hereafter installed in, affixed to, placed upon or used in connection with the Premises or the business conducted by Mortgagor

thereon, including, without limitation, communication systems, computer systems, hardware and software applicable to the Premises), furniture, carpeting, art work, lighting fixtures, millwork, draperies, kitchen, restaurant, bar and lounge equipment, laundry equipment, cash registers, safes, safety deposit boxes, office furniture, athletic and pool equipment, gift shop equipment, employees' lockers, coat racks, linens, blankets, pillows and uniforms (to the extent each of the foregoing shall exist), all present and future "accounts", "equipment", "inventory" and "general intangibles" (as such terms are defined in the New York Uniform Commercial Code (the "Code") (collectively, the "Personal Property");

(d) all awards or payments, and any interest paid or payable with respect thereto, which may be made with respect to all or any portion of the Premises, whether from the exercise of right of condemnation, eminent domain or similar proceedings (including any transfer made in lieu of the exercise of said right), or from any taking for public use, or for any other injury to or decrease in the value of all or any portion of the Premises (including, without limitation, any awards resulting from a change of grade of streets and awards for severance damages), all of the foregoing to be held applied and paid in accordance with the provisions of this Mortgage (collectively, the "Condemnation Proceeds");

(e) all proceeds of, and any unearned premiums on, the Policies (as hereinafter defined) and any other insurance policies covering all or any portion of the Premises, the Equipment, the Personal Property and/or the Rents (as hereinafter defined), including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to all or any portion of the Premises, the Equipment and/or the Personal Property, and any interest actually paid with respect thereto, all of the foregoing to be held, applied and paid in accordance with the provisions of this Mortgage (collectively, the "Insurance Proceeds");

(f) all refunds or rebates of Impositions (as hereinafter defined), and interest paid or payable with respect thereto (collectively, the "Refunds");

(g) all leases and other agreements affecting the use or occupancy of all or any portion of the Premises now in effect or hereafter entered into (including, without limitation, Gas Leases, subleases, licenses, concessions, tenancies and other occupancy agreements covering or encumbering all or any portion of the Premises), together with any guarantees, supplements, amendments, modifications, extensions and renewals of the same, and all additional remainders, reversions, and other rights and estates appurtenant thereto (collectively, the "Leases") and absolutely and presently all rents, revenues which Mortgagor generates from the collection of rents, additional rents, percentage rents, revenues, issues, profits, cash collateral, royalties, income, bonuses, rights and benefits due and other benefits now or in the future payable under the Leases, including but not limited to all rents, revenue, income, issues, royalties, bonuses, accounts receivable, advance rentals, profits and proceeds derived from the

production and sale of or otherwise attributable to the Oil and Gas Substances as defined herein including any compulsory or voluntary integration and unitization or pooling awards, produced and saved from or attributable to the Premises, and all security deposits, advance rentals and payments of similar nature (subject to the rights of lessees or depositors thereof) held by Mortgagor in connection with the Leases and all proceeds from any and all concessions and license agreements, if any, and all other fees, charges, accounts, payments, income, issues, profits and benefits of any nature arising from the possession, use, occupancy or enjoyment of the Mortgaged Property (all of the foregoing being collectively referred to as the "Rents"), together with the right, but not the obligation, following an Event of Default (as hereinafter defined) by Mortgagor under this Mortgage or any of the other Transaction Documents, to exercise options, to give consents and to collect, receive and receipt for the Rents and apply the Rents to the payment of the Debt and to demand, sue for and recover the Rents when due and payable, provided that nothing in this subsection (g) is intended to affect the Unassigned Rights granted to the Agency under the Agency Lease and retained by the Agency under this Mortgage;

(h) all of the right, title and interest of Mortgagor in and to all contract rights relating to the Mortgaged Property to the fullest extent such contract rights are assignable or transferable by Mortgagor, including, without limitation, and to the extent permitted by applicable law, all permits, licenses, certificates, consents, approvals, authorizations and other documents obtained or to be obtained in connection with the demolition, construction, use, operation or maintenance of the Premises or any portion thereof (collectively, "Permits"), all reciprocal easement, restrictive covenants and similar agreements (collectively, "REAs"), all appurtenances and utility rights pertaining to the Premises or any portion thereof, all zoning, land use, air rights and development agreements, all operating contracts, management agreements, service contracts, supply and maintenance contracts, equipment leases, warranties, guaranties and all other agreements affecting the Premises or any part thereof or used in connection with the management or operation thereof (to the extent assignable pursuant to the provisions of the applicable instrument or agreement creating or conferring such rights or benefits or pursuant to applicable law) together with all of the rights, reversions or equities now or hereafter appurtenant thereto (such Permits, REAs and other appurtenances, rights, contracts and agreements collectively, the "Agreements");

(i) any other property, whether real or personal, tangible or intangible, owned or held by Mortgagor in connection with the Premises or the business conducted by Mortgagor thereon, including, without limitation, appraisals, architectural and engineering plans, specifications and studies, soil, environmental and other reports relating to the Premises, license and contract rights, accounts receivable, warranties, guaranties, catalogues, tenant lists, correspondence with present and future purchasers, tenants and suppliers, advertising materials relating to the Premises or the business conducted by

Mortgagor thereon, telephone exchange numbers as identified in such materials, trade names, trademarks and logos relating to the Premises or the business conducted by Mortgagor thereon (subject to the rights of franchisors or licensors) and goodwill relating to the Premises or the business conducted by Mortgagor thereon;

(j) all rights of Mortgagor in and to any management agreement applicable to the Premises and any license or similar agreement affecting the management or operation of any part of the Premises, (subject in each case to the provisions thereof and any limitations set forth therein);

(k) all rights of Mortgagor in any association or similar group having responsibility for managing or operating any part of the Premises;

(l) all claims against any person or entity with respect to any damage to or loss of the Mortgaged Property, including, without limitation, damage arising from any defect in or with respect to the design or construction of the Improvements or the Equipment and any damage resulting therefrom and all the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to commence any action or proceeding to protect the interest of Mortgagee in the Mortgaged Property;

(m) all deposits or other security or advance payments, including rental payments made by or on behalf of Mortgagor to others, with respect to utility services, cleaning, maintenance, repair and similar services, refuse removal and sewer service, parking and similar services and rights, and rental of Equipment relating to or otherwise used in the operation of the Mortgaged Property;

(n) all options in connection with the purchase, lease, encumbrance or other disposition of the Mortgaged Property or any interest therein; and

(o) all rights, titles, interests, and estates now owned or hereafter acquired by Mortgagor in and to all mineral interests, royalty interests, production payments, and other interests of any nature in all minerals, oil, gas, "Oil and Gas Substances" (as defined below), and geothermal and similar matters, in, under, and/or below the surface and that may be produced from the Premises and as may or may not be covered by any oil and gas leases and/or oil, gas, and mineral leases, or any amendments thereto, and any royalty or other interest arising from compulsory or voluntary integration and unitization or pooling (such leases and interests being hereinafter collectively called ("Gas Leases")), including Mortgagor's undivided interests in the Leases and the production of Oil and Gas Substances therefrom and all Oil and Gas Substances in tanks or pipelines, and all Rents, issues, profits, proceeds, products, revenues, and other income from or attributable to the Gas Leases, the real property covered thereby, and Mortgagor's interests therein which are subjected or required to be subjected to the liens and security interests of this Mortgage, and all agreements

relating in any manner to Oil and Gas Substances (including any options with respect to any such agreement) into which Mortgagor has entered or shall enter into with the consent of Mortgagee. All of the rights, titles, interests and estates now owned or hereafter acquired by Mortgagor in and to all lease records, well records, title records, pool or unit records, production records, accounting records, magnetic media, computer records, correspondence, geophysical and geological data, well logs, consultant studies and analyses, core reports and all other geological, environmental, geophysical, engineering, accounting, title, legal, technical and business data and records (in any way relating to the Gas Leases and Oil and Gas Substances) which are in the possession of Mortgagor or to which Mortgagor is entitled to be in possession or have access. "Oil and Gas Substances" are defined as all rights, titles, interest and estates now owned or hereafter acquired by Mortgagor in and to all oil, gas, and other minerals and their liquid or gaseous constituents, whether hydrocarbon or non-hydrocarbon, underlying the Premises, and all other products refined therefrom. "Gas" includes but is not limited to, coal stream gas, coal bed methane gas, gob gas, coal bed gas, methane gas, occluded methane/natural gas and all associated natural gas and all other commercial gas and all other hydrocarbons and non-hydrocarbons, contained in, associated with, emitting from, or produced/originating within any formation, gob area, coal seam, mined-out area, and all communicating zones; and

(p) any and all other, further or additional rights, title, estates and interests which Mortgagor may now own or hereafter acquire, in and to the Mortgaged Property, and all renewals, substitutions and replacements of and all additions and appurtenances to the Mortgaged Property constructed, assembled or placed by Mortgagor on the Premises, and all conversions of the security constituted thereby which, immediately upon such acquisition, construction, assembling, placement or conversion, as the case may be, and in each such case without any further mortgage, conveyance, assignment or other act by Mortgagor, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by Mortgagor, Mortgagor expressly agreeing that if Mortgagor shall at any time acquire any other right, title, estate or interest in and to the Premises and/or the Mortgaged Property, the lien of this Mortgage shall automatically attach to and encumber such other right, title, estate or interest as a lien thereon.

AND, as additional security, Mortgagor hereby grants to Mortgagee a security interest in (a) the Equipment, (b) the Personal Property, (c) the Condemnation Proceeds, (d) the Insurance Proceeds, (e) the Refunds, (f) the Leases, (g) the Rents, (h) the Agreements, (i) any management agreement applicable to the Premises, (j) the other items listed above in the Granting clauses, (k) "Oil and Gas Substances" (as defined in this Mortgage), produced and saved from or attributable to the real property described in attached Schedule A, whether in place, brought to the surface, or as extracted; all Rents (as defined herein), royalties, issues, profits, proceeds, products, revenues and all other income attributable to the Oil and Gas Substances or any lease thereof

together with all equipment, inventory, fixtures, and any and all personal property related to the exploration, extraction, transportation, or storage of Oil and Gas Substances, and any accounts, contract rights, and general intangibles related to any of the foregoing; and (l) all proceeds of the foregoing (collectively, the "Security Interest Property"), and this Mortgage shall be effective as a security agreement pursuant to the Code. The Mortgagor will have, in addition to all rights and remedies provided herein, and in any other agreements, commitments and undertakings made by the Mortgagor to the Mortgagee, all of the rights and remedies of a "secured party" under the said Uniform Commercial Code. To the extent permitted under applicable law, this Mortgage will be deemed to be a "security agreement" as defined in the aforesaid Uniform Commercial Code. If the lien of this Mortgage is subject to a security interest covering any such personal property, then all of the right, title and interest of the Mortgagor in and to any and all such property is hereby assigned to the Mortgagee, together with the benefits of all deposits and payments now or hereafter made thereon by the Mortgagor.

HABENDUM

TO HAVE AND TO HOLD the Mortgaged Property, the rights and privileges hereby conveyed or assigned, or intended so to be, unto Mortgagee, its successors and assigns, and with the possession and right of possession thereof, for the uses and purposes herein set forth.

PROVIDED ALWAYS, and these presents are upon the express condition, that if Mortgagor shall finally and irrevocably pay to Mortgagee the Debt at the time and in the manner provided in the Note, this Mortgage and the other Transaction Documents between Mortgagor and Mortgagee shall well and truly abide by and comply with each and every covenant and condition set forth herein, in the Note and in the other Transaction Documents, then these presents and the estate hereby granted shall cease, determine and be void.

PROVIDED FURTHER, that provided no Event of Default has occurred and is continuing, Mortgagor shall be entitled to obtain the release by Mortgagee of this Mortgage and the Mortgaged Property upon the payment of the Debt secured by this Mortgage and, upon the giving of such release, this Mortgage and these presents and the estate hereby granted shall cease, determine and be void.

REPRESENTATIONS, WARRANTIES, COVENANTS, AGREEMENTS AND CONDITIONS

THIS MORTGAGE FURTHER MAKES the following representations, warranties, covenants, agreements and conditions:

1. **Payment of Debt.**

Mortgagor shall punctually pay the Debt at the time and in the manner provided for its payment in the Note, this Mortgage, and in all other Transaction Documents given to evidence and/or as security for the Loan, as applicable.

2. **Warranty of Title.**

(a) Mortgagor specifically warrants that it has fee simple title to and owns the Mortgaged Property free and clear of all liens, claims, charges, restrictions, encumbrances, security interests and other matters, subject only to (i) the lien of this Mortgage, the Company Lease, the Agency Lease and of the other Transaction Documents, (ii) the matters set forth as exceptions to the policy of title insurance relating to the Mortgaged Property issued by the applicable title company in connection with the Loan; (iii) such other matters as to which the Mortgagee shall have consented in writing which will not, individually or in the aggregate, materially and adversely affect (x) the Premises or (y) the operation of the Premises or (z) the value or validity of the lien and security interest covering the Mortgaged Property (collectively, the "Permitted Encumbrances"). Mortgagor represents and warrants that no interest in all or any part of the development rights appurtenant to the Premises have been granted, transferred or assigned by Mortgagor.

(b) Mortgagor, at its sole cost and expense, covenants and agrees to defend its title to the Mortgaged Property and the priority of this Mortgage against all claims and demands subject to the Permitted Encumbrances, and will maintain and preserve such priority as long as the Debt (or any portion thereof) remains outstanding.

3. **Further Mortgages and Liens.** This Mortgage is and will be maintained by Mortgagor as a valid and enforceable mortgage lien on and security interest in the Mortgaged Property subject only to the Permitted Encumbrances. Mortgagor shall not, directly or indirectly, create or suffer, or permit to be created or suffered any other mortgage lien or encumbrance, against the Mortgaged Property or any part thereof, including, without limitation, the Rents or the Leases, and Mortgagor will promptly discharge or bond over, any mortgage, lien (including the liens of mechanics and materialmen), pledge, conditional sale or other title retention agreement, easement or other covenant, attachment, security interest, encumbrance or charge which may affect the Mortgaged Property or any part thereof or interest therein, except (i) the Permitted Encumbrances, and (ii) matters being contested in good faith and by appropriate proceedings in the manner permitted by Paragraph 16 of this Mortgage. If any mortgage, other lien or encumbrance not permitted hereunder is filed, Mortgagor will cause the same to be discharged or bonded over within thirty (30) days after recordation thereof and will exhibit to Mortgagee, upon request, evidence of discharge or other disposition satisfactory to Mortgagee.

4. **Representations and Warranties.** To induce Mortgagee to accept the Note and this Mortgage, and to make the Loan evidenced by the Note and secured by this

Mortgage, Mortgagor represents and warrants to Mortgagee that:

(a) The covenants in this Mortgage and in the other Transaction Documents have been observed and performed in all material respects to the extent applicable on and as of the date hereof. The representations and warranties in this Mortgage and in the other Transaction Documents are true and correct in all material respects on and as of the date hereof.

(b) The granting of this Mortgage, the consummation of the transactions herein contemplated and the execution and delivery of, and the performance and observance of Mortgagor's obligations under, this Mortgage, the other Transaction Documents and other instruments herein mentioned to which Mortgagor is a party and which have been executed and delivered in connection with the transactions contemplated in the Transaction Documents have been duly authorized by all necessary action on the part of Mortgagor and, to the best knowledge of Mortgagor, no other consent, license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with, any Governmental Authority (as hereinafter defined) (collectively, the "Approvals") is required which has not been obtained by Mortgagor in connection with the execution, delivery or performance by Mortgagor of this Mortgage, the other Transaction Documents and other instruments herein mentioned to which Mortgagor is a party. For the purposes of this Mortgage, "Governmental Authority" shall mean any court, agency, authority, board (including, without limitation, environmental protection, planning and zoning boards), bureau, commission, department, office or instrumentality of any nature whatsoever of any governmental or quasi-governmental unit of the United States or the State or the county or city where the Premises are located or any political subdivision of any of the foregoing, whether now or hereafter in existence, or any officer or official thereof, having jurisdiction over Mortgagor or the Mortgaged Property or any portion thereof.

(c) This Mortgage and each of the other Transaction Documents have been duly authorized, executed and delivered on behalf of Mortgagor, and this Mortgage constitutes, and each of the other Transaction Documents and other instruments mentioned herein to which Mortgagor is a party constitute, a legal, valid and binding obligation of Mortgagor, enforceable against Mortgagor in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting the enforcement of creditors' rights generally or by principles of equity or public policy (whether asserted in equity or in proceedings at law).

(d) This Mortgage constitutes a valid mortgage lien on, and, to the extent permitted by applicable law, security interest in, the Mortgaged Property, subject to the Permitted Encumbrances. There are no defenses, counterclaims or offsets to Mortgagor's obligation to pay the Debt pursuant to this Mortgage, the Note or any of the other Transaction Documents, including, without limitation, the

obligation to pay the Debt. To the best knowledge of Mortgagor, there are no defenses, counterclaims or offsets to any of Mortgagor's other obligations pursuant to this Mortgage, the Note or any of the other Transaction Documents.

(e) Except as previously disclosed to Mortgagee, none of the Leases have been modified, amended or canceled and none of the Leases have been assigned, pledged or encumbered by Mortgagor, except pursuant to the Assignment, this Mortgage and the Permitted Encumbrances.

(f) To the best knowledge of Mortgagor, (i) no tenant under any of the Leases is entitled to any rent concession, (ii) Mortgagor has not accepted any prepayment of any rent, additional rent or other sums due under any of the Leases, except a payment of rent or additional rent one (1) month in advance or a prepayment in the nature of security for the performance of obligations of the tenant under any of the Leases and (iii) no tenant has any defense, set-off or counterclaim against Mortgagor or to the payment of any rent, additional rent or other sums payable pursuant to its Lease or to the performance of any obligations of the tenant thereunder. No tenant under any of the Leases has any right or option relating to the sale or other disposition of any of the Mortgaged Property.

(g) Mortgagor will obtain in the time period provided for under the terms of the Transaction Documents (i) where required by applicable law, a valid, permanent certificate of occupancy for the Improvements which permits the uses to which the Premises are put and the uses permitted under each Lease, and (ii) all Permits of all Governmental Authorities required with respect to the use, operation, ownership and maintenance of the Mortgaged Property.

(h) Mortgagor has all easements, appurtenances or other rights and interests, including those for use, maintenance, and access (by pedestrians, automobiles and trucks) necessary or appropriate for the full and proper operation, repair, maintenance, occupancy and use of every portion of the Mortgaged Property for its intended purpose. The Premises are situated on separate, distinct tax parcels and no portion of the Mortgaged Property is part of any other tax parcel. To the best knowledge of Mortgagor, all utility services necessary for the operation and occupancy of the Mortgaged Property for such purposes are available at the Mortgaged Property and will continue to be operational and adequate.

(i) Mortgagor's possession of the Premises has been peaceable and undisturbed and Mortgagor's title thereto has never been disputed or questioned and, except for the Permitted Encumbrances, Mortgagor does not know of any facts by reason of which any adverse claim to any part of the Mortgaged Property or to any undivided interest therein might be made. The Permitted Encumbrances do not and will not materially and adversely interfere with (i) the ability of Mortgagor to pay in full the Debt in the manner required under the Note or (ii) the use of the Mortgaged Property for the use currently being made thereof, or the value of

the Mortgaged Property.

(j) No condemnation or eminent domain proceedings or other exercise of the right of eminent domain or conveyance in lieu of condemnation (hereinafter collectively called "Eminent Domain Proceedings") have been commenced with respect to the Mortgaged Property or any portion thereof and, to the best knowledge of Mortgagor, no Eminent Domain Proceedings are pending, nor is Mortgagor aware of any threatened Eminent Domain Proceedings.

(k) All Equipment, Personal Property and all other fixtures and articles of personalty attached to the Premises, or usable in connection with the operation and maintenance thereof, have been fully paid for and are the property of Mortgagor and are not subject to any conditional bills of sale, chattel mortgages or any other title retention agreement of a similar nature or to any other liens or encumbrances other than those created by the Transaction Documents or otherwise specifically permitted hereunder, except for: (i) Equipment or Personal Property subject to written leases between the owner/installer of such Equipment and/or Personal Property, as lessor, and Mortgagor, as lessee; and (ii) Equipment or Personal Property that is owned by tenants at the Premises.

(l) The execution and delivery of this Mortgage has been duly authorized by the Mortgagor's members and managers, and there is no provision in the articles of organization or operating agreement requiring further consent for such action by any other entity or person and Mortgagor is duly organized, validly existing and in good standing under the laws of the State of New York and is authorized to conduct business in the State of New York. The Mortgagor covenants that it has obtained all necessary licenses, authorizations, registrations, permits and/or approvals, the failure of obtaining which would have a material adverse effect on the business of the Mortgagor operating on the Premises, or any tenant of the Premises, and full power and authority to own its properties and carry on its business as presently conducted and the execution and delivery by it of, and performance of its obligations under, this Mortgage will not result in the Mortgagor being in default under any provision of any mortgage, credit or other agreement to which it is a party or which affects the Mortgagor or the Premises, or any part thereof. The Mortgagor further covenants that the Premises comply in all respects with all applicable laws, ordinances, rules and regulations.

(m) No "success", brokerage or other fee, commission or compensation is or will become due and payable by Mortgagor (or to the knowledge of Mortgagor, by Mortgagee as a result of any acts or omissions of Mortgagor) in connection with the transactions contemplated by the Transaction Documents. Mortgagor hereby indemnifies Mortgagee from and against any and all claims for brokerage fees or commissions and agrees to pay all expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by Mortgagee in connection with the defense of any action or

proceeding brought by any person to collect any such fees, commissions or compensation, other than brokers engaged or allegedly engaged by Mortgagee.

(n) No representation or information contained herein or in any other Transaction Document, nor any written statement or other instrument furnished, or to be furnished, to Mortgagee or any other person entitled thereto under the terms of the Transaction Documents by or on behalf of Mortgagor taken as a whole contains, or will contain, any untrue statement of a material fact, or omits, or will omit, to state a material fact necessary to make the statements contained herein or therein not materially misleading.

5. Covenants of Mortgagor as to Performance and Other Matters.

(a) Mortgagor shall duly perform and observe all of the agreements, covenants, conditions and obligations imposed by the provisions of this Mortgage, the Note, the other Transaction Documents or imposed upon or assumed by Mortgagor by virtue of the provisions of the Permitted Encumbrances or any deed, conveyance, agreement, statute or ordinance pursuant to which Mortgagor or any predecessor in title of the Mortgaged Property acquired the Mortgaged Property or any right or privileges appurtenant thereto or for the benefit thereof.

(b) Mortgagor shall, so long as Mortgagor has an interest in the Mortgaged Property, do all things necessary to preserve and keep in full force and effect the existence, rights and privileges of Mortgagor under the laws of the state of its formation and the State in which the Premises are located.

(c) Mortgagor shall not, without the prior written consent of Mortgagee which consent shall not be unreasonably withheld or delayed, institute, join in, execute or consent to any change in any covenant, condition, restriction, easement, declaration, zoning ordinance, or other public or private restriction limiting, defining or otherwise controlling construction on or use(s) of all or any part of the Mortgaged Property except for any of the Permitted Encumbrances.

(d) Mortgagor shall not, without the prior written consent of Mortgagee which consent shall not be unreasonably withheld, conditioned or delayed, enter into, amend or modify any agreements relating to the management of the Mortgaged Property.

(e) All such agreements shall be fully and expressly subject and subordinate in all respects to the Debt, this Mortgage, and the Transaction Documents and to any and all extensions, renewals, additions, modifications, increases, consolidations, spreaders, amendments, replacements, restatements and substitutions hereof and thereof.

(f) Mortgagor shall obtain all Approvals required in connection with the execution, delivery or performance by Mortgagor of this Mortgage, the other Transaction Documents and other instruments herein mentioned to which Mortgagor is a party.

(g) Mortgagor shall cause all Permits and certificates of occupancy required with respect to the use, operation, ownership and maintenance of the Mortgaged Property to remain in full force and effect at all times during the term hereof, and Mortgagor shall not permit or suffer to permit a material violation of any such Permit or certificate of occupancy, or enter into any Lease which causes or permits the violation thereof it being agreed that any violation shall be deemed material which in any way adversely affects the use or utilization of the Premises for the purposes required of Mortgagor hereunder or which in any way adversely affects the ability of Mortgagor to pay the Debt or any portion thereof.

6. **Due on Sale or Encumbrance.**

(a) As used herein, "Transfer" means: (i) any sale, assignment, conveyance, creation of lien other than a Permitted Encumbrance, or other disposition or transfer of any kind of the Mortgaged Property or any item or part thereof or any legal or equitable estate, right or interest therein, whether voluntary or involuntary or by operation of law, whether of record or not, and whether or not for consideration or to secure any debt; (ii) any entering by Mortgagor into any Lease for all or substantially all of the Premises, or any contract or other agreement evidencing or contemplating any transaction described in the foregoing clause (i); (iii) any change in the name under which Mortgagor is organized or does business; (iv) any dissolution or termination of Mortgagor's existence; or (v) any sale, transfer, encumbrance or other disposition of any legal or beneficial interest in Mortgagor, its members, or in any other Person that holds a direct, or through one or more intervening Persons, an indirect legal or beneficial interest in Mortgagor by another entity except as otherwise permitted in any of the Transaction Documents. A disposition of items of Equipment when unserviceable or obsolete shall not constitute a "Transfer" if such items are replaced promptly by like items at least equal in value and function to those replaced and in such manner that the replacement items shall at all times be subject to the lien of this Mortgage and if Mortgagee is provided prior notice of such disposition.

(b) As used in this Mortgage, "Person" means any individual, corporation, partnership, joint venture, association, limited liability company, joint stock company, estate, trust, unincorporated organization or other business entity or Governmental Authority.

(c) Mortgagor acknowledges that the continuous ownership, operation and management of the Mortgaged Premises by Mortgagor is of a material nature to this transaction and the making of the Loan evidenced and secured by this Mortgage and the other Transaction Documents. Mortgagor shall not, without the approval of Mortgagee, make, permit or suffer any Transfer not expressly permitted by the terms of this Mortgage. Upon any Transfer in violation of this Paragraph 6, Mortgagee may deal with the transferee in the same manner as with Mortgagor. No Transfer, whether in violation hereof or not, shall release, discharge, modify or affect the liability of Mortgagor or any other obligor under the Transaction Documents or the lien of this Mortgage.

(d) If Mortgagee shall not consent to a sale, conveyance, assignment, mortgaging, encumbering or other transfer or disposition prohibited by subparagraph 6(c) hereof, and Mortgagor nevertheless proceeds with such sale, conveyance, assignment, mortgaging, encumbering or other transfer or disposition, then Mortgagee may, at its option, and without limiting any other right or remedy available to Mortgagee hereunder, at law or in equity, in Mortgagee's sole and absolute discretion and without regard to the adequacy of its security, declare the Note and all other sums secured hereby, in whole or in part, immediately due and payable.

(e) The giving of consent by Mortgagee to the transfer or disposition of all or any part of the Mortgaged Premises or any interest therein in any one or more instances shall not limit or be deemed a waiver of the requirement for such consent in any other or subsequent instances. Except as otherwise hereinafter expressly provided to the contrary, if any mortgage, encumbrance or other lien shall be placed on the Mortgaged Property or any portion thereof (other than this Mortgage) without Mortgagee's prior written consent, such prohibited lien shall be deemed to be null and void ab initio.

7. Hazardous Substances.

(a) As used herein:

(i) "Environment" shall mean soil, surface waters, ground waters, land, stream, sediments, surface or subsurface strata and ambient air.

(ii) "Environmental Laws" shall mean all Federal, state and local environmental, health or safety laws, regulations, ordinances, orders, actions, policies and rules of common law (whether now existing or hereafter enacted or promulgated), of all Governmental Authorities and all applicable judicial and administrative and regulatory decrees, judgments and orders, including common law rulings and determinations, relating to injury to, or the protection of, real or personal property or human health or the Environment, including, without limitation, all requirements pertaining to reporting, licensing, permitting, investigation, remediation and removal of emissions, discharges, releases or threatened releases of Hazardous Substances, chemical substances, gases, vapors, energy, radiation, petroleum or petroleum products, pollutants, contaminants or hazardous or toxic substances, materials or wastes whether solid, liquid or gaseous in nature, into the Environment, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances, pollutants, contaminants or hazardous or toxic substances, materials or wastes, whether solid, liquid or gaseous in nature, strata and ambient air.

(iii) "Environmental Report" shall mean the Environmental Report(s) supplied to Mortgagee in connection with the Loan applicable to the Premises or any update thereof or supplement thereto, approved in writing by Mortgagee.

(iv) "Hazardous Substances" shall mean any chemical, material, gas, vapor, energy, radiation or substance (i) the presence of which requires or may hereafter

require notification, investigation or remediation under any applicable Environmental Law; (ii) which is or becomes defined as a "hazardous waste", "hazardous material" or "hazardous substance" or "controlled industrial waste" or "pollutant" or "contaminant" under any present or future Environmental Law, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601 et seq.) and any other applicable local statutes and the regulations promulgated thereunder; (iii) which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous and is or becomes regulated by any Governmental Authority; (iv) the presence of which on the Mortgaged Property cause or threaten to cause a nuisance pursuant to applicable statutory or common law upon the Mortgaged Property or to adjacent properties or poses or threatens to pose a hazard to the Mortgaged Property or to the health or safety of persons or property on or about the Mortgaged Property; (v) without limitation, which contains gasoline, diesel fuel or other petroleum hydrocarbons or volatile organic compounds; (vi) without limitation, which contains PCBs or asbestos or urea formaldehyde foam insulation; or (vii) without limitation, which contains or emits radioactive particles, waves or material, including radon gas in amounts the presence of which poses or threatens to pose a hazard to the Mortgaged Property or to the health or safety of persons or property on or about the Mortgaged Property.

(v) "best knowledge of Mortgagor" shall mean, with respect to any provision dealing with Environmental Laws or Hazardous Substances, knowledge of the information contained in the Environmental Report and actual knowledge obtained by Mortgagor or any officer or director of Mortgagor or any regional supervisor of Mortgagor primarily charged with responsibility for such matters.

(b) Mortgagor hereby represents and warrants as of the date hereof as follows:

(i) Except as set forth in the Environmental Report, to the best knowledge of the Mortgagor: (A) neither Mortgagor nor, to the best knowledge of Mortgagor, any prior owner, occupant or user of the Mortgaged Property nor any other person (each, a "Prior User") has engaged in or permitted any operations or activities upon, or any use or occupancy of the Mortgaged Property, or any portion thereof, for the purpose of or in any way involving the handling, manufacture, treatment, storage, use, generation, release, discharge, refining, dumping or disposal of any Hazardous Substances (whether legal or illegal, accidental or intentional) on, under, in or about the Mortgaged Property, except to the extent commonly used in the day-to-day operation of the Mortgaged Property and in such case substantially in compliance with all Environmental Laws; (B) neither Mortgagor nor, to the best knowledge of Mortgagor, any prior user has transported any Hazardous Substances to, from or across the Mortgaged Property, except to the extent commonly used in the day-to-day operation of the Mortgaged Property and in such case substantially in compliance with all Environmental Laws; (C) no Hazardous Substances have migrated from other properties upon, about or beneath the Mortgaged Property; and (D) there are no Hazardous Substances presently constructed, deposited, stored, or otherwise located on, under, in or about the

Mortgaged Property, except to the extent commonly used in the day-to-day operation of the Mortgaged Property and in such case substantially in compliance with all Environmental Laws.

(ii) Except as set forth in the Environmental Report, to the best knowledge of Mortgagor, the Mortgaged Property and the existing and prior uses and activities thereon, including but not limited to the use, maintenance and operation of the Mortgaged Property, and all activities and conduct of business related thereto, substantially comply and have at all times substantially complied with all Environmental Laws, and no activity on or condition of the Mortgaged Property constitutes, or has constituted, a material nuisance or a material tortious condition with respect to any third party.

(iii) Mortgagor has obtained any or all permits, licenses and authorizations which may be required under all Environmental Laws, including laws relating to emissions, discharges, releases or threatened releases of Hazardous Substance into the Environment or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances. To the best knowledge of Mortgagor, Mortgagor and the Mortgaged Property are substantially in compliance with all terms and conditions of any required permits, licenses and authorizations and are also substantially in compliance with all other Environmental Laws.

(iv) Except as set forth in the Environmental Report, to the best knowledge of the Mortgagor, neither Mortgagor nor, to the best knowledge of Mortgagor, any prior user, has received notice or other communication from a Governmental Authority concerning any alleged violation of or liability under any Environmental Laws. Except as set forth in the Environmental Report, to the best knowledge of the Mortgagor, there exists no writ, injunction, decree, order or judgment outstanding, nor any lawsuit, claim, proceeding, citation, directive, summons or investigation, pending or threatened, relating to the ownership, use, maintenance or operation of the Mortgaged Property by any person or entity, or from any alleged violation of Environmental Laws, or from any suspected presence of Hazardous Substance thereon, nor to the best knowledge of Mortgagor, does there exist any basis for such lawsuit, claim, proceeding, citation, directive, summons or investigation being instituted or filed.

(v) Except to the extent set forth in the Environmental Report, to the best knowledge of the Mortgagor, there is not constructed, placed, deposited, stored, disposed of or located on the Mortgaged Property any PCB nor transformer, capacitor, ballast, or other equipment which contains dielectric fluid containing PCBs, or any asbestos or asbestos-containing materials or any insulating material containing urea formaldehyde or any radon gas in amounts the presence of which poses or threatens to pose a hazard to the Mortgaged Property or to the health or safety of persons or property on or about the Mortgaged Property. To the best knowledge of Mortgagor, except to the extent set forth in the Environmental Report or as may have been removed in accordance with

Environmental Laws, no underground improvements, including, but not limited to, treatment or storage tanks, or water, gas or oil wells, have ever been located on the Mortgaged Property.

(c) Mortgagor hereby covenants and agrees that Mortgagor shall not, unless Mortgagee shall otherwise consent in writing:

(i) Cause and, to the best of Mortgagor's ability to prevent such activity, permit or suffer any Hazardous Substance to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath the Mortgaged Property or any portion thereof by Mortgagor, its agents, employees, contractors, invitees, tenants, or any other person, except to the extent commonly used in the day-to-day operation of the Mortgaged Property, and with respect to all of the foregoing, only so long as in compliance with all Environmental Laws. The foregoing shall not apply to any Hazardous Substances that may have migrated or leached onto the Mortgaged Property from any other property.

(ii) Cause, permit or suffer the existence or the commission by Mortgagor, its agents, employees, or contractors of a violation of any Environmental Laws upon, about or beneath the Mortgaged Property or any portion thereof and Mortgagor shall use commercially reasonable efforts to prevent any such violation of any Environmental Laws by any invitees or any other person on the Mortgaged Property. Any removal or encapsulation of or other remedial action taken by or on behalf of Mortgagor in connection with any Hazardous Substance located on the Mortgaged Property (including, without limitation, subsequent disposal thereof) shall be performed in accordance with all applicable Environmental Laws and other Legal Requirements (as defined in Paragraph 15 hereof).

(iii) Subject to the provisions of Paragraph 16 hereof relating to permitted contests, create, or to the best of Mortgagor's ability to prevent such encumbrances, suffer to exist with respect to the Mortgaged Property, or permit any of its agents to create or suffer to exist, any lien, security interest or other charge or encumbrance of any kind, including, without limitation, any lien imposed pursuant to any Environmental Law.

8. Insurance.

(a) At Mortgagor's expense, Mortgagor shall maintain continuously during the term of this Mortgage policies of insurance (collectively, the "Policies") in form and in amounts and issued by companies, associations or organizations reasonably satisfactory to Mortgagee, but in any event having a claims-paying ability rating of at least AA by Standard & Poor's Corporation or A or better by A.M. Best Company, Inc., and licensed to do business in the State, covering such casualties, risks, perils, liabilities and other hazards reasonably required by Mortgagee as of the date of this Mortgage and such other insurance as Mortgagee shall from time to time reasonably require against such other insurable hazards which at the time are commonly insured against in respect of properties similar

to the Mortgaged Property with due regard being given to the size, type, location, construction, use and occupancy of the Mortgaged Property. Without limiting the generality of the foregoing, Mortgagor shall provide the following types of insurance coverage:

(i) Insurance against loss or damage to the Improvements, the Equipment and the Personal Property, including, without limitation, risks covered by insurance of the types known as "fire, extended coverage, sprinkler leakage and vandalism and malicious mischief", in an amount at least equal to the amount secured hereunder and at all times sufficient to prevent the application of co-insurance contributions on loss. The Policies shall contain "replacement cost" endorsements and shall provide for deductibles not to exceed fifty thousand dollars (\$50,000.00).

(ii) If any portion of the Premises is located in an area designated as "flood prone" pursuant to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 (42 U.S.C. Sections 4001-4128) and any amendments or supplements thereto or substitutions therefor, flood insurance to the extent required by Mortgagee and to the extent such insurance is available;

(iii) To the extent not covered under subparagraphs 8(a)(i) and 8(a)(ii), difference in conditions coverage (including flood, if the Premises are located in a flood zone, and earthquake, to the extent available at commercially reasonable rates and to the extent such applicable coverage is customarily obtained for similar properties in the vicinity of the Premises) in an amount reasonably satisfactory to Mortgagee;

(iv) Rental value or business interruption insurance in an amount equal to six (6) months' gross rents from the Premises, with no co-insurance (in this context, "rental value" shall include (x) gross rental income from tenant occupancy of the Premises, plus (y) the fair market rental value of all portions of the Premises occupied by Mortgagor);

(v) Broad Form Comprehensive General Liability Insurance in an amount of not less than two million dollars (\$2,000,000) (or such higher amount as Mortgagee shall from time to time reasonably require) combined single limit for bodily injury (including death resulting therefrom) and third-party property damage; such insurance shall include premises liability insurance, blanket contractual liability insurance and personal injury liability insurance; such requirement may be satisfied by layering of comprehensive general liability, umbrella and excess liability policies, but in no event shall the primary comprehensive general liability policy be written for an amount less than one million dollars (\$1,000,000) per occurrence (or such higher amount as Mortgagee shall from time to time reasonably require) combined single limit for bodily injury (including death resulting therefrom) and third-party property damage;

(vi) Boiler and machinery breakdown direct and consequential damage insurance and third-party liability coverage (if applicable), with full comprehensive coverage on a repair and replacement cost basis, for all boilers and machinery which

form a part of the Mortgaged Property which could disrupt the revenues of the Mortgaged Property if rendered nonoperational, including rental value insurance in connection therewith in accordance with subparagraph 8(a)(iv);

(vii) During the performance of any material construction or renovations, broad form builder's risk insurance on an all risk, completed value basis;

(viii) Worker's compensation and employer's liability insurance subject to the statutory limits of the State in respect of any work or other operations on, about or in connection with the Mortgaged Property or a self insurance program complying with the laws of the State; and

(ix) Such other insurance with respect to the Mortgaged Property as is customary and prudent under the circumstances and in such amounts as Mortgagee may from time to time reasonably require against such other insurable hazards which at the time are commonly insured against in respect of properties similar to the Mortgaged Property.

(b) Mortgagor may effect coverage under Paragraph 8(a) under a blanket insurance policy reasonably satisfactory to Mortgagee, provided that: (i) any such policy of blanket insurance shall specify therein, or the insurer under such policy shall certify to Mortgagee, (A) the maximum amount of the total insurance afforded by the blanket policy to the Mortgaged Property and (B) any sublimits in such blanket policy applicable to the Mortgaged Property, which amounts shall not be less than the amount required pursuant to Paragraph 8(a); (ii) any such policy of blanket insurance shall comply in all respects with the other provisions of Paragraph 8(a); and (iii) the protection afforded under any policy of blanket insurance shall be no less than that which would have been afforded under a separate policy or policies relating only to the Mortgaged Property.

(c) (i) The insurance maintained under subparagraphs 8(a)(i), 8(a)(ii), 8(a)(iii), 8(a)(iv), 8(a)(vi), 8(a)(vii) and (if applicable) 8(a)(ix) above shall (A) bear a standard noncontributory first mortgagee endorsement in favor of Mortgagee and a lender's loss payable endorsement in favor of the Mortgagee; (B) provide that all property losses insured against shall be adjusted by Mortgagor, subject to Mortgagee's rights, if any, contained in Paragraph 13 hereof to participate in the adjustment of such losses and to Mortgagee's right to consent, which consent shall not be unreasonably withheld or delayed, to the final settlement of any loss of more than fifty thousand dollars (\$50,000.00), (C) provide that, in the case of any loss of more than fifty thousand dollars (\$50,000.00), the proceeds thereof shall be paid directly to Mortgagee for application as provided in Paragraph 13, and (D) provide that the insurers waive any and all subrogation rights against Mortgagee. In the event of an insurable casualty, Mortgagor hereby waives all claims against Mortgagee to the extent of any insurance proceeds payable on account of such casualty, excluding, however, any right to the use of any such proceeds.

(ii) The insurance maintained under subparagraphs 8(a)(v), 8(a)(vi) and (if applicable) 8(a)(ix) above shall name Mortgagee as an additional insured.

(iii) All insurance maintained by Mortgagor hereunder shall provide that:

(A) no cancellation, material change or reduction thereof shall be effective until at least thirty (30) days after receipt by Mortgagee of notice thereof; and

(B) all losses shall be payable notwithstanding any act or negligence of Mortgagor or its agents or employees which might, absent such agreement, result in a forfeiture of all or part of such insurance payment.

(iv) If any of the risks insured by the Policies required by this Paragraph are reinsured, the Policies shall contain a so-called "cut-through" endorsement and an agreement by the reinsurer to provide Mortgagee with at least thirty (30) days' notice of a cancellation, material change or reduction.

(d) Mortgagor shall furnish to Mortgagee, without notice or demand by Mortgagee, not later than ten (10) days prior to the expiration date of each Policy required to be maintained by Mortgagor hereunder, an insurance certificate or certificates executed by the insurer or its authorized agent evidencing the insurance maintained under such Policy, and evidence satisfactory to Mortgagee of payment of the premium therefor. On written demand, but not more frequently than annually, Mortgagor shall provide Mortgagee with a copy of any Policy (and endorsements thereto) maintained by Mortgagor verified (if available at no material cost to Mortgagor) to be a true copy by the insurer or its authorized agent.

(e) Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with the insurance required under Paragraph 8(a) unless: (i) the policies are submitted to Mortgagee for approval, which approval shall not be unreasonably withheld or delayed; (ii) the insurers thereunder and the terms thereof are approved by Mortgagee; and (iii) Mortgagee is included therein as an additional named insured or loss payee to the same extent as provided in Paragraph 8(c) with respect to insurance required to be maintained hereunder. Mortgagor shall notify Mortgagee at least fifteen (15) days before any such separate insurance is taken out and shall furnish Mortgagee with certified copies of the policy or policies or certificate or certificates of insurance executed by the insurer or its authorized agent with respect thereto.

(f) When and if required by the applicable insurance company, Mortgagor shall furnish Mortgagee with an appraisal satisfactory to Mortgagee showing the full replacement value of the Improvements, the Equipment and the Personal Property.

(g) At the request of Mortgagee, Mortgagor shall assign the Policies to Mortgagee for the benefit of Mortgagee as collateral and further security for the payment of the Debt. In the event of a foreclosure of this Mortgage, the purchaser of the Mortgaged Property shall succeed to all the rights of Mortgagor to the extent permissible under the Policies and applicable law, including any right to unearned premiums, in and

to all Policies assigned or delivered to Mortgagee pursuant to this Paragraph.

(h) If Mortgagor fails to maintain the insurance required to be maintained hereunder or fails to deliver evidence of insurance, Mortgagee may, but shall not be obligated to, obtain insurance and pay the premiums therefor on behalf of Mortgagor and Mortgagor shall reimburse Mortgagee, on written demand, for all sums advanced and expenses incurred in connection therewith. Such sums and expenses, together with interest thereon at the Default Rate (as defined in Paragraph 20), shall be deemed part of the Debt and secured by the lien of this Mortgage.

(i) Nothing contained in this Paragraph or elsewhere in this Mortgage shall relieve Mortgagor of its duty to maintain, repair, replace or restore the Improvements, the Equipment or the Personal Property or rebuild the Improvements, from time to time, following damage thereto or destruction thereof whether or not sufficient proceeds of insurance are available to defray the cost of such repairs or restoration, and following any condemnation of all or any portion of the Mortgaged Property, and nothing contained in this Paragraph or elsewhere in this Mortgage shall relieve Mortgagor of its duty to pay the Debt, which shall be absolute, regardless of the occurrence of damage to or destruction of or condemnation of all or any portion of the Mortgaged Property.

(j) In the event that prior to payment in full of the Debt, any claim under any Policy has not been paid and distributed in accordance with the terms of this Mortgage, and any such claim shall be paid after foreclosure of this Mortgage or other transfer of title to the Mortgaged Property shall have resulted in extinguishing the Debt for an amount less than the total of the unpaid principal balance together with accrued interest and any prepayment premium, plus costs and disbursements at the time of the extinguishment of the Debt, and such insurance claim is thereafter paid, then and in that event that portion of the payment in satisfaction of the claim which is equal to the aforesaid deficiency shall belong to and be the property of Mortgagee and shall be paid to Mortgagee, and Mortgagor hereby assigns, transfers and sets over to Mortgagee all of Mortgagor's right, title and interest in and to said sums. The balance, if any, shall be promptly paid to Mortgagor. Notwithstanding the above, Mortgagor shall retain an interest in the Policies above described during any redemption period. The provisions of this Paragraph shall survive the termination of this Mortgage by foreclosure or otherwise as a consequence of the exercise of any rights and remedies of Mortgagee hereunder after an Event of Default.

(k) By January 31st of each year, the Mortgagor will deliver to the Mortgagee receipted bills, canceled checks or other proof reasonably satisfactory to the Mortgagee evidencing payment of the premiums for the policies of insurance required by this section. All such items should be sent to the Mortgagee at P.O. Box 405, Norwich, New York 13815. If the Mortgagor fails to give the Mortgagee satisfactory evidence of the payment of such premiums by such date, the Mortgagee may require the Mortgagor to pay to the Mortgagee on the first day of each and every month thereafter a sum equal to the premiums next due under said policies of insurance (as estimated by the Mortgagee), less all sums already paid therefor, divided by the number of months

remaining until one month prior to the date when such premiums will be due and payable. All such sums received will be held without interest and applied by the Mortgagee to the payment of such premiums as and when the same become due and payable.

9. Payment of Impositions and Utility Charges.

(a) Subject to the provisions of Paragraph 16 hereof, Mortgagor shall pay, before any interest or penalty for non-payment attaches thereto, all taxes or payments in lieu thereof ("PILOT Payments"), assessments, water rates, sewer rents, vault charges, permit fees, user fees and other governmental charges, and other charges of any kind or nature whatsoever, general or special, ordinary or extraordinary, now or hereafter levied, assessed or imposed upon or which constitute a lien upon or against the Mortgaged Property or any portion thereof, or upon the Rents derived from the Mortgaged Property or arising in respect of the occupancy, use or possession thereof (collectively, the "Impositions"). If Mortgagor shall fail to pay any Impositions before any interest or penalty for non-payment attaches thereto, Mortgagee shall have the right, but shall not be obligated, to pay such Impositions, and Mortgagor shall repay to Mortgagee, within ten (10) days after written demand therefor.

(b) Any amount so paid by Mortgagee, with interest thereon from the date of such payment by Mortgagee at the Default Rate to the date of repayment, and such amount, together with such interest, shall constitute a portion of the Debt secured by the lien of this Mortgage. In the case of any assessment payable in installments, each installment thereof shall be paid prior to or on the date on which such installment becomes due and payable without imposition of any fine, penalty, interest or cost. Mortgagor shall not be entitled to any credit on the Note, or any other sums which may become payable under the terms thereof or hereof, or otherwise, by reason of the payment of the Impositions.

(c) Mortgagor shall promptly deliver to Mortgagee, upon request, receipted bills, canceled checks or other evidence reasonably satisfactory to Mortgagee evidencing the payment of the Impositions. The certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of such Imposition shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill. If Mortgagor shall fail to provide Mortgagee with such evidence evidencing the payment of Impositions by December 31st of each year or within thirty (30) days after notice, Mortgagor shall pay Mortgagee, on written demand, all charges, payments, fees, costs or expenses reasonably incurred by Mortgagee in connection with obtaining evidence satisfactory to Mortgagee that payment of all Impositions is current and that there are no Impositions due and owing or which have become a lien on the Mortgaged Property or any portion thereof or any appurtenances thereto.

(d) Mortgagor shall timely pay all charges for electricity, power, gas, water

and other utilities used in connection with the Mortgaged Property and, upon the written request of Mortgagee, Mortgagor shall promptly deliver to Mortgagee receipted bills, canceled checks or other evidence reasonably satisfactory to Mortgagee evidencing the payment of such charges.

10. Escrow Fund.

(a) Mortgagor shall, at the option of Mortgagee to be exercised by written notice at any time after the occurrence of any Event of Default, after the expiration of any grace or cure period, if any, pay to Mortgagee on the first day of each calendar month one-twelfth (1/12th) of an amount (hereinafter referred to as the "Escrow Fund") which would be sufficient to pay the Impositions and all premiums on the Policies payable, or estimated by Mortgagee to be payable, during the ensuing twelve (12) months prior to the date any interest or penalty for non-payment attaches. Such deposits shall not be, nor be deemed to be, trust funds and shall be held by Mortgagee in a demand deposit account with interest (the "Tax and Insurance Escrow Account") which may be commingled with the general funds of Mortgagee and which shall be free of any liens or claims on the part of creditors of Mortgagor.

(b) Mortgagee will apply the Escrow Fund to the payment of Impositions and premiums on the Policies which are required to be paid by Mortgagor pursuant to the provisions of this Mortgage. If the amount of the Escrow Fund shall exceed the amount of the Impositions and premiums on the Policies payable by Mortgagor pursuant to the provisions of this Mortgage, Mortgagee shall, in its sole discretion (i) return any excess to Mortgagor or (ii) credit such excess against future payments to be made to the Escrow Fund. In allocating such excess, Mortgagee may deal with the person shown on the records of Mortgagee to be the owner of the Mortgaged Property. If the Escrow Fund is not sufficient to pay the Impositions and premiums on the Policies as the same become due and payable, Mortgagor shall pay to Mortgagee an amount which Mortgagee shall estimate as sufficient to make up the deficiency.

(c) Until expended or applied as above provided, any amounts in the Escrow Fund shall constitute additional security for the Debt. If this Mortgage is sold or assigned, Mortgagee shall transfer to the assignee the amount then held by Mortgagee under this Paragraph, and upon such assignment and transfer Mortgagee shall not have any further obligation to Mortgagor with respect to such amount. If at any time Mortgagor tenders to Mortgagee full payment of the entire Debt, including any applicable premium or penalty, Mortgagee shall credit to the account of Mortgagor any balance remaining in the Escrow Fund accumulated by Mortgagee under this Paragraph. Upon the occurrence of an Event of Default, Mortgagee shall be authorized and empowered (but not required) to apply the balance remaining in the Escrow Fund in the manner set forth in Paragraph 23 hereof and shall give Mortgagor notice thereof.

11. Leases and Rents.

(a) Mortgagor hereby grants and assigns to Mortgagee the right to enter the Mortgaged Property and utilize the Mortgaged Property for the purpose of enforcing its interest in the Leases and collecting the Rents, this Mortgage constituting a present, absolute assignment of the Leases and Rents. Notwithstanding the foregoing, but subject to the terms and conditions of this Paragraph, Mortgagee hereby grants to Mortgagor a revocable license to operate and manage the Mortgaged Property and to collect the Rents. Mortgagor shall hold the Rents, or an amount sufficient to discharge all current sums due on the Debt, in trust for use in payment of the Debt. The license herein granted to Mortgagor to collect the Rents and enforce its interests in the Leases shall be considered as automatically revoked by Mortgagee following an Event of Default by Mortgagor under this Mortgage or any of the other Transaction Documents without the requirement of further notice to Mortgagee. In such event, Mortgagee may collect, retain and apply the Rents toward payment of the Debt in such priority and proportions as Mortgagee, in its sole discretion, shall deem proper, or to the operation, maintenance and repair of the Mortgaged Property. Nothing contained in this Paragraph shall be construed as imposing on Mortgagee any of the obligations of the lessor under any of the Leases. The provisions of this Paragraph shall be in addition to, and not in lieu of, the provisions of the Assignment, and, if any conflict or inconsistency exists between the provisions of this Mortgage and the provisions of the Assignment with respect to the Leases or Rents, the provisions of the Assignment shall control, except to the extent that this Mortgage shall impose greater burdens upon Mortgagor, shall further restrict rights of Mortgagor or shall give Mortgagee greater rights. Mortgagee shall be entitled to all the rights and benefits of the applicable laws of the State. It shall never be necessary for Mortgagee to institute legal proceedings of any kind whatsoever to enforce the provisions of this Paragraph 11(a).

(b) Unless the prior written approval of the Mortgagee is obtained, all new Leases shall be with tenants unaffiliated with Mortgagor, and shall be on arms-length terms and conditions and shall be at annual rents at least comparable to the market rents then being paid for comparable premises in the vicinity of the Premises. The Mortgagee will be given fifteen (15) days prior notice of proposed new Lease, with a copy of any proposed Lease.

(c) Any Lease entered into by Mortgagor from and after the date hereof and each renewal of an existing Lease (excluding, however, a renewal pursuant to an option contained in an existing Lease) shall provide: (i) that such Lease is and shall be subject and subordinate in all respects to this Mortgage and the lien created hereby, and to any renewals thereof, including any increase in the principal amount secured by this Mortgage, and any increase in the interest rates set forth in the Note and to each and all of the rights of Mortgagee or any holder thereof; (ii) that such provision shall be self-operative; (iii) that, in confirmation of such subordination, each tenant under a Lease (each, a "Tenant" and, collectively, the "Tenants") shall promptly execute and deliver following Mortgagee's written request such commercially reasonable agreement of subordination that Mortgagee may request; and (iv) that the Tenant shall execute and deliver estoppel certificates (each, a "Tenant Estoppel Certificate") addressed to Mortgagee certifying as

to the following information:

- (A) an identification of the Lease and all modifications by date, parties, and space;
- (B) the commencement date and expiration dates of the original term and any renewal periods of such Lease;
- (C) the base rent and additional rent then payable under such Lease;
- (D) that such Lease is in full force and effect;
- (E) that, to the best knowledge of such Tenant, Mortgagor is not in default of any of the terms of such Lease (or, if in default, specifying the default);
- (F) that, to the best knowledge of such Tenant, it has no rights of offset, defenses or counterclaims under the Lease (or, if it has any, specifying the same); and
- (G) the last day to which base rent under the Lease has been paid.

(d) Upon Mortgagor's written request, Mortgagee shall enter into a subordination, attornment and non-disturbance agreement, in form and substance satisfactory to Mortgagee, at the sole cost and expense of the Mortgagor, with any Tenant under any Lease, excepting therefrom the Agency under the Company Lease and the Agency Lease. Such subordination, attornment and non-disturbance agreement shall provide, inter alia, that to the extent not so provided by applicable law, in the event of the enforcement by Mortgagee of the remedies provided for by law or by this Mortgage, Mortgagee or any successors or assigns of Mortgagee shall agree that if, as a result of any possessory or foreclosure action or a deed in lieu of foreclosure, Mortgagee or any such successor or assign shall succeed to the landlord's estate, such Lease shall not be terminated or affected by such foreclosure or any of such proceedings and the Tenant thereunder shall attorn to and recognize Mortgagee (or its successors or assigns) as its landlord upon the terms, covenants, conditions and agreements contained in such Lease to the same extent and in the same manner as if such Lease were a direct lease between Mortgagee (or its successors or assigns) and the Tenant thereunder, except that Mortgagee (and its successors or assigns), whether or not they shall have succeeded to the interest of landlord under such Lease, shall not:

- (i) have any obligation to perform or complete any work required to be done by landlord under such Lease or any work letter annexed thereto or delivered in connection therewith, to prepare the premises demised thereunder for such tenant's occupancy, or under any guaranty or indemnification with respect to such work;

(ii) be liable for any act, omission or default of any prior landlord under such Lease;

(iii) be required to repair, restore, rebuild or replace the premises demised thereunder or the Improvements or any part of either thereof in the event of damage or destruction or fire or other casualty or in the event of condemnation;

(iv) be required to make any capital improvements to the Premises, or to construct, erect, or complete any construction or renovation of all or any portion of the Improvements which landlord under such Lease may have agreed to make but has not commenced or completed;

(v) be subject to any offset, defense, counterclaim, credit, deduction or abatement which shall have accrued to the tenant against any prior landlord under such Lease at any time prior to the delivery of possession to Mortgagee;

(vi) be liable for the return of rental security deposits, if any, deposited with any prior landlord under such Lease in accordance with the Lease unless such sums are actually received by Mortgagee;

(vii) be bound by any payment of rents, additional rents or other sums which the tenant may have paid more than one (1) month in advance unless (A) such sums are actually received by Mortgagee or (B) such prepayment shall have been expressly approved by Mortgagee;

(viii) be bound to make any payment to the tenant required under the Lease or otherwise required to be made prior to the delivery of possession of the Premises to Mortgagee; or

(ix) be bound by any agreement amending, modifying or terminating the Lease made without Mortgagee's prior written consent.

(e) Mortgagor, promptly after obtaining actual knowledge thereof, shall notify Mortgagee of any notice, action or proceeding regarding any Lease which may, in Mortgagor's reasonable judgment, materially and adversely affect the Mortgaged Property.

(f) Mortgagor shall at all times perform and comply with, or cause to be performed and complied with, all of the terms, covenants and conditions of the Leases to be performed or complied with by Mortgagor thereunder.

(g) Upon written notice, but not more frequently than annually, Mortgagor shall deliver to Mortgagee, on request, a rent roll and schedule of the Leases then in existence, certified by Mortgagor to be true and complete, together with a counterpart

original or a copy of every Lease and any amendments with respect to which a counterpart original or copy has not previously been furnished to Mortgagee, and containing such other information as Mortgagee may reasonably request. In addition, Mortgagor, upon Mortgagee's reasonable request but not more than once in any twelve (12) month period, shall use reasonable efforts to obtain from each tenant at the Premises a Tenant Estoppel Certificate.

(h) All security or other deposits, if any, of tenants held by Mortgagor (collectively, "Security Deposits") shall be treated as trust funds of Mortgagor and shall be deposited into a tenant's security account maintained by Mortgagor at a commercial bank, identified to Mortgagee and shall be specifically noted in the Mortgagor's records.

12. Maintenance of the Mortgaged Property; Changes.

(a) Mortgagor agrees to keep, operate and maintain the Mortgaged Property in a first class condition for its present purposes. Without limitation, Mortgagor agrees:

(i) not to desert or abandon all or any portion of the Mortgaged Property;

(ii) to keep, or cause to be kept, the Mortgaged Property (including the sidewalks and the curbs adjoining the Mortgaged Property, if obligated by Legal Requirements) in good, safe and insurable condition and as required by Legal Requirements (whether or not a violation has been noted or issued therefor);

(iii) to maintain, or cause to be maintained or replaced, all Improvements, Equipment and Personal Property in substantially the same or similar condition as they exist on the date hereof;

(iv) not to commit or suffer waste;

(v) not to make or permit to be made any structural or non-structural alterations in or additions to the Improvements (collectively, "Changes") or demolish the Improvements or any portion thereof, except with the prior written consent of Mortgagee, which consent shall not be unreasonably withheld or delayed, except (x) as may otherwise be in accordance with this Mortgage, or (y) as may be required by any Governmental Authority, subject to the provisions of Paragraph 13 hereof;

(vi) to promptly repair, replace, restore or rebuild, or cause to be promptly repaired, replaced, restored or rebuilt, all Improvements now or hereafter constituting a part of the Mortgaged Property which may become damaged or destroyed, with materials and workmanship of as good quality as existed before such damage or destruction;

(vii) to refrain from impairing or diminishing the value of the Mortgaged

Property or the security value of the Mortgage; and

(viii) not to remove any of the Equipment or Personal Property without the prior written consent of Mortgagee, except for substitution or replacement in the ordinary course of business of any component of Equipment or Personal Property with items of equivalent value and utility, provided, however, that Mortgagor shall not be required to replace any Personal Property or Equipment if the same shall be obsolete or if Mortgagor shall no longer have any use for any such Equipment or Personal Property. Notwithstanding anything to the contrary contained in this subparagraph 12(a), nothing herein shall preclude Mortgagor's right to decide, in the exercise of its good business judgment, the manner, methodology and extent of Mortgagor's maintenance or repair of the Mortgaged Property, provided that the Mortgaged Property and Mortgagor shall at all times comply with all Legal Requirements.

(b) Notwithstanding anything to the contrary contained in Paragraph 12(a), the prior consent of Mortgagee shall not be required with respect to those Changes (i) approved by Mortgagee or (ii) that are non-structural and will not affect any building system and the best estimated cost of any such Changes constituting a single project does not exceed fifty thousand dollars (\$50,000.00).

(c) All Changes shall be performed lien-free, in a good and workmanlike manner, and in compliance with all Legal Requirements. No material part of the Improvements shall be demolished in connection with any Changes and the operations at the Premises shall not be suspended as a consequence thereof. Promptly upon completion of any material structural Changes, as-built plans and evidence reasonably satisfactory to Mortgagee of lien-free construction shall be delivered to Mortgagee.

(d) Mortgagee, and its agents or designated representatives, shall, upon reasonable prior notice to Mortgagor, have the right of entry and free access to the Mortgaged Property to inspect any work authorized by Mortgagee and the work done, labor performed, materials furnished or Changes to the Mortgaged Property. Mortgagor shall make its members, managers and such regional supervisors primarily charged with responsibility over such matters available for Mortgagee to discuss Mortgagor's affairs, finances and accounts relating to any work done, labor performed, materials furnished or Changes to the Mortgaged Property and will cooperate with, and request that its contractors and any subcontractors cooperate with, Mortgagee or any of its designated representatives to enable them to perform these functions, at all reasonable times and as often as Mortgagee may reasonably request.

13. Damage to and Destruction of the Mortgaged Property.

(a) In the event that the Mortgaged Property shall be damaged or destroyed, in whole or in part, by fire or other casualty, whether insured or uninsured, Mortgagor shall give prompt written notice thereof to Mortgagee, together with Mortgagor's best estimate of the cost of restoration (the "Restoration Cost"). Mortgagor shall timely file

all proofs of claims so as not to prejudice any claim and, if the amount of any such claim or if the Restoration Cost exceeds one hundred thousand dollars (\$100,000.00) or, irrespective of the Restoration Cost, if an Event of Default has occurred, shall submit all proofs of claim and other submissions to Mortgagee for the written approval of Mortgagee prior to any such filing, which approval shall not be unreasonably withheld or delayed.

(b) Provided that no Event of Default exists under any Transaction Document, Mortgagor shall have the right to settle any insurance claim with respect to any casualty where the Restoration Cost is one hundred thousand dollars (\$100,000.00) or less, but shall give prompt written notice of any such claim and settlement to Mortgagee. In such event, Mortgagor shall apply the Insurance Proceeds relating to such casualty to restoration, replacement, rebuilding or repair (hereinafter collectively referred to as "restoration") of the damage.

(c) If the Restoration Cost shall exceed one hundred thousand dollars (\$100,000.00), Mortgagee shall have the right to participate in the settlement of all insurance claims relating to such casualty, and all Insurance Proceeds relating to such casualty shall be paid directly to Mortgagee, and, after settlement of the claim and subject to Paragraph 13(d) hereof, such Insurance Proceeds shall be deposited in a segregated account advanced to Mortgagor from time to time (subject to the conditions set forth below) in reimbursement for amounts expended by Mortgagor or as direct payments to contractors in restoration of the Mortgaged Property. Upon completion of the entire restoration and provided no Event of Default shall have occurred and be continuing, Mortgagee shall pay the remaining amount of any Insurance Proceeds, if any, to Mortgagor; provided, however, that nothing herein contained shall prevent Mortgagee from applying at any time the whole or any part of the Insurance Proceeds to the curing of any default under any Transaction Document. Advances of Insurance Proceeds shall be made available to Mortgagor in accordance with the general procedures employed at the time by Mortgagee in connection with the disbursement of loan proceeds in general by Mortgagee, including, without limitation, an endorsement to the title insurance policy of Mortgagee as to the Premises insuring the continued first priority lien of this Mortgage and appropriate certifications from a licensed architect or engineer selected by Mortgagor subject to the reasonable approval of Mortgagee (each, an "Architect") that the requested payment is for work completed in accordance with plans and specifications approved by Mortgagee and that the balance of funds held on deposit after such payment will be sufficient to pay the cost of completing the restoration, and evidence satisfactory to Mortgagee that no liens have been filed for the labor and materials used in connection therewith and that the requested payment will be received in trust, to be applied first to the payment for such labor and materials in amounts which are equal to the percentage of completion attained at the time of such advance, less, in each case, all amounts previously advanced and a holdback of ten percent (10%) (or such lesser amount as may be customary in the trade in such location) which will be advanced upon full completion of the restoration. All Insurance Proceeds and other sums deposited with Mortgagee pursuant to this Paragraph, until expended or applied as provided in this Paragraph, shall constitute additional security for the Debt and shall be invested in either

savings or money market deposit accounts at the Mortgagee (collectively, "Permitted Investments").

(d) Notwithstanding the foregoing, if an Event of Default has occurred and is continuing beyond any notice grace or cure period, if any, or if, in Mortgagee's reasonable judgment based on professional consultation: (i) the restoration of the Improvements cannot be completed (A) so as to constitute an economically viable building; (ii) the amount of business interruption insurance is insufficient to cover all fixed and operating expenses of the Premises, including such portion of debt service reasonably allocable to the Mortgaged Property, during restoration and until the operation of Mortgagor's business at the Premises is resumed; or (iii) restoration of the Mortgaged Property cannot be completed except at a cost which exceeds the amount of available Insurance Proceeds and Mortgagor shall not have deposited with Mortgagee, within ninety (90) days following Mortgagee's receipt of such Insurance Proceeds, an amount, in cash or cash equivalent, equal to the excess of the estimated cost of restoration as determined by an Architect over the amount of such Insurance Proceeds, Mortgagee shall have the option to apply Insurance Proceeds to the payment of the Note, interest accrued and unpaid thereon, and the prepayment premium, all in such order as Mortgagee shall designate, provided, however, that any such application shall in no event affect the payments to be made in respect of the Note. Mortgagee shall be entitled to a reasonable fee for its supervision or inspection of any restoration and shall be reimbursed for its reasonable costs of same.

(e) Mortgagor shall, promptly after the occurrence of a casualty, commence and thereafter with reasonable diligence prosecute to completion any restoration of the Mortgaged Property or part thereof to as nearly as possible to its condition immediately prior to such casualty or to a better condition. All restoration shall be in a good and workmanlike manner with reasonable diligence, and in compliance with all Legal Requirements. Seasonality or weather permitting, if Mortgagor fails to commence restoration within thirty (30) days following Mortgagee's receipt of Insurance Proceeds or fails to prosecute the restoration to completion, Mortgagee may on notice to Mortgagor, but shall not be obligated to, perform the restoration, and may use any of the Insurance Proceeds and Mortgagor's funds deposited pursuant to subparagraph 13(c) of this Paragraph in payment therefor. Mortgagor shall pay to Mortgagee, within twenty (20) days after written demand, the amount of any deficiency between funds available for the restoration and the cost thereof (including funds deposited by Mortgagor pursuant to subparagraph 13(c) of this Paragraph) together with interest thereon at the Default Rate from such twentieth (20th) day through and including the date of payment to Mortgagee.

(f) It is intended that, anything contained herein to the contrary notwithstanding, no trust or fiduciary relationship shall be created by the receipt by Mortgagee of any Insurance Proceeds, but only a debtor-creditor relationship between Mortgagee, on the one hand, and Mortgagor, on the other, and only to the extent of the Insurance Proceeds.

(g) If any Insurance Proceeds are not paid until after the extinguishment of

the Debt, whether by foreclosure or otherwise, and Mortgagee shall not have received the entire amount of the Debt outstanding at the time of such extinguishment, then such Insurance Proceeds, to the extent of the amount of the Debt not so received, shall be paid to Mortgagee and be the property of Mortgagee; and Mortgagor hereby assigns, transfers and sets over to Mortgagee all of Mortgagor's right, title and interest in and to such proceeds. The balance of such Insurance Proceeds, if any, shall be paid to and be the property of Mortgagor. The provisions of this Paragraph shall survive the termination of this Mortgage by foreclosure or otherwise as a consequence of the rights and remedies of Mortgagee hereunder after an Event of Default.

(h) Nothing herein contained shall be deemed to excuse Mortgagor from repairing or maintaining the Mortgaged Property as provided in this Mortgage or restoring all damage or destruction to the Mortgaged Property, regardless of the sufficiency or availability of Insurance Proceeds, and the application or release by Mortgagee of Insurance Proceeds shall not cure or waive any default or Event of Default or notice of default. Notwithstanding any casualty, Mortgagor shall continue to pay the Debt at the time and in the manner provided for its payment in this Mortgage and the Note and the Debt shall not be reduced until any Insurance Proceeds shall have been actually received by Mortgagee and applied to the discharge of the Debt.

(i) Mortgagee, to the extent that Mortgagee has not been reimbursed therefor by Mortgagor, shall be entitled as a first priority out of any Insurance Proceeds, to reimbursement for all actual costs, fees, reimbursements and expenses of Mortgagee incurred in the determination and collection of any such proceeds.

14. Eminent Domain.

(a) In the event that the Mortgaged Property, or any part thereof, shall be taken pursuant to any condemnation, eminent domain or similar proceedings (collectively, "Condemnation Proceedings"), Mortgagee shall have the right to participate in any such Condemnation Proceedings, at Mortgagor's sole cost and expense, including reasonable attorneys' fees and disbursements, and any Condemnation Proceeds that may be made or any proceeds thereof are hereby assigned to Mortgagee and shall be received and deposited into a segregated account and held and distributed by Mortgagee in the manner herein set forth. Mortgagor will give Mortgagee prompt notice of the actual commencement of any Condemnation Proceedings affecting the Mortgaged Property or of any threatened condemnation of which Mortgagor becomes aware, including severance and consequential damage and change in grade of streets, and will deliver to Mortgagee copies of any and all papers served in connection with any Condemnation Proceedings. Mortgagee is hereby authorized to commence, appear in, and prosecute in its own name or Mortgagor's name any action or proceeding relating to any Condemnation Proceedings, provided Mortgagor has not commenced any such action or proceeding. Mortgagor may not settle or compromise any claim in connection therewith in excess of fifty thousand dollars (\$50,000.00) without the prior written consent of Mortgagee in each instance, which consent shall not be unreasonably withheld, conditioned or delayed, and Mortgagee shall have the right to settle or compromise any

claim in connection therewith, without the consent of Mortgagor after the occurrence of an Event of Default which continues after the expiration of any grace or cure period, if any. Mortgagor agrees to execute any and all further documents that may be reasonably required in order to facilitate the collection of any Condemnation Proceeds and the making of any such deposit and Mortgagor hereby appoints Mortgagee its attorney-in-fact for the purpose of executing any such documents, such power being coupled with an interest and irrevocable.

(b) If, at any time during the term of the Loan, there occurs a Total Taking (as hereinafter defined), Mortgagee and those authorized to exercise such right, shall collect any Condemnation Proceeds, and apply the same, after payment of Mortgagee's reasonable costs of collection thereof, including reasonable attorneys' fees and disbursements, to payment of the Note, accrued and unpaid interest thereon, and the prepayment premium, all in such order as Mortgagee shall designate, provided, however, that any such application shall in no event affect the payments to be made in respect of the Note. Any portion of any Condemnation Proceeds remaining after the payment in full of the Debt shall be released by Mortgagee to Mortgagor. For the purposes of this Paragraph, a "Total Taking" shall mean any taking or any constructive taking of Mortgagor's title to the Premises in Condemnation Proceedings or by agreement by Mortgagor which shall, in the reasonable opinion of Mortgagee, render it impracticable to restore, within six (6) months prior to the maturity date of the Note ("Maturity Date"), the portion of the Premises not subject to such taking to a complete architectural unit of substantially the same economic viability and for the same purposes and uses as exist on the date hereof.

(c) If at any time during the term of the Loan prior to the date which is six (6) months preceding the Maturity Date, there occurs a taking which is less than a Total Taking (a "Partial Taking"), then, provided that an Event of Default shall not have occurred and be continuing, Mortgagor shall have the right to settle any such claim with respect to any Partial Taking where the Restoration Cost is fifty thousand dollars (\$50,000.00) or less, but shall give prompt written notice of any such claim and settlement to Mortgagee. If the Restoration Cost shall exceed fifty thousand dollars (\$50,000.00) Mortgagee shall have the right to participate in the settlement of such claim and all Condemnation Proceeds relating to such Partial Taking shall be held by Mortgagee and shall be released to pay the costs of restoration of the Improvements (a "Condemnation Restoration") subject to and upon satisfaction of the conditions set forth in Paragraphs 13(c) and (d) hereof and the balance, if any, shall be paid to Mortgagor. In the event that any of such conditions shall not have been met, or if the Condemnation Proceeds exceed the cost of the Condemnation Restoration, Mortgagee, at the direction of Mortgagee, shall apply the Condemnation Proceeds, or balance thereof, to payment of the Note, accrued and unpaid interest thereon, and the prepayment premium, all in such order as Mortgagee shall designate, provided, however, that any such application shall in no event affect the payments to be made in respect of the Note. If there is any balance of any Condemnation Proceeds remaining in the hands of Mortgagee after any payment of the Debt in full, such balance shall be released to Mortgagor. In the event that the costs of any permitted Condemnation Restoration, as estimated by Mortgagee

at any time, shall exceed the net Condemnation Proceeds received by Mortgagee, Mortgagor shall deposit such deficiency with Mortgagee.

(d) In the event of any taking of all or any portion of the Mortgaged Property for temporary use or occupancy ("Temporary Taking"), any Condemnation Proceeds with respect to such Temporary Taking shall be distributed in accordance with the provisions of subparagraph 14(c).

(e) Nothing contained in this Paragraph shall relieve Mortgagor of its duty to maintain, repair, replace or restore the Improvements or the Equipment or rebuild the Improvements, from time to time, following any Condemnation Proceedings with respect to a Partial Taking or Temporary Taking, and nothing in this Paragraph shall relieve Mortgagor of its duty to pay the Debt, which shall be absolute, regardless of any such occurrence with respect to all or any portion of the Mortgaged Property. Notwithstanding any taking, whether a Total Taking, a Partial Taking or a Temporary Taking, Mortgagor shall continue to pay the Debt at the time and in the manner provided for its payment in this Mortgage and the Note, and the Debt shall not be reduced until any award or payment therefor shall have been actually received by Mortgagee and applied to the discharge of the Debt.

(f) If a claim under any such Condemnation Proceedings arising during the term of this Mortgage is not paid until after the extinguishment of the Debt, whether by foreclosure or otherwise, and Mortgagee shall not have received the entire amount of the Debt outstanding at the time of such extinguishment, then the Condemnation Proceeds relating to any such Condemnation Proceeding, to the extent of the amount of the Debt not so received, shall be paid to Mortgagee and be the property of Mortgagee; and Mortgagor hereby assigns, transfers and sets over to Mortgagee all of Mortgagor's right, title and interest in and to such Condemnation Proceeds. The balance of such Condemnation Proceeds, if any, shall be paid to and be the property of Mortgagor. The provisions of this Paragraph shall survive the termination of this Mortgage by foreclosure or otherwise as a consequence of the rights and remedies of Mortgagee hereunder after an Event of Default.

(g) All Condemnation Proceeds and other sums deposited with Mortgagee pursuant to this Paragraph, until expended or applied as provided in this Paragraph, shall constitute additional security for the Debt and shall be invested in Permitted Investments with income thereon inuring to the benefit of Mortgagor.

15. Compliance With Agreements, Laws. Subject to the provisions of Paragraph 16 hereof relating to permitted contests, Mortgagor agrees to perform and comply, and instruct the tenants under the Leases to comply, with all covenants, agreements and restrictions affecting Mortgagor, the Mortgaged Property or any portion thereof, the nonperformance of which would impair Mortgagor's ability to meet its obligations under any of the Transaction Documents or would impair the substantial realization by Mortgagee of the benefits and rights conferred hereunder or under any of the Transaction Documents, and with all Legal Requirements, whether the same be

directed to the erection, repair, manner of use or structural alteration of the Improvements or otherwise and to procure and maintain all licenses or other authorizations required for the proper use, maintenance and operation of the Mortgaged Property. For the purposes hereof, "Legal Requirements" shall mean all of the following, whether or not a note or notice of violation has been entered, issued or received as a consequence of non-compliance therewith: (A) statutes, laws, rules, rulings, orders, regulations, ordinances, judgments, decrees and injunctions of any Governmental Authority (including, without limitation, Environmental Laws, Americans with Disabilities Act, and fire, health, handicapped access, sanitation, ecological, historic, landmark, zoning, wetlands and building laws and codes) in any way applicable to Mortgagor or the Mortgaged Property or any portion thereof, or to the ownership, use, development, improvement, occupancy, possession, operation or maintenance of the Improvements; (B) requirements of the local Board of Fire Underwriters or similar body acting in and for the locality in which the Premises are situated; (C) requirements of each insurance policy covering or applicable to all or any portion of the Mortgaged Property or the ownership, use, development, improvement, occupancy, possession, operation or maintenance thereof and all requirements of the issuer of each such policy, including any requirement which may require repairs, modifications or alterations (structural or non-structural, interior or exterior, foreseen or unforeseen, ordinary or extraordinary, or otherwise) in or to the Mortgaged Property or any portion thereof, and only if Mortgagee is obligated under the terms of any Legal Requirements, the sidewalks, curbs, streets and ways adjoining the Mortgaged Property and the use and manner of use thereof; (D) requirements of each Permit; and (E) all REAs and all covenants, agreements, regulations, restrictions and other encumbrances contained in any instrument either of record or known to Mortgagor at any time affecting Mortgagor or the Mortgaged Property or any portion thereof or the ownership, use, development, improvement, occupancy, possession, operation or maintenance thereof, in each case whether now or hereafter enacted or in force. Mortgagor agrees to enforce all REAs in accordance with their terms and to comply with all reasonable requests from Mortgagee with respect to such enforcement.

16. Contest of Impositions, Legal Requirements and Liens. Notwithstanding anything to the contrary contained in this Mortgage, Mortgagor shall have the right to contest, at its own expense, by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity (or the applicability to Mortgagor or the Mortgaged Property or to the Note or this Mortgage) of any Impositions or encumbrances referred to herein (other than this Mortgage and the other Transaction Documents) or any Legal Requirements, provided that (a) Mortgagor gives Mortgagee timely notice of its intention to contest the same and keeps Mortgagee regularly advised as to the status of such proceedings, (b) the commencement of such proceedings shall suspend the collection or enforcement of the matter under contest, (c) there shall be no impairment of the lien of this Mortgage or undue interference with the normal conduct of business at the Mortgaged Property, (d) neither the Mortgaged Property, nor any Rents therefrom, nor any part thereof or interest therein, would be in any immediate danger of being sold, forfeited, attached, condemned, vacated or lost, (e) neither Mortgagor nor Mortgagee would be potentially subject to criminal liability or be in imminent danger of civil liability for failure to comply therewith pending the outcome of such proceedings, (f) in the case of

an Imposition, Mortgagor shall have either (i) paid the amount in dispute prior to instituting such contest, in which event the notice requirement of clause (a) of this Paragraph shall be satisfied by giving notice prior to initiating such contest rather than prior to making payment, (ii) set aside on its books such reserves with respect thereto as may be required by sound accounting principles, or (iii) furnished such security in an amount equal to one hundred twenty five percent (125%) of the disputed amount, in rated securities, cash or bond, to Mortgagee during the pendency of such proceedings, and (g) if such contest be finally resolved against Mortgagor, Mortgagor shall promptly pay the amount required to be paid, together with all interest and penalties accrued thereon, and otherwise comply with the applicable requirement. Mortgagor shall indemnify and save Mortgagee harmless from and against any liability, loss, damage, reasonable cost or expense of any kind that may be imposed upon Mortgagee in connection with any such contest and any determination resulting therefrom. If an Event of Default under this Mortgage or any other Transaction Document shall occur during any such proceeding, Mortgagor shall pay or cause to be paid to Mortgagee all refunds resulting from such proceeding which shall be applied to the payment of the Debt in such order and priority as Mortgagee shall determine in its sole discretion. Upon the occurrence of an Event of Default, Mortgagor shall be deemed to have appointed Mortgagee as its attorney-in-fact to seek reductions in the assessed valuation of the Mortgaged Property for real property tax purposes or for other purposes and to prosecute any action or proceeding in connection therewith. This power of attorney is a power coupled with an interest and is irrevocable.

17. Cure of Defaults by Mortgagee. If Mortgagor shall: (a) default in the payment of any Impositions as herein required (subject to the provisions of Paragraph 16 relating to permitted contests); (b) fail to keep the Improvements, Equipment and Personal Property in good repair and such failure shall not be cured within any applicable grace or cure period; (c) fail or refuse to insure the Mortgaged Property as herein required; (d) fail to pay and satisfy liens or encumbrances against the Mortgaged Property in accordance with the terms of this Mortgage (subject to the provisions of Paragraph 16 relating to permitted contests); (e) fail to pay any other sum or make any other deposit elsewhere in this Mortgage required to be paid or deposited and such failure shall not be cured within any applicable grace period; or (f) otherwise fail to make any payment or perform any act required to be made or performed hereunder, and such failure shall not be cured within any applicable grace period; then Mortgagee, following notice to Mortgagor (except in the case of any emergency, in which case no notice shall be required) and without waiving or releasing Mortgagor from any obligation or default hereunder, may (without having any obligation to do so): (i) pay such Impositions or redeem the Mortgaged Property from any tax sale or forfeiture or purchase any tax title obtained, or that shall be obtained, thereon without inquiring into the validity or invalidity of any such Impositions or tax deed; (ii) make repairs to the Mortgaged Property; (iii) procure such insurance and pay such insurance premium charges; (iv) pay or settle any and all suits or claims for such liens or satisfy any such encumbrances or any other claims that may be made against the Mortgaged Property or any part thereof; (v) pay any other sum or make any other deposit herein required to be paid or made by Mortgagor; or (vi) pay any such sum or perform any such act for the account and at the

expense of Mortgagor, and enter upon the Mortgaged Property for any such purpose and take all such action thereon as, in the reasonable opinion of Mortgagee, may be necessary or appropriate therefor. All monies paid for any of the purposes set forth in this Mortgage and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees and disbursements and any other monies disbursed or advanced by Mortgagee to protect the lien of this Mortgage, shall be due and payable by Mortgagor to Mortgagee on demand, together with interest, from and including the date of disbursement or advance to and including the date of repayment by Mortgagor, at the Default Rate, and to the extent that such amounts and costs paid by Mortgagee shall constitute payment of (A) Impositions, (B) insurance premiums, (C) expenses incurred in connection with upholding the lien of this Mortgage, including, without limitation, the expenses of any litigation to prosecute or defend the rights and liens created by this Mortgage, or (D) any amounts, costs or charges to which Mortgagee becomes subrogated, upon payment, whether under recognized principles of law or equity or express statutory authority; then, and in each such event, such amounts, costs and charges and interest thereon shall be added to the Debt and be secured by this Mortgage. For the purpose of carrying out the provisions and exercising the rights, powers and privileges granted by this Paragraph, Mortgagor hereby irrevocably constitutes and appoints Mortgagee, following an Event of Default, its true and lawful attorney-in-fact to execute, acknowledge and deliver any instruments and do and perform any acts such as are referred to in this Paragraph, in the name and on behalf of Mortgagor, with full power of substitution vested in Mortgagee to designate another entity or entities to exercise any power and perform any function which Mortgagee could perform pursuant to the foregoing grant. This power of attorney is a power coupled with an interest and is irrevocable.

18. Indemnity. Mortgagor hereby indemnifies Mortgagee and its members, managers, agents and employees (collectively the "Indemnified Parties"), and saves each of them harmless from and against all liabilities (other than tax liability imposed on Mortgagee for any income earned by reason of the Note or any other Transaction Document) claims, demands, actions, proceedings, suits, causes of action, injuries, obligations, loss, damages (including, without limitation, consequential damages), fines, penalties, judgments, costs, expenses (including, without limitation, reasonable architects', engineers', accountants', consultants' and attorneys' fees and disbursements) expenses of bonding liens, and other litigation expenses, incurred by, imposed upon or asserted against the Indemnified Parties (except as a result of the willful, wrongful acts or omissions or gross negligence of the applicable Indemnified Party) in connection with or arising out of: (a) Mortgagee's interest in this Mortgage, the Assignment, the Note, any other Transaction Document, or any other document or instrument hereafter executed and delivered to Mortgagee in connection with the Debt or any restructuring thereof (including, without limitation, all costs of re-surveying or re-appraising the Mortgaged Property or any part thereof); (b) any acts or omissions of Mortgagee in connection with the reasonable exercise by Mortgagee of any right, power or remedy available to Mortgagee under this Mortgage or any other Transaction Document, including, without limitation, any action or proceeding to protect the lien of this Mortgage or to foreclose this Mortgage; (c) any failure by Mortgagor to comply with any terms, conditions or other

provisions set forth in this Mortgage or any other Transaction Document; (d) any use, non-use, possession, occupancy, alteration, repair, condition (patent or latent), operation, maintenance, or management of the Mortgaged Property or any portion thereof; (e) any accident, injury (including death), or damage to any person or property occurring in, on or about the Mortgaged Property or any part thereof, whether resulting from any act, omission or negligence of Mortgagor, its agents, employees, contractors, lessees, sublessees, licensees, invitees, or otherwise; (f) any misrepresentation by Mortgagor, or any other person or entity contained in this Mortgage or in any other Transaction Document; (g) any claim for any premium or other charge or any brokerage commission or other compensation by any person acting as such with respect to this Mortgage and claiming to have dealt with Mortgagor; (h) any capital improvements or other work or thing done in, on or about the Mortgaged Property or any part thereof; (i) any past, current and/or future offering for sale of equity interests in Mortgagor, including, without limitation, liabilities under any applicable securities or blue sky laws; or (j) any tax attributable to the ownership, assignment, security, execution, delivery, registration, filing, recording or enforcement of any of the Transaction Documents. All sums payable to any of the Indemnified Parties under this Paragraph shall be deemed a part of the Debt, shall be paid by Mortgagor to the applicable Indemnified Party on written demand and shall accrue interest at the Default Rate from and including the date of disbursement or advance by the applicable Indemnified Party to and including the date of repayment by Mortgagor. Mortgagor's obligations under this Paragraph shall, until the expiration of all applicable statutes and periods of limitation, if any, survive payment in full of the Note and any discharge, release or satisfaction of this Mortgage, any complete or partial foreclosure of this Mortgage and/or the delivery of one or more deeds in lieu of any such foreclosure. Notwithstanding the foregoing, Mortgagor shall not be required to indemnify Mortgagee for any loss, damage, claims, demands, actions, proceedings, suits, causes of action, injuries or obligations resulting solely from Mortgagee's gross negligence or willful misconduct.

19. Events of Default. The whole of said principal sum and the interest on the Debt will become due at the option of the Mortgagee upon the occurrence of any one or more of the following events ("Event(s) of Default") and upon such occurrence, Mortgagee will have the right to compute and charge interest at the Default Rate as long as such default remains uncured but any cure shall not affect the imposition of the Default Rate if the Indebtedness has been accelerated by the Mortgagee by reason of the occurrence of any Event of Default: (a) after default in the payment of any installment of principal and/or interest or other amount due or secured hereunder or due under the terms of the Note for ten (10) days after the due date; or (b) Mortgagor fails to pay when due any other obligation for borrowed money to the Mortgagee in any amount or, in the case of obligations owed to a third party, in an amount in excess of twenty five thousand dollars (\$25,000) either individually or in the aggregate with all other obligations to third parties, is not paid within twenty (20) days after the Mortgagor receives notice that such obligation is in default, or if an event of default occurs and continues with respect to such obligation, or if any such obligation is accelerated or is declared to be due and payable prior to the stated maturity thereof; provided that it will not be an Event of Default if the Mortgagor establishes to the reasonable satisfaction of the Mortgagee that it has a bona fide

defense to such other obligation, including a defense to the declaration of a default under the terms of such obligation, but even if such bona fide defense exists, the Mortgagor must furnish the Mortgagee appropriate assurances that such declaration and subsequent action to enforce such obligation by such other person or entity will not result in a lien or encumbrance against the Mortgagor or any of its property or result in a forfeiture of any of the Mortgagor's property or a fine in excess of twenty five thousand dollars (\$25,000); or (c) after failure to exhibit to the Mortgagee within twenty (20) days after demand and in all events by December 31st of each year, receipts showing payment of all taxes, PILOT payments, water rates, sewer rents, and other assessments against the Premises; or (d) after the material alteration, demolition or removal of any building which is a part of the Premises without the written consent of the Mortgagee; or (e) there is a default under the terms of any guarantor under the terms of any guaranty of all or any portion of the Debt; or (f) after the assignment of the Rents of the Premises or any part thereof without the written consent of the Mortgagee; or (g) if the buildings which are a part of said Premises are not maintained in reasonably good repair; or (h) after failure to comply with any requirement or order or notice of violation of law or ordinance issued by any governmental department claiming jurisdiction over the Premises within sixty (60) days from the issuance thereof, unless the failure cannot be cured within the sixty (60) day period, in which event no Event of Default shall occur, provided Mortgagor begins to cure the default within the sixty (60) day period and diligently proceeds to cure the default within a reasonable time, and provided further that no penalty or forfeiture of property or rights will occur while Mortgagor is diligently proceeding to cure the default described in this subsection; or (i) in the event of the removal, demolition or destruction in whole or in part of any of the fixtures, chattels or articles of personal property covered hereby, unless the same are promptly replaced by similar fixtures, chattels and articles of personal property at least equal in quality and condition to those replaced, free from chattel mortgages or other encumbrances thereon and free from any reservation of title thereto; or (j) in the event of the passage of any law deducting from the value of land for the purposes of taxation of any lien thereon, or materially and adversely changing in any way the taxation of mortgages or debts secured thereby for state or local purposes; or (k) if the Mortgagor fails to keep, observe and perform any of the other warranties, covenants, conditions or agreements contained in either this Mortgage, the Note, or any security agreement, assignment of leases or any other of the Transaction ocument or other instrument given in connection with the Note or Mortgage, beyond any applicable periods of notice or grace if any; or (l) if the Mortgagor is in default to the Mortgagee under the terms of any other note, deed of trust, guarantee, mortgage, security agreement, credit agreement, building loan contract or other instrument to which the Mortgagee or the holder of the Note and Mortgage is a party or which is in favor of the Mortgagee, or such holder, or which is secured by an encumbrance upon the Premises or any part thereof, beyond any applicable periods of notice or grace; or (m) if the Premises are used for the treatment, storage or disposal of any hazardous waste material, as such term is used in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or in any other federal, state or local law governing hazardous substances, as such laws may be amended from time to time; or (n) if the Mortgagor files any petition in bankruptcy, or for a reorganization or composition, or makes any assignment for the benefit of creditors or to a trustee for creditors, or permits the filing of any petition in bankruptcy or permits an

adjudication in bankruptcy against it which is not stayed or discharged within forty five (45) days of filing, the taking possession of the Premises or any part thereof by a receiver, or the seizure and sale of the Premises or any part thereof under judicial process or pursuant to any power of sale; or (o) the entry of a judgment individually or judgments in the aggregate which exceed twenty five thousand dollars (\$25,000) against Mortgagor not covered by insurance with a commercially reasonable deductible and which is not paid or bonded within twenty (20) days from the date of entry; or (p) the filing of any tax or other lien not discharged within twenty (20) days against the Premises or any other item of collateral, or the creation of any voluntary lien (other than those designated in this Mortgage, if any), mortgage or security interest against the Premises or any item of collateral, other than those in favor of the Mortgagee; or (q) the failure to pay any taxes or any required payment in lieu taxes within thirty (30) days when due, except to the extent being contested in good faith by appropriate proceedings diligently pursued and for which adequate cash reserves are established and for which no forfeiture of property or loss of the benefits under any payment in lieu of taxes agreement will occur during the pendency of such proceedings; or (r) the material modification or termination, without the prior written consent of the Mortgagee which shall not be unreasonably withheld (other than based upon a default of a tenant or other third party and as long as the modification does not create an Event of Default under other provisions of this Mortgage), of any lease or similar agreement which relates to the Premises, but notwithstanding the foregoing, prior to the occurrence of an Event of Default, the Mortgagor will have the right to modify, alter, accept, surrender of or terminate any lease and waive or release any lessee from any obligation or condition or covenant under any lease with or without consideration but only if the lease has an unexpired term of less than one year and such action is in the normal course of business of the Mortgagor; or (s) any representation or warranty made to the Mortgagee by the Mortgagor proves to be false or erroneous in a material respect when made; (t) the sale or disposition or attempted sale or disposition of a substantial portion of the Mortgagor's assets without the prior written consent of the Mortgagee, except that transfers, sales or dispositions for fair consideration are permitted without the requirement for further consent as long as prior written notice is given to the Mortgagee; or (u) the transfer by Mortgagor of its 100% interest or any part thereof in the Premises, by gift, contract, sale, sale and leaseback or any manner whatsoever, voluntarily or involuntarily or by operation of law; (v) the Mortgagor is dissolved, or loses its franchise or charter or is a party to any merger or consolidation, or (w) there is a change in control of the Mortgagor whether by contract, assignment, change in the ownership of or transfer of the ownership of any of the shareholders, members or partners or a majority of the interests in the shareholders, members or partners of the Mortgagor, as applicable, without the prior written consent of the Mortgagee which may be withheld or conditioned in its discretion and Mortgagee must be given thirty (30) days prior written notice of any such request, provided however that Mortgagee's prior written consent is not required for 1) transfers by and among existing shareholders, members and/or partners, or 2) transfers for purposes of estate planning to any family member of any existing shareholder, member and/or partner or any trusts for the benefit of such shareholders, member and/or partners, or 3) transfers to any other entity in which fifty-one percent (51%) of the controlling interest is held by the existing shareholders, members or partners of the Mortgagor; but in any such case, the Mortgagee must receive thirty (30) days prior written notice of any

transfer permitted by 1, 2, or 3, together with the details of such transfer, and any such transfer whether permitted by this section or consented to by the Mortgagee will not result in any release of any existing liability of the Mortgagor or any shareholder and/or member of the Mortgagor; or (x) the sale, transfer, assignment, conveyance, farm out, lease, sublease, mortgage, pledge, or otherwise disposal of oil, gas, other minerals, and/or Oil and Gas Substances, in and under the Premises subsequent to the execution of this Mortgage without the prior written consent of Mortgagee. Further, notwithstanding any provision to the contrary in any oil and gas lease, Mortgagor will be in default if Mortgagor: (i) consents to the drilling of an oil or gas well or erection of a surface structure related to oil or gas exploration or development or access road within two hundred (200) feet of any structure, residence, barn, or water well located on the Premises; or (ii) consents to the placement of a pipeline, gathering line, service road, or right of way within two hundred (200) feet of any structure, residence, or barn located on Premises; or (iii) consents to the storage of Oil or Gas Substances if an option of consent is contained in a lease, without the prior written consent of Mortgagee which may be withheld or conditioned in its sole discretion. Upon the occurrence of an Event of Default, the Mortgagee may proceed forthwith to protect and enforce its rights under this Mortgage by such suits, actions or proceedings as it will deem appropriate, including, without limitation, an action to foreclose this Mortgage, either by a judicial proceeding, or at its option, by a non-judicial foreclosure according to the terms and conditions of New York if allowed, in which case the Premises or any interest therein may be sold for cash or credit in one or more interests and in any order or manner.

Upon the occurrence of an Event of Default, Mortgagee may, at its option, declare the entire unpaid balance of the Debt to be immediately due and payable, and thereupon such balance shall become so due and payable without presentment, protest or further demand or notice of any kind, all of which are hereby expressly waived, and Mortgagor will forthwith pay to Mortgagee the entire Debt, including principal of and interest accrued on the Note and, to the extent permitted by law, any prepayment premium, and all other premiums and charges, if any, provided in the Note, this Mortgage and the other Transaction Documents; provided, however, that if at any time prior to the Maturity Date, the balance of the Debt shall become so due and payable, and all arrears of interest and other charges of any kind due as part of the Debt (with interest so far as may be lawful on any overdue installments of interest at the Default Rate), and all defaults (other than the payment of principal hereunder which has been so declared due and payable) shall have been cured or the cure thereof secured to the sole satisfaction of Mortgagee or other provision deemed by Mortgagee to be adequate shall be made therefor, then and in such case Mortgagee, in its sole discretion, and by written notice delivered to Mortgagor, may, but is under no obligation to, waive such Event of Default and its consequences and rescind or annul such declaration, but no such waiver shall extend to or affect any subsequent default, or impair any right consequent thereon.

20. Default Rate. Upon an Event of Default, Mortgagee shall be entitled to receive and Mortgagor shall pay interest on the entire unpaid principal sum (including, without limitation and to the extent permitted by law, any accrued and unpaid interest thereon) at the "Default Rate" (as defined in the Note or if not defined, twelve percent

[12%] per annum) for the duration of such default (unless Mortgagee has, at its option, declared the entire unpaid balance of the Debt to be forthwith due and payable in which case interest shall continue to be paid at the Default Rate until the Debt has been paid in full). In no event shall the Default Rate exceed the maximum rate allowed by law. Any interest that accrues under any of the Transaction Documents at the Default Rate shall be payable up to the entry of any judgment.

21. Remedies. If any one or more of the Events of Default shall occur and continue beyond any applicable grace or cure period, if any, then and in any such event Mortgagee shall have the right of acceleration and all other remedies provided in this Mortgage or in the Note or otherwise provided in any Transaction Document, by law or statute or in equity, all of which rights and remedies shall, to the fullest extent permitted by law, be cumulative. To the extent the laws of the State limit or deny (i) the availability of the exercise of any of the remedies set forth below, including without limitation, the remedies involving a power of sale on the part of the Mortgagee and terms of this Mortgage, or (ii) the enforcement of waivers and indemnities made by Mortgagor, such remedies, waivers or indemnities shall be exercisable or enforceable, any provisions in this Mortgage to the contrary notwithstanding, if, and only to the extent, permitted by the laws of the State in force at the time of the exercise of such remedies or the enforcement of such waivers or indemnities without regard to the enforceability of such remedies, waivers or indemnities at the time of execution and delivery of this Mortgage. Such rights and remedies of Mortgagee shall include, without limitation, the following:

(a) Possession, Management and Income. Mortgagor, upon written demand of Mortgagee, shall forthwith surrender to Mortgagee the actual possession of the Mortgaged Property, and Mortgagee and such officers or agents as it may appoint, (i) may enter and take possession of the Mortgaged Property together with the books, papers and accounts of Mortgagor relating thereto, (ii) may dispossess Mortgagor, its agents and servants and all other persons therefrom, (iii) may hold, operate and manage the Mortgaged Property and from time to time make all necessary repairs and such alterations, additions, advances and improvements as Mortgagee shall deem prudent, (iv) may receive the Rents thereof and exercise all rights and powers of Mortgagor with respect to the Mortgaged Property and the Improvements, whether in the name of Mortgagor or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants (in accordance with applicable law), and demand, sue for, collect and receive all Rents and may pay therefrom all costs and expenses of so taking, holding and managing the Mortgaged Property, including, without limitation, reasonable compensation to Mortgagee's agents and attorneys, all prior or coordinate liens and encumbrances, all Impositions and other assessments and other charges then due or thereafter accruing, and all expenses of such repairs, alterations, additions, improvements and other disbursements made by Mortgagee pursuant to the terms hereof, and Mortgagee may apply the remainder of the monies so received by it to the payment of the unpaid principal of, and interest and premium, if any, on, the Note, any prepayment premium and other items of the Debt then due and payable, and (v) may succeed to all the rights of

Mortgagor, including any rights to unearned premiums, in and to any insurance policies covering all or any portion of the Premises, the Improvements, the Personal Property and/or the Equipment, including the right to receive Refunds, Insurance Proceeds and Condemnation Proceeds which would otherwise be payable to Mortgagor pursuant to this Mortgage. Mortgagee shall not be subject to any liability for, or by reason of, any such entry, taking possession, exclusion, holding operation or management, except for willful, wrongful acts or omissions or gross negligence of Mortgagee;

(b) Partial Foreclosure. Mortgagee, at its option, may foreclose this Mortgage for any portion of the Debt which is then due and payable; provided, however, that if a partial foreclosure sale is made, such sale shall be subject to the continuing lien of the Transaction Documents for the unmatured part of the Debt; and such sale shall not in any manner affect the unmatured part of the Debt, but as to such unmatured part thereof, and the lien thereon, the same shall remain in full force and effect as though no foreclosure had occurred. Several foreclosure sales may be made pursuant to partial foreclosures without exhausting the right of full or partial foreclosure sale for any unmatured part of the Debt, it being the purpose to provide for a partial foreclosure sale of the Debt for any matured portion of the Debt without exhausting the power to foreclose and to sell the Mortgaged Property pursuant to such partial foreclosure for any other part of the Debt, whether matured at the time or subsequently maturing, and without exhausting any right of acceleration and full foreclosure. Notwithstanding the filing of any partial foreclosure or entry of a decree of sale therein, Mortgagee may elect at any time prior to a foreclosure sale pursuant to such decree to discontinue such partial foreclosure and to accelerate the Debt by reason of any uncured Event of Default upon which such partial foreclosure was predicated or by reason of any other Events of Default and proceed with full foreclosure proceedings;

(c) Suits. Mortgagee, at its option, may, either with or without first taking possession, proceed by suit or suits in equity and/or at law, or by any other appropriate remedy or proceeding, to protect and enforce Mortgagee's rights hereunder whether for the specific performance (to the extent permitted by law) of any covenant or agreement contained herein or in the Note or for an injunction against the violation of any of the terms hereof or thereof or in aid of the exercise of any right, power or remedy granted to Mortgagee herein or therein, or to enforce the payment of the Note, or to foreclose the lien and security interest of this Mortgage against the Mortgaged Property or any part thereof and to have all of the Mortgaged Property or any part thereof sold in one or more sales (as an entirety or in parcels) under the judgment or decree of a court of competent jurisdiction or otherwise. All rights of action under this Mortgage or in respect of the Note may be enforced by Mortgagee, without the possession of the Note and without the production thereof at any trial or other proceeding relative thereto to the extent permitted by law;

(d) Receiver. To the extent permitted by law and without the necessity to prove the value or occupancy of the security or the solvency or insolvency of any person then legally or equitably liable for payment of the Debt, Mortgagee shall be entitled as a matter of right, ex parte and without notice, to the appointment of a receiver to enter upon and take possession of the Mortgaged Property, perform all acts necessary or useful for the operation, use and maintenance of the Mortgaged Property and to collect all Rents thereof and apply the same and to exercise such other powers as are permitted by applicable law and the court making such appointment may direct and Mortgagor hereby consents to the appointment of such receiver. The expenses, including receiver's fees, reasonable attorneys' fees, costs and disbursements and agent's compensation, incurred pursuant to the powers herein contained shall be secured by this Mortgage. The right to enter and take possession of and to manage and operate the Mortgaged Property, and to collect the Rents, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. Mortgagee shall be liable to account only for Rents actually received by Mortgagee, whether received pursuant to this subparagraph 21(d) or subparagraph 21(a). Notwithstanding the appointment of any receiver or other custodian, Mortgagee shall be entitled as pledgee to the possession and control of any cash, deposits, or instruments at the time held by or payable or deliverable under the terms of this Mortgage to Mortgagee;

(e) Sale in One Parcel. In the event of a sale, the Mortgaged Property may be sold in one parcel at the option of the Mortgagee. Mortgagor and Agency hereby waive their respective rights, if any, to require that the Mortgaged Property be sold as separate units, tracts or estates;

(f) Security Interest. In addition to the rights and remedies of Mortgagee set forth herein and in the Note, the other Transaction Documents between Mortgagor and Mortgagee, and not in lieu thereof, Mortgagee shall have all of the rights and remedies of a holder of a security interest under the Code, or under other applicable law with respect to the Security Interest Property and all rights and remedies provided or referred to herein and therein, shall, to the fullest extent permitted by applicable law, be cumulative;

(g) Foreclosure. Mortgagee, at its option, may institute an action to foreclose this Mortgage, or take such other action as may be permitted and available to Mortgagee, at law or in equity, for the enforcement of the Transaction Documents and the realization on the Mortgaged Property or any other security held by Mortgagee, and proceed thereon through to final judgment and execution thereon for the Debt, including, without limitation, the prepayment premium, all accrued and unpaid interest and all costs of enforcement. In furtherance thereof, to the extent permitted by applicable law, Mortgagee shall have the full power and right to sell the Mortgaged Property and all estate, claim, demand, right, title and interest of Mortgagor therein and right of redemption thereof pursuant to an assent to a

decree or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law or statute or in equity, it being agreed that in the event of a sale, by foreclosure or otherwise, of less than all of the Mortgaged Property, the Transaction Documents shall continue as a lien on the remaining portion of the Mortgaged Property. Mortgagor hereby assents to the passage of a decree for the sale of the Mortgaged Property upon the occurrence of an Event of Default by any court having jurisdiction; and

(h) Power of Sale. To the extent permitted by law, Mortgagee may commence a non-judicial foreclosure and as a result, sell, release and convey the Premises at public sale and execute and deliver to the purchasers at such sale, good and sufficient deeds of the conveyance, rendering any surplus funds, after payment of the Debt in full and the expenses of such sale, including reasonable attorneys' fees as provided by law, to Mortgagor.

Mortgagee shall be entitled, in its sole discretion, to exercise all or any of the rights and remedies provided herein or in any of the other Transaction Documents or which may be given by statute, at law or in equity, or otherwise in such order and manner as Mortgagee shall elect, without impairing Mortgagee's rights under any of the Transaction Documents and without affecting the liability of any person, firm, corporation, or other entity for the sums secured by the Transaction Documents.

22. Authorization; Adjournments.

(a) Mortgagor irrevocably appoints Mortgagee as its true and lawful attorney-in-fact, which appointment is coupled with an interest, for the purpose, following an Event of Default and the establishment of the maturity of the Debt (in accordance with the provisions of this Mortgage or by a court of competent jurisdiction), of effectuating, to the extent permitted by applicable law of the State, any sale, assignment, transfer or delivery of the Mortgaged Property or any part thereof or any interest therein for the enforcement of this Mortgage as Mortgagee may consider reasonably necessary or appropriate, with full power of substitution.

(b) Mortgagee may adjourn, from time to time, in accordance with applicable law, any sale to be made by it under or by virtue of this Mortgage by announcement at the time and place appointed for such sale or for such adjourned sale or sales and, except as otherwise provided by any applicable provision of law, Mortgagee, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

(c) In the event that Mortgagee has proceeded with the enforcement of any right under this Mortgage by foreclosure sale or otherwise and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely, then, in every such case, Mortgagor and Mortgagee shall be restored to their respective former positions and rights hereunder with respect to the Mortgaged

Property, subject to the lien hereof.

23. Proceeds of Foreclosure Sale. In any foreclosure of this Mortgage there shall be allowed and included in the decree of sale, to be paid, in the following order, out of the rents, revenues, issues, income, products and profits derived from the Mortgaged Property or the proceeds of such sale:

First: All court costs, allowances authorized or permitted by statute or a court, fees and expenses of receivers, reasonable attorneys' fees and disbursements (which may include costs of any attorney in the employ of Mortgagee and fees for services performed by legal assistants and other non-lawyers), appraisers' fees, costs of environmental audits and reports, expenditures for documentary and expert evidence, stenographers' charges, publication costs and costs of procuring all abstracts of title, title searches and examinations, title policies and similar data with respect to title which Mortgagee may deem necessary and any other expenses of the foreclosure proceeding (all of which may be estimated as to items to be expended after the entry of the decree), with interest thereon (to the extent permitted by law), from the date of any such advance until paid to Mortgagee, computed at the Default Rate;

Second: All other amounts (including, without limitation, all Impositions other than taxes subject to which the Mortgaged Property was sold and all direct and indirect costs and expenses incurred by or on behalf of Mortgagee in the operation and maintenance of the Mortgaged Property, the collection of Rents and the enforcement of any of its remedies under the Transaction Documents between Mortgagor and Mortgagee or by applicable law) advanced or paid by Mortgagee pursuant to the Note, this Mortgage or any other Transaction Document, with interest thereon (to the extent permitted by law), from the date of any such advance until paid to Mortgagee, computed at the Default Rate;

Third: Any indebtedness secured by this Mortgage, including without limitation, the Debt, and at the time due and payable (whether by acceleration or otherwise), including all principal amounts, the prepayment premium, and interest at the time due and payable under the Note, and interest (to the extent permitted by law) at the Default Rate on any overdue principal and (to the extent permitted by law) any other sum constituting a portion of the Debt in such order and priority as Mortgagee shall in its sole discretion determine; and

Fourth: All other amounts required to be paid by Mortgagor pursuant to any provision of any Transaction Document between Mortgagor and Mortgagee.

Any surplus of the proceeds of such sale shall be paid promptly to the person or entity legally entitled thereto.

24. Purchase of the Mortgaged Property by Mortgagee. Mortgagee may be a purchaser of the Mortgaged Property or any part thereof or any interest therein at any sale thereof, whether pursuant to foreclosure or power of sale or otherwise, and may apply

the amount of the Debt outstanding and the expenses of the sale and costs of the action and any other sums which Mortgagee is authorized to charge under this Mortgage or under applicable law toward the purchase price thereof.

25. Security Agreement; Uniform Commercial Code.

(a) This Mortgage constitutes a security agreement under the Code and a fixture filing for the purposes of Article 9 of the Code and a security interest shall attach to the Security Interest Property for the benefit of Mortgagee as additional security for the Debt.

(b) To the extent permitted by law, Mortgagor hereby authorizes Mortgagee to file financing and continuation statements to continue such lien with respect to the Security Interest Property. Mortgagor shall further, from time to time, upon the written demand of Mortgagee, execute, acknowledge and deliver any affidavit, certificate or other document as Mortgagee may request in order to perfect, preserve, continue, extend or maintain the security interest and priority of this Mortgage or such other security instrument as a first lien subject to the Permitted Encumbrances. Mortgagor hereby irrevocably appoints Mortgagee as attorney-in-fact (which appointment shall be deemed to be coupled with an interest) for the purpose of executing and filing such documents. Mortgagor agrees to pay to Mortgagee, on written demand, all costs and expenses (including reasonable attorneys' fees and disbursements) incurred by Mortgagee in connection with the preparation, execution, acknowledgment, recording, filing and refileing of any such instrument or document, including, without limitation, the charges for examining title which amounts, as well as any other amounts required to be paid to Mortgagee pursuant to this Paragraph, together with interest thereon at the Default Rate from the date of any such expenditure by Mortgagee until repayment, and such sum, together with such interest, shall constitute a portion of the Debt secured by the lien of this Mortgage. Neither a request of Mortgagee hereunder nor the failure of Mortgagee to make such a request shall be construed as a release of any portion of the Mortgaged Property from the lien of this Mortgage, this covenant and any such security agreement or other similar security instrument delivered to Mortgagee being cumulative and additional security for payment of the Debt.

(c) Upon the occurrence of any Event of Default, Mortgagee shall have all of the rights and remedies of a secured party under the Code with respect to the Security Interest Property, or other applicable law, and all rights and remedies provided for herein and in the Note, all of which rights and remedies are cumulative to those provided elsewhere in this Mortgage or otherwise available to Mortgagee. Upon the occurrence and continuance of any Event of Default, Mortgagee shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real property, in which event the default provisions of the Code shall not apply. The parties agree that in the event Mortgagee elects to proceed with respect to the Security Interest Property separately from the real property, Mortgagor will assemble the Security Interest Property (other than those items of Equipment which are affixed to the Improvements and not removable without material damage to such items or the Improvements) and make the Security Interest Property available to Mortgagee at

a place or places reasonably convenient to Mortgagee. Any notice of sale, disposition or other intended action by Mortgagee, sent to Mortgagor at the address of Mortgagor specified for notices herein at least ten (10) days prior to such action, shall constitute reasonable notice to Mortgagor and the method of sale or disposition or other intended action set forth in such notice shall conclusively be deemed to be commercially reasonable within the meaning of the Code unless objected to in writing by Mortgagor within ten (10) days after receipt by Mortgagor of such notice.

(d) All replacements, renewals and additions to the Equipment and the Personal Property shall become and be immediately subject to the security interest herein of Mortgagee and be covered by this Mortgage as part of the Mortgaged Property. Mortgagor shall, from time to time, on request of Mortgagee, but not more frequently than annually, deliver to Mortgagee an inventory of the Security Interest Property in reasonable detail. Mortgagor warrants and represents that all Security Interest Property now is, and that all replacements thereof, substitutions therefor and additions thereto, will be, owned by Mortgagor free and clear of liens, encumbrances or security interests of others except for the Permitted Encumbrances.

(e) Neither the provisions of this Paragraph nor the filing of any separate security agreement or financing statement, with respect to Mortgagee's security interest in the Security Interest Property, shall be construed as in any way derogating or impairing the intention of the parties hereto that the Security Interest Property shall, at all times and for all purposes and in all proceedings, both legal and equitable, be regarded as a part of the Mortgaged Property. **A CARBON, PHOTOGRAPHIC OR OTHER REPRODUCTION OF THIS MORTGAGE OR ANY FINANCING STATEMENT RELATING TO THIS MORTGAGE SHALL BE SUFFICIENT AS A FINANCING STATEMENT.**

26. Certificate as to No Default; Information.

(a) Mortgagor will deliver to Mortgagee, within twenty (20) days after written request, a written statement duly acknowledged by an authorized representative of Mortgagor stating (i) the outstanding amount of the Debt and the components thereof, (ii) whether to the best knowledge of Mortgagor any offsets or defenses exist against the Debt, and (iii) that there exists no default, condition or event which, with the giving of notice or lapse of time or both, would constitute a default in the performance or observance of any of the terms of this Mortgage, the Note, the Leases, the Assignment or any of the other Transaction Documents, or if any such default exists, specifying to the best knowledge of Mortgagor the nature and period of existence thereof and what action Mortgagor is taking or proposes to take with respect thereto.

(b) In addition to the information provided for in paragraph (a) above, (i) Mortgagor will deliver to Mortgagee, within twenty (20) days after written request, such further information with respect to the Mortgaged Property as Mortgagee may, from time to time, reasonably request, (ii) Mortgagor will cause Tenants under the Leases and lessors under any Equipment lease to deliver to Mortgagee such information

requested by Mortgagee to the extent required to be furnished under such Lease or Equipment lease, and (iii) Mortgagor will use its reasonable efforts to cause such Tenants or lessors to deliver to Mortgagee such information to the extent not so required to be furnished under such Lease or Equipment lease. Each such request for additional information of Mortgagor or any such Tenant or lessor may be made by Mortgagee, from time to time, for any reasonable business purpose.

27. Books and Records; Financial Statements. The Mortgagor will at all times keep proper books of record and accounts in accordance with generally accepted accounting principles consistently applied in which full, true, and correct entries will be made of any dealings or transactions relating to the Mortgagor and to the Premises and shall submit to Mortgagee a rent roll of the Premises for the year just ended within one hundred and twenty (120) days following the end of the Mortgagor's fiscal year. Such rent roll must identify the tenant, rent paid and date paid up to, the term of the lease and a copy of the lease for such tenant or if a form is used, the form of such lease and such rent roll must be certified to as correct by an authorized agent of the Mortgagor. In addition to the foregoing, the Mortgagor covenants and agrees at any and all times upon written request of the Mortgagee, to permit the Mortgagee as requested through its officers, clerks, agents, employees or auditors for that purpose, to inspect the books, accounts, papers, documents and memoranda relating to the Premises or any other property subject to this Mortgage and to take from said books, accounts, papers, documents and memoranda such extracts as may be deemed expedient by it.

28. Application of Proceeds. Any sum which by the terms of this Mortgage is to be applied to the Debt or the Note shall be applied by Mortgagee in such order and priority as is set forth in the Note or in any other Transaction Document or if not so specified, as the Mortgagee may determine in its sole discretion.

29. Terms Subject to Applicable Law; Severability. All rights, powers and remedies provided herein are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. If any term of this Mortgage shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the other terms hereof shall in no way be affected thereby.

30. Further Acts. Mortgagor shall, at its sole cost and expense, and without expense to Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers, assurances and opinions of counsel as Mortgagee shall, from time to time, reasonably require for better assuring, conveying, assigning, transferring and confirming unto Mortgagee the property and rights hereby mortgaged or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or filing, registering or recording this Mortgage and, on written demand, will execute and deliver one or more financing statements to evidence more effectively the lien hereof upon the Mortgaged Property except that Mortgagor shall have no obligation to comply with the foregoing if any such action would increase Mortgagor's

liability hereunder or increase Mortgagee's rights hereunder. Mortgagor will reimburse Mortgagee, on written demand, for any sums (including reasonable attorneys' fees and disbursements) reasonably expended by Mortgagee in preparing, executing, acknowledging, filing, registering and recording such instruments, certificates and documents.

31. Limitation of Liability of Mortgagee. Neither this Mortgage nor any action or inaction on the part of Mortgagee shall, without such party's written consent, constitute an assumption on such party's part of any obligation under any of the Leases or any other agreement affecting the Mortgaged Property, nor shall Mortgagee have any obligation to make any payment to be made by Mortgagor under the Leases or any such other agreement, or to present or file any claim, or to take any other action to collect or enforce the payment of any amounts which have been assigned to Mortgagee or to which Mortgagee may be entitled hereunder at any time or times. No action or inaction on the part of Mortgagee shall adversely affect or limit in any way the rights of Mortgagee hereunder or under the Leases or the Note or the Assignment.

32. Documentary Stamps. If at any time any Governmental Authority shall require revenue or other stamps to be affixed to the Note or this Mortgage, Mortgagor will pay for the same, with interest and penalties thereon, if any.

33. Cumulative Remedies of Mortgagee; No Waiver. No legal, equitable or contractual right, power or remedy of Mortgagee shall be exclusive of any other, but rather, each right, power or remedy shall be separate, cumulative and concurrent and shall be in addition to every right, power or remedy now or hereafter existing at law or in equity. No delay in the exercise of, or omission to exercise, any right, power or remedy accruing on any default shall impair any such right, power or remedy or be construed to be a waiver of any such default or acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such right, power or remedy may be exercised concurrently or independently, and when and as often as may be deemed expedient, by Mortgagee. Mortgagee may resort for the payment of the Debt to the Mortgaged Property and to any other security held by Mortgagee in such order and manner as Mortgagee, in its sole discretion, may elect. Mortgagee may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Mortgagee thereafter to foreclose this Mortgage or sell the Mortgaged Property pursuant to a non-judicial foreclosure, if such remedy is available. No act of Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision.

34. Filing of Mortgage.

(a) The Agency shall cause the Mortgagor, and Mortgagor agrees, forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, as reasonably required or requested by Mortgagee, will cause this Mortgage, the Assignment, and any security instrument or Transaction Document creating a lien or evidencing the lien hereof upon the Mortgaged Property and each instrument of further

assurance, and each supplement to any of the foregoing and each modification to any of the foregoing, to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interests of Mortgagee in, the Mortgaged Property. Mortgagor will pay all filing, registration or recording fees, and all reasonable expenses incident to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property and any instrument of further assurance, and all Federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property or any instrument of further assurance.

(b) Mortgagor shall hold harmless and indemnify Mortgagee and its successors and assigns, against any liability incurred by reason of the imposition of any tax on the making and recording of this Mortgage. In the event that Mortgagor shall fail to make any such payment, Mortgagee shall have the right, but not the obligation, to pay at the direction of Mortgagee the amount due and shall notify Mortgagor of such payment and Mortgagor shall reimburse Mortgagee therefor, upon written demand, with interest thereon at the Default Rate from the date of payment by Mortgagee to the date of repayment, and such amount, together with such interest, shall constitute a portion of the Debt secured by the lien of this Mortgage.

35. Usury Laws. It is the intent of Mortgagor and Mortgagee to comply at all times with applicable usury laws. If at any time such laws would render usurious any amounts called for under the Note or any of the Transaction Documents, then it is Mortgagor's and Mortgagee's express intention that such excess amount be immediately credited on the principal balance of the Note (or, if the Note has been fully paid, and Mortgagee has no further obligation under any Transaction Document to make advances, refunded by Mortgagee to Mortgagor and Mortgagor shall accept such refund), and the provisions hereof and thereof be immediately deemed to be reformed to comply with the then applicable laws, without the necessity of the execution of any further documents, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder. Any such crediting or refund shall not cure or waive any default by Mortgagor under the Note or under any of the other Transaction Documents. If, at any time following any such reduction in the interest rate payable by Mortgagor, there remains unpaid any principal amount under the Note and the maximum interest rate permitted by applicable law is increased or eliminated, then the interest rate payable hereunder shall be readjusted, to the extent permitted by applicable law, so that the total dollar amount of interest payable hereunder shall be equal to the dollar amount of interest which would have been paid by Mortgagor without giving effect to the applicable usury laws theretofore in effect. Mortgagor agrees, however, that in determining whether or not any interest payable under the Note or any of the other Transaction Documents exceeds the highest rate permitted by law, any non-principal payment (except payments specifically stated in the Note or in any other Transaction Document to be "interest"), including, without limitation, prepayment fees and late charges, shall be deemed, to the extent

permitted by law, to be an expense, fee or premium rather than interest.

36. Marshalling. Mortgagor waives and releases any right to have the Mortgaged Property marshalled.

37. Waiver of Notice. Mortgagor shall not be entitled to any notices of any nature whatsoever from Mortgagee except with respect to matters for which this Mortgage or the Note specifically and expressly provides for the giving of notices by Mortgagee to Mortgagor, and Mortgagor hereby expressly waives the right to receive any notice from Mortgagee with respect to any matter for which this Mortgage, or the Note does not specifically and expressly provide for the giving of notice by Mortgagee to Mortgagor.

38. Recovery of Sums Required To Be Paid. Mortgagee shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Mortgagee to thereafter bring an action of foreclosure, or any other action, for a default or defaults by Mortgagor existing at the time such earlier action was commenced.

39. Alternative Rights.

(a) Mortgagor acknowledges that this Mortgage secures the Debt. Mortgagor agrees that the lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Mortgagee and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by Mortgagee of any other security for any of the Debt, or by any failure, neglect or omission on the part of Mortgagee to realize upon or protect any of the Debt or any collateral security therefor. The lien of this Mortgage shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any of the Debt or of any of the collateral security therefor. Any exercise of the rights or remedies of Mortgagee hereunder shall not in any manner impair the Debt or the lien of this Mortgage or any of Mortgagee's rights and remedies thereunder.

(b) Mortgagor specifically consents and agrees that Mortgagee may exercise its rights and remedies hereunder separately or concurrently and in any order that it may deem appropriate and Mortgagor waives any rights of subrogation. Without limiting the generality of the foregoing, Mortgagor agrees that if an Event of Default is continuing (i) Mortgagee shall have the right to pursue all of its rights and remedies in one proceeding, or separately and independently in separate proceedings from time to time, as Mortgagee, in its sole and absolute discretion, shall determine from time to time, (ii) Mortgagee is not required to either marshal assets, sell the Mortgaged Property in any inverse order of alienation, or be subject to any "one action" or "election of remedies" law or rule, (iii) the exercise by Mortgagee of any remedies against the Mortgaged Property will not impede Mortgagee from subsequently or simultaneously exercising

further remedies pursuant to the terms of this Mortgage or any of the other Transaction Documents, and (iv) all liens and other rights, remedies or privileges provided to Mortgagee shall remain in full force and effect until Mortgagee has exhausted all of its remedies against the Mortgaged Property and this Mortgage has been foreclosed, sold and/or otherwise realized upon in satisfaction of the Debt or the Debt has been paid in full.

40. Writing. The Mortgagor affirms that it has not been induced to execute and deliver this Mortgage on account of any representations or conditions except those specifically contained in this Mortgage. This Mortgage may not be modified, changed or waived except upon a writing executed by the Mortgagor and the Mortgagee.

41. Notices. All notices, requests and demands to or upon Mortgagor or Mortgagee to be effective shall be in writing and unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered by hand (including by nationally recognized courier service) or on the date of delivery or the second date of any attempted delivery as shown on the returned receipt, via certified or registered mail, return receipt requested, postage prepaid, addressed as follows, or to such address or other address as may be hereafter notified by such parties:

Mortgagor: Sage Teal Properties, LLC
6146 East Molloy Road
East Syracuse, New York 13057
Attention: Scott A. Gerharz , Manager

Mortgagee: NBT Bank, National Association
52 South Broad Street
Norwich, New York 13815
Attention: Commercial Loan Department

Agency: City of Syracuse Industrial Development Agency
201 East Washington Street, 6th Floor
Syracuse, New York 13202
Attention: Executive Director

42. Joint and Several Liability. If this Mortgage is executed by two or more persons or entities, they will be jointly and severally liable, and all provisions of this Mortgage will apply to each and all of them. Notwithstanding anything herein to the contrary, the Agency shall not be jointly and severally liable hereunder; but rather, the Agency's obligations and liabilities under this Mortgage shall be governed solely by the terms of the Rider, attached hereto and made a part hereof.

43. Headings. The headings and captions of the paragraphs of this Mortgage are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

44. Successors. The covenants contained in this Mortgage will run with the land

and bind the Mortgagor, the heirs, personal representatives, successors and assigns of the Mortgagor and all subsequent owners, encumbrancers, tenants and subtenants of the Premises, and will enure to the benefit of the Mortgagee, the personal representatives, participants, successors and assigns of the Mortgagee and all subsequent holders of this Mortgage.

45. Survival of Assignment. Notwithstanding anything to the contrary contained in this Mortgage, the assignment, pledge and mortgaging of the Condemnation Proceeds, the Insurance Proceeds and the Refunds, and the right to apply any of the foregoing in accordance with the terms of this Mortgage, shall survive any foreclosure of the lien of this Mortgage.

46. Construction; Counterparts.

(a) Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage shall be used interchangeably in singular or plural form, the word "Mortgagor" shall mean each Mortgagor and any subsequent owners of the Mortgaged Property or any part thereof or interest therein, but shall not include the Agency; the word "Mortgagee" shall mean each Mortgagee and any subsequent holder of the Note. References to "this Paragraph" shall mean the paragraph commencing with an Arabic numeral in which the affected phrase or sentence is contained. The phrase "best knowledge of Mortgagor" shall mean the actual knowledge after due, reasonable inquiry obtained by Mortgagor or any officer or director of Mortgagor or any regional supervisor of Mortgagor charged with primary responsibility as to such matters in connection with operation of the Mortgaged Property. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa. The terms "herein", "hereof" or "hereunder" or similar terms used in this Mortgage refer to this entire Mortgage and not to the particular provision in which the term is used.

(b) It is acknowledged and agreed that in the preparation of this Mortgage and the other Transaction Documents indistinguishable contributions were made by representatives of both Mortgagor and Mortgagee, and that Mortgagor and Mortgagee each waives any and all rights, either at law or in equity, to have the provisions of this Mortgage or any part thereof or the provisions of any other Transaction Document interpreted in favor of one over the other based on a claim that representatives of one or the other were the principal draftsmen of any such document.

(c) This Mortgage may be executed in any number of duplicate originals and each such duplicate original shall be deemed to constitute but one and the same instrument.

47. Choice of Law/Venue. Any interest (as defined by federal law) related to this Mortgage will be governed by federal law applicable to the Mortgagee and to the extent not preempted by federal law, the laws of the State of New York without regard

to its conflict of laws provisions. In all other respects, this Mortgage will be governed by federal law applicable to the Mortgagee and, to the extent not preempted by federal law, the laws of the State of New York without regard to its conflict of laws provisions. The loan transactions that are secured by this Mortgage have been applied for, considered, approved and made, and all necessary loan documents have been accepted by the Mortgagee in the State of New York. Any action to foreclose or enforce this Mortgage shall be brought in the Supreme Court for the State of New York in the County of Onondaga.

48. Expenses of Enforcement. All reasonable costs and expenses of Mortgagee in the enforcement of any covenant of Mortgagor or any right or remedy afforded Mortgagee pursuant to this Mortgage or any other Transaction Document or in connection with any proceedings, including probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness hereby secured or in connection with preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose, whether or not actually commenced shall be paid by Mortgagor upon written demand by Mortgagee, and, to the extent permitted by law, shall bear interest, at the Default Rate from the date of demand until the actual date of repayment by Mortgagor, and shall be deemed a part of the Debt and secured by this Mortgage. As used herein, "reasonable costs and expenses" shall include, without limitation, actual expenses incurred by Mortgagee, fees and expenses of Mortgagee's agents, reasonable attorneys' fees and expenses actually incurred (which may include costs of any attorney in the employ of Mortgagee and fees for services performed by legal assistants and other non-lawyers), court costs and filing fees, allowances authorized or permitted by statute or of a court, fees and expenses of receivers, appraisers fees, costs of environmental audits and reports, expenditures for documentary and expert evidence, stenographers charges, publication costs and the cost of procuring abstracts of title, title searches and examinations, title policies and similar data with respect to title which Mortgagee may deem reasonably necessary and all other expenses of the foreclosure or similar enforcement proceeding, all of which may be estimated as to items to be expended after the entry of the decree.

49. Waivers.

(a) Mortgagor hereby expressly waives the pleading of any statute of limitations or other bar to an action based on the passage of time as a defense to any obligations secured by the Transaction Documents to the full extent permitted by law.

(b) In any action to foreclose the lien or liens of this Mortgage, including a partial foreclosure, no defense, counterclaim or setoff shall be available to Mortgagor other than one which denies the existence or sufficiency of the facts upon which the action is grounded or which raises an issue concerning the priority of liens or a mandatory counterclaim required to be interposed by law. If any defense, counterclaim or setoff, other than one permitted by this Paragraph is timely raised in such foreclosure action, such defense, counterclaim or setoff shall be dismissed; provided, however, if such

defense, counterclaim or setoff is based on a claim which could be tried in an action for money damages, such claim may be brought in a separate action which shall not thereafter be consolidated with such foreclosure action. The bringing of such separate action for money damages shall not be deemed to afford any grounds for staying the foreclosure action.

(c) Notwithstanding anything to the contrary contained in this Mortgage, Mortgagor hereby agrees that, to the extent permitted by applicable law, Mortgagor shall not at any time: (i) insist upon, plead or in any manner whatever claim or take any benefit or advantage of any stay, extension or moratorium law or an exemption from execution or sale of the Mortgaged Property or any part thereof, wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Mortgage or any other Transaction Document; (ii) claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision hereof or pursuant to the decree, judgment or order of any court of competent jurisdiction or upon execution of any judgment recovered for all or any portion of the Debt; or (iii) avail itself of any benefits that might accrue to it by virtue of any present or future laws excepting the Mortgaged Property, or any proceeds arising from the sale thereof, from attachment, levy, or sale under execution from civil process, or extension of time for payment.

50. No Claim of Credit for Impositions. Mortgagor will not make deduction from or claim credit on the principal or interest secured by this Mortgage by reason of any governmental taxes, assessments or charges. Mortgagor will not claim any deduction from the taxable value of the Mortgaged Property by reason of this Mortgage.

51. Sole Discretion of Mortgagee; Reasonableness.

(a) Except as otherwise expressly provided in this Mortgage, wherever pursuant to the provisions of this Mortgage, Mortgagee exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Mortgagee, Mortgagee in its opinion, judgment or discretion, the decision of Mortgagee to approve or disapprove or to decide that arrangements or terms are satisfactory or not satisfactory shall be in such party's sole discretion, as the case may be, and shall be final and conclusive, except as may be otherwise expressly and specifically provided herein.

(b) In the event the consent or approval of Mortgagee is required to be reasonable under any provision in this Mortgage or any other Transaction Document and Mortgagor believes that such consent or approval was withheld, conditioned or delayed in violation of such standard, then Mortgagor's sole remedy in such case shall be either (i) to seek the release of the Mortgaged Property and this Mortgage or (ii) to seek injunctive relief or specific performance and if the court determines, without right to further appeal, that such approval or consent was withheld in violation of the applicable standard or that such standard was satisfied, then (A) the consent or approval shall be deemed granted, (B) Mortgagee shall deliver prompt written confirmation of such consent

or approval, (C) the granting of such consent or approval shall be the only remedy available to Mortgagor, (D) neither Mortgagee nor its officers or agents shall have any liability for having withheld, conditioned or delayed such consent or approval, and (E) Mortgagor's obligations under the Transaction Documents shall not be diminished in any way.

52. Modification by Mortgagee. Mortgagor agrees that, without affecting the liability of Mortgagor or any other person (except any person expressly released in writing) liable for payment of the Debt or for performance of any obligation contained herein or affecting the lien and security interest of this Mortgage upon the Mortgaged Property or any part thereof, Mortgagee may, at any time and from time to time, regardless of consideration, without notice to or obtaining the consent of any person (a) release any person liable for payment of any indebtedness secured hereby or for performance of any obligation, (b) extend the time or agree to alter the terms of payment of any such indebtedness, including, without limitation, modifying the interest rate, the amortization period or any other provision of the Note, modify or waive any obligation (to the extent same does not increase Mortgagor's obligations), (c) subordinate, modify or otherwise deal with the lien and security interest hereof, (d) release the whole or any part of the Mortgaged Property or any other security, (e) accept additional security of any kind, (f) consent to the making of any map or plat of the Mortgaged Property, the creating of any easements thereon or any covenants restricting use or occupancy thereof, or (g) exercise, refrain from exercising or waive any right Mortgagee may have without in any manner impairing or affecting the Transaction Documents, as so extended, modified and supplemented, or the lien or priority thereof unless expressly released or discharged from such obligation by Mortgagee in writing.

53. Assignment; Participations.

(a) Mortgagee shall have the right in its sole discretion at any time during the term of the Loan to sell, assign, syndicate, securitize or otherwise transfer or dispose of its interest in all or any portion of the Loan, provided, however, that all of the provisions hereof shall continue in full force and effect following any such sale, assignment, syndication, securitization or other transfer.

(b) Mortgagee may at any time grant to one or more banks, life insurance companies or other financial institutions (each a "Participant") participating interests in all or a portion of Mortgagee's interest in the Loan, provided that, in the event of any such grant by Mortgagee of a participating interest to a Participant, whether or not upon notice to Mortgagor, Mortgagee shall remain responsible for the performance of its obligations hereunder, and Mortgagor shall continue to deal solely and directly with Mortgagee in connection with Mortgagee's rights and obligations under this Mortgage.

54. No Merger. If both the landlord's and the tenant's estates under any Lease shall at any time become vested in one owner, or if Mortgagor's estates under this Mortgage shall at any time become vested in one owner, including, without limitation, upon the delivery of a deed to Mortgagee in lieu of a foreclosure sale, or upon a purchase

of the Mortgaged Property by Mortgagee in a foreclosure sale, this Mortgage and the lien created hereby shall not be destroyed or terminated by the application of the doctrine of merger and in such event Mortgagee shall continue to have and enjoy all of the rights and privileges of Mortgagee as to the separate estates; and, as a consequence thereof, upon the foreclosure of the lien created by this Mortgage any Leases or subleases then existing and created by Mortgagor shall not be destroyed or terminated by application of the law of merger or as a result of such foreclosure unless Mortgagee or any purchaser at any such foreclosure sale shall so elect. No act by or on behalf of Mortgagee or any such purchaser shall constitute a termination of any Lease or sublease unless Mortgagee or such purchaser shall give written notice thereof to the Tenant or sublessee thereunder.

55. Running with the Land. All covenants contained in this Mortgage shall run with the land of the Mortgaged Property.

56. Waiver of Jury Trial. MORTGAGOR HEREBY EXPRESSLY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY EITHER PARTY HERETO AGAINST THE OTHER, OR IN ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS MORTGAGE, THE NOTE, THE ASSIGNMENT OR ANY OF THE OTHER TRANSACTION DOCUMENTS TO THE FULL EXTENT PERMITTED BY LAW.

57. After-Acquired Property. If, after the date of this Mortgage, Mortgagor acquires any property located on and used in connection with the Mortgaged Property and that by the terms of this Mortgage is required or intended to be encumbered by this Mortgage, the property shall become subject to the lien and security interest of this Mortgage immediately upon its acquisition by Mortgagor and without any further mortgage, conveyance, assignment or transfer. Nevertheless, upon Mortgagee's reasonable request, from time to time, Mortgagor will execute, acknowledge and deliver any additional instruments and assurances of title and will do or cause to be done anything further that is reasonably necessary for carrying out the intent of this Mortgage.

58. Severance. By agreement between Mortgagor and Mortgagee made at any time following the date of this Mortgage, Mortgagor and Mortgagee may provide that this Mortgage may be severed, split and divided into two or more portions in such individual amounts as may be agreed upon by Mortgagor and Mortgagee, each of which portions shall secure a portion of the outstanding Debt secured by this Mortgage. In the event that Mortgagor and Mortgagee agree to sever this Mortgage, then (a) a replacement note or notes, as appropriate, shall be issued, each in a principal amount, as agreed by the Mortgagor and the Mortgagee, equal to a portion of the principal amount of the indebtedness severed from this Mortgage, the aggregate principal amount of such replacement note or notes, together with the amounts remaining, however, not to exceed the then unpaid principal balance of the indebtedness secured by this Mortgage; and (b) a replacement mortgage or mortgages shall be executed and delivered, each of which shall secure a replacement note, each such replacement mortgage to be in the amount of the replacement note which it secures. Each such replacement mortgage may

be assigned and enforced separately. Neither the institution nor maintenance of any action, suit or proceeding on the Mortgage remaining after such severance or any note secured thereby, or any replacement mortgage, or the replacement note secured thereby, or the entry of a judgment therein, shall bar the institution or maintenance or any action, suit or proceeding on the Mortgage remaining after such severance, if applicable, or any other replacement mortgage, or entry of judgment therein. Upon the recording of such replacement mortgage(s), the portion of the lien of this Mortgage severed from the Mortgage shall be deemed replaced by the replacement mortgages with the same effect as if such replacement mortgage(s) were originally recorded in lieu of this Mortgage with respect to the severed portion thereof. In the event this Mortgage is consolidated with one or more other mortgages, then the reference in this paragraph to this Mortgage shall be deemed to refer to this Mortgage and such other mortgage or mortgages, as consolidated. In addition, in the event that any replacement mortgage shall hereafter be consolidated with a new mortgage, a further replacement note may be issued to evidence the aggregate indebtedness secured by such replacement mortgage and such new mortgage as consolidated. The execution and delivery of the instruments referred to in this Paragraph 58 shall not (i) extinguish the Debt or the lien thereof on the Mortgaged Property, (ii) in any respect constitute or secure any further, other or new indebtedness or obligation, and (iii) in any manner alter, waive, annul or affect the provisions of this Mortgage except as severed, split, divided and amended in accordance with the provisions of this Paragraph 58. Mortgagor shall pay all costs incurred in connection with this Paragraph 58, including, but not limited to, title examination costs, title insurance premiums, all recording charges, and mortgage recording tax, if any.

59. Lien Law. The Mortgagor will, in compliance with Section 13 of the New York Lien Law, receive the advances secured hereby and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the improvement before using any part of the total of the same for any other purpose.

60. Other Liens. The Mortgagor covenants not to voluntarily create or permit to be created against the Premises any lien or liens superior or inferior to the lien of this Mortgage, except for those in favor of the Mortgagee.

61. Termination of Company Lease, Agency Lease and Payment in Lieu of Taxes Agreement. In the event that there is a transfer of title to the Mortgaged Premises, from Mortgagor to any other person by reason of a foreclosure proceeding, deed in lieu of foreclosure, voluntary transfer or otherwise, the Mortgagor by executing this Mortgage and Mortgagee by accepting this Mortgage, acknowledge that in any such event the Agency's interest in the Mortgaged Property will be immediately subject to termination in the Agency's sole discretion. In such case, the Agency shall have the right to terminate the Agency Lease, Company Lease and any agreement providing for PILOT Payments with respect to the Mortgaged Property. The Agency will use reasonable efforts to send a notice of termination of any of the above instruments to the Mortgagee, but has no liability for failing to do so and the failure to give such notice will not affect the validity of any such termination.

62. Certain Rules of Construction. Wherever possible, the terms and provisions of this Agreement and each of the other Transaction Documents, shall be read and construed as being consistent. However, notwithstanding the foregoing directive, if any provision in this Agreement conflicts with a provision in any of the other Transaction Documents, then the provisions of this Agreement shall govern and the conflicting provision in the other Transaction Documents shall be disregarded. Notwithstanding the foregoing, if any such provision is more favorable to the Mortgagee in its reasonable opinion, then the Mortgagee may rely upon and the Mortgagor shall be bound by the provision chosen as most favorable to the Mortgagee, whether in this Agreement or in any of the other Transaction Documents.

IN WITNESS WHEREOF, this Mortgage has been duly executed by the Mortgagor on the date first written above.

SAGE TEALL PROPERTIES, LLC

By: 
 Scott A. Gerharz, Manager

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

On the 13th day of November in the year 2018 before me, the undersigned, personally appeared **SCOTT A. GERHARZ**, 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

F. PAUL VELLANO, JR.
 Notary Public, State of New York
 Qualified in Onondaga Co. No. 02VE4663591
 My Commission Expires February 28, 2022

AGENCY RIDER

THIS RIDER IS PART OF THE MORTGAGE INDENTURE AND SECURITY AGREEMENT DATED AS OF NOVEMBER 13, 2018 (“MORTGAGE”) MADE BY SAGE TEALL PROPERTIES, LLC (“MORTGAGOR”) NOW JOINED BY THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY (“AGENCY”) IN FAVOR OF NBT BANK, NATIONAL ASSOCIATION (“MORTGAGEE”). CAPITALIZED TERMS NOT OTHERWISE DEFINED HEREIN WILL HAVE THE SAME MEANINGS AS SET FORTH IN THE MORTGAGE.

RECITALS:

- A. The Mortgagee has extended a loan to the Mortgagor in the principal amount of One Million Three Hundred Seventy Five Thousand Dollars (\$1,375,000) secured by the Mortgaged Property described in the Mortgage of which this Rider is intended to be a part;
- B. The Agency has taken a leasehold interest in the Premises in furtherance of its powers and purposes defined under Title 1 of Article 18-A of the General Municipal Law of the State of New York and Section 926 under Title 2 of Article 18-A of the General Municipal Law of the State of New York (collectively, the “Act”); and
- C. The Mortgagee requires the Agency to join in this Mortgage for the purpose of mortgaging Agency’s interest in the Premises by reason of the Company Lease, and all modifications and supplements thereto and the Agency Lease.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, it is agreed as follows:

1. In order to further secure the Mortgagor’s obligations under the Mortgage to Mortgagee, the Agency does hereby mortgage and pledge to the Mortgagee and grant a security interest in favor of the Mortgagee in all of its right, title and interest to the Premises and the Security Interest Property (except for the Unassigned Rights), it being the intention of the Agency to pledge, mortgage and convey as security any and all interest in the Premises (except for the Unassigned Rights) and the Security Interest Property (except for the Unassigned Rights) to the Mortgagee and its successors and assigns, as the Agency may have obtained with respect to such Premises and the Security Interest Property, to have and to hold the Premises (except for the Unassigned Rights) and the Security Interest Property (except for the Unassigned Rights), the rights and privileges hereby conveyed or assigned and with the possession and right of possession thereof, for the uses and purposes herein set forth. This Mortgage is executed by the Agency solely for the purpose of subjecting its interest to the Premises and the Security Interest Property to the Mortgagee. Upon the occurrence and continuation of an Event of Default, the Mortgagee or the then holder of this Mortgage

shall be limited, with respect to any liability of the Agency, to recourse only against the Premises and the Security Interest Property in satisfaction of the obligations secured under the Mortgage by the Agency, including but not limited to, the Note. In no event shall the Mortgagee or any holder seek any deficiency or personal judgment against the Agency, or any of the Agency's members or officers, except such judgment or decree as may be necessary to foreclose its interest in the Premises as mortgaged hereunder and in any and all other property, such as the Security Interest Property that has been mortgaged, pledged, conveyed or assigned or granted a security interest in, to secure payment and performance of the Note or documents executed and delivered in connection therewith.

2. The Agency hereby represents and warrants that it is duly authorized under the laws of the State of New York, including particularly and without limitation the Act, to pledge, mortgage and otherwise encumber the Premises (excluding the Unassigned Rights) and grant a security interest in the Security Interest Property (excluding the Unassigned Rights) in the manner and to the extent herein set forth, and that all action for the execution and delivery of the Mortgage to which it is a party by reason of this Agency Rider has been duly and effectively taken.

3. The obligations and agreements of the Agency contained herein and in any other instrument or document supplemental hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent (other than the Mortgagor) or employee of the Agency in his individual capacity, and the members, officers, agents (other than the Mortgagor) and employees 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.

4. The obligations and agreements of the Agency contained herein and in any other instrument or document supplemental hereto shall not constitute or give rise to an obligation of the State of New York or the City of Syracuse, New York, and neither the State of New York nor the City of Syracuse, New York shall be liable hereon or thereon. Furthermore, 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 Premises or the Security Interest Property, except for revenues derived by the Agency with respect to the Unassigned Rights which are intended to be retained by the Agency.

5. 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 (i) 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 thirty (30) 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 thirty (30) days, shall have failed to

institute and diligently pursue action to cause compliance with such request within such thirty (30) day period) or failed to respond within such notice period, (ii) 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 of undertaking sufficient to cover such reasonable fees and expenses; and (iii) 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 Mortgagor) or employees shall be subject to potential liability, the party seeking such order or decree shall (A) agree to indemnify and hold harmless the Agency and its members, officers, agents (other than the Mortgagor) and employees 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 Mortgagor) and employees against all liability expected to be incurred as a result of compliance with such request.

6. (i) The Mortgagor agrees that the Agency, its directors, members, officers, agents (other than the Mortgagor) and employees shall not be liable for and agrees to defend, indemnify, release and hold the Agency, its directors, members, officers, agents (other than the Mortgagor) and employees harmless from and against any and all (A) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Premises or the Security Interest Property or arising by reason of or in connection with the use thereof or under this Mortgage, or (B) liability arising from or expense incurred by the Agency's acquisition, renovation, construction, installation, owning and leasing of the Premises or the Security Interest Property, including without limitation the generality of the foregoing, all claims arising from the breach by the Mortgagor of any of its covenants contained herein and all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any claims, suits or actions which may arise as a result of the foregoing, provided that any such losses, damages, liabilities or expenses of the Agency are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Agency or any of its directors, members officers, agents (other than the Mortgagor) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its members, directors, officers, agents (other than the Mortgagor) or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law.

(ii) Notwithstanding any other provisions of the Mortgage, the obligations of the Mortgagor pursuant to this Section 6 shall remain in full force and effect after the termination of this Mortgage 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 payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all reasonable expenses and charges incurred by the

Agency, or its respective members, directors, officers, agents (other than the Mortgagor) and employees, relating to the enforcement of the provisions herein specified.

(iii) In the event of any claim against the Agency or its members, directors, officers, agents (other than the Mortgagor) or employees by any employee or contractor of the Mortgagor 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 Mortgagor hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

7. The Mortgagor, at the direction of the Agency, shall will record or cause this Mortgage to be recorded in all offices where recordation hereof is necessary and will pay, or cause to be paid, all documentary stamp taxes, if any, which may be imposed by the United States of America or any agency thereof or by the State of New York or other governmental authority upon this Mortgage. The Agency hereby authorizes the Mortgagee as secured party to file any UCC-1 financing statements naming the Agency as debtor with respect to the Security Interest Property, whether with or without the Mortgagor as an additional debtor.

8. Notwithstanding anything to the contrary stated in this document, the Agency specifically intends to except, and hereby excepts, from any and all property which the Agency agrees to mortgage, pledge, assign, grant a lien on or security interest in or otherwise convey pursuant to this document any and all of the Unassigned Rights.

9. The Mortgagor directs the Agency to execute and deliver this Mortgage to the Mortgagee, and further agrees to indemnify the Agency (and its members, officers, directors, agents, servants and employees) for all fees and costs incurred in connection with the execution, delivery, recording, performing and enforcing of this Mortgage, including but not limited to reasonable attorney's fees and costs.

10. Mortgagor shall: (i) pay the all other sums of money due and payable at any time and from time to time under the Company Lease, the Agency Lease and the PILOT Agreement, as and when such sums become due and payable, but in any event before the expiration of any grace period provided in the Company Lease, the Agency Lease and the PILOT Agreement for the payment of any such sum; and (ii) at all times fully perform, observe and comply with all other terms, covenants and conditions of the Company Lease, the Agency Lease and the PILOT Agreement to be performed, observed or complied with by Mortgagor as lessor under the Company Lease and lessee under the Agency Lease and as a party under the PILOT Agreement. If the Company Lease, the Agency Lease and/or the PILOT Agreement do not provide for a grace period for the payment of a sum of money, Mortgagor shall make the payment on or before the date on which the payment becomes due and payable. Mortgagor shall deliver evidence of the payment to Mortgagee within ten (10) days after receipt of a written request from Mortgagee for evidence of the payment.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By:



Honora Spillane, Executive Director

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

On the 7th day of November in the year 2018 before me, the undersigned, personally appeared **HONORA SPILLANE**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

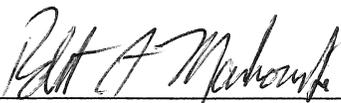


Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2022

ACKNOWLEDGED AND ACCEPTED BY:

NBT BANK, NATIONAL ASSOCIATION

By: 
Robert A. Markowski, Vice President

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

On the 13th day of November in the year 2018 before me, the undersigned, personally appeared **ROBERT A. MARKOWSKI**, 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

F. PAUL VELLANO, JR.
Notary Public, State of New York
Qualified in Onondaga Co. No. 02VE4663591
My Commission Expires February 28, 2022

SCHEDULE A

ALL that tract or parcel of land, situate in the City of Syracuse, (formerly part of Lot No. 223 of the Salt Springs Reservation), County of Onondaga and State of New York, bounded and described as follows: beginning at a point in the easterly line of Teall Avenue at the intersection of the northerly line of Lynch Street and the easterly line of Teall Avenue; thence N 03° 19' 30" W along Teall Avenue a distance of 396.64 feet to a point; thence N 66° 31' 00" E a distance of 473.51 feet to a point; thence S 03° 16' 38" E a distance of 141.58 feet to a point; thence S 08° 20' 35" W a distance of 82.0 feet to a point; thence S 17° 32' 39" W a distance of 91.84 feet to a point; thence N 66° 28' 00" E a distance of 55.92 feet to a point; thence S 21° 53' 40" E a distance of 100.04 feet to a point in the northerly line of Lynch Street; thence S 66° 28' 00" W along Lynch Street a distance of 510.87' to a point in the east line of Teall Avenue, said point being the place and point of beginning.

449835

2018 Nov 14 AM11:57

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]
F. Paul Vellano, Jr., Esq. (315) 413-7118

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

**Barclay Damon LLP
125 East Jefferson Street
Syracuse, NY 13202, USA**

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME **Sage Teall Properties, LLC**

OR

1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS **6146 East Molloy Road** CITY **East Syracuse** STATE **NY** POSTAL CODE **13057** COUNTRY **USA**

1d. SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 1e. TYPE OF ORGANIZATION **limited liability company** 1f. JURISDICTION OF ORGANIZATION **New York** 1g. ORGANIZATIONAL ID #, if any **NONE** NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME **City of Syracuse Industrial Development Agency**

OR

2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS **201 East Washington Street, 6th Floor** CITY **Syracuse** STATE **NY** POSTAL CODE **13202** COUNTRY **USA**

2d. SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 2e. TYPE OF ORGANIZATION **public instrumentality** 2f. JURISDICTION OF ORGANIZATION **New York** 2g. ORGANIZATIONAL ID #, if any **NONE** NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME **NBT Bank, National Association**

OR

3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS **52 S. Broad Street** CITY **Norwich** STATE **NY** POSTAL CODE **13815** COUNTRY **USA**

4. This FINANCING STATEMENT covers the following collateral:

All equipment, furniture and fixtures of Debtor located on the "Real Property" described below; whether any of the foregoing is owned now or acquired later; all accessions, additions, replacements, and substitutions relating to any of the foregoing; all records of any kind relating to any of the foregoing; all proceeds relating to any of the foregoing (including insurance, general intangibles, and other accounts proceeds), together with Debtor's interest in all Oil and Gas Substances (as defined below), produced and saved from or attributable to the real property located at 220-22 Teall Avenue, City of Syracuse, County of Onondaga and State of New York, tax parcel #032.1-01-27.0 (the "Real Property"), whether in place, brought to the surface, or as extracted; all rents, royalties, issues, profits, proceeds, products, revenues, and all other income attributable to the Oil and Gas Substances or any lease thereof together with all equipment, inventory, fixtures, and any and all personal property related to the exploration, extraction, transportation, or storage of Oil and Gas Substances, and any accounts, contract rights, and general intangibles related to any of the foregoing. "Oil and Gas Substances" are defined as all rights, titles, interest and estates now owned or hereafter acquired by Debtor in and to all oil, gas, and other minerals and their liquid or gaseous constituents, whether hydrocarbon or non-hydrocarbon, underlying the Real Property, and all other products refined therefrom. "Gas" includes but is not limited to, coal stream gas, coalbed methane gas, "gob gas, coalbed gas, methane gas, occluded methane/natural gas and all associated natural gas and all other commercial gas and all other hydrocarbons and non-hydrocarbons, contained in, associated with, emitting from, or produced/originating within any formation, gob area, coal seam, mined-out area, and all communicating zones.

5. ALTERNATIVE DESIGNATION (if applicable): LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BAILOR SELLER/BUYER AG. LIEN NON-UCC FILING

6. This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable) 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (OPTIONAL FEE) All Debtors Debtor 1 Debtor 2

8. OPTIONAL FILER REFERENCE DATA **440769.4413426**

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]
F. Paul Vellano, Jr., Esq. (315-413-7118)

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

**Barclay Damon LLP
 Barclay Damon Tower
 125 East Jefferson Street
 Syracuse, New York 13202**

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a ORGANIZATION'S NAME
Sage Teall Properties, LLC

OR 1b INDIVIDUAL'S LAST NAME

FIRST NAME MIDDLE NAME SUFFIX

1c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
6146 East Molloy Road East Syracuse NY 13057 USA

1d SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 1e TYPE OF ORGANIZATION 1f JURISDICTION OF ORGANIZATION 1g ORGANIZATIONAL ID # if any
limited liability compa New York NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a ORGANIZATION'S NAME
City of Syracuse Industrial Development Agency

OR 2b INDIVIDUAL'S LAST NAME

FIRST NAME MIDDLE NAME SUFFIX

2c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
201 East Washington Street, 6th Floor Syracuse NY 13202 USA

2d SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 2e TYPE OF ORGANIZATION 2f JURISDICTION OF ORGANIZATION 2g ORGANIZATIONAL ID # if any
public instrumentality New York NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a ORGANIZATION'S NAME
NBT Bank, National Association

OR 3b INDIVIDUAL'S LAST NAME

FIRST NAME MIDDLE NAME SUFFIX

3c MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
52 S. Broad Street Norwich NY 13815 USA

4. This FINANCING STATEMENT covers the following collateral:

All equipment, furniture and fixtures of Debtor located on the "Real Property" described below; whether any of the foregoing is owned now or acquired later; all accessions, additions, replacements, and substitutions relating to any of the foregoing; all records of any kind relating to any of the foregoing; all proceeds relating to any of the foregoing (including insurance, general intangibles, and other accounts proceeds), together with Debtor's interest in all Oil and Gas Substances (as defined below), produced and saved from or attributable to the real property located at 220-22 Teall Avenue, City of Syracuse, County of Onondaga and State of New York, tax parcel #032.1-01-27.0 (the "Real Property"), whether in place, brought to the surface, or as extracted; all rents, royalties, issues, profits, proceeds, products, revenues, and all other income attributable to the Oil and Gas Substances or any lease thereof together with all equipment, inventory, fixtures, and any and all personal property related to the exploration, extraction, transportation, or storage of Oil and Gas Substances, and any accounts, contract rights, and general intangibles related to any of the foregoing. "Oil and Gas Substances" are defined as all rights, titles, interest and estates now owned or hereafter acquired by Debtor in and to all oil, gas, and other minerals and their liquid or gaseous constituents, whether hydrocarbon or non-hydrocarbon, underlying the Real Property, and all other products refined therefrom. "Gas" includes but is not limited to, coal stream gas, coalbed methane gas, gob gas, coalbed gas, methane gas, occluded methane/natural gas and all associated natural gas and all other commercial gas and all other hydrocarbons and non-hydrocarbons, contained in, associated with, emitting from, or produced/originating within any formation, gob area, coal seam, mined-out area, and all communicating zones.

5. ALTERNATIVE DESIGNATION [if applicable] LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BAILOR SELLER/BUYER AG LIEN NON-UCC FILING

6. This FINANCING STATEMENT is to be filed [for record] [or recorded] in the REAL ESTATE RECORDS. Attach Addendum. 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [optional] All Debtors Debtor 1 Debtor 2

8. OPTIONAL FILER REFERENCE DATA

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT		
9a ORGANIZATION'S NAME		
OR Sage Teall Properties, LLC		
9b INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME SUFFIX

10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only <u>one</u> name (11a or 11b) - do not abbreviate or combine names				
11a ORGANIZATION'S NAME				
OR 11b INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
11c MAILING ADDRESS		CITY	STATE	POSTAL CODE
				COUNTRY
11d SEE INSTRUCTIONS Not Applicable	ADD'L INFO RE ORGANIZATION DEBTOR	11e TYPE OF ORGANIZATION	11f JURISDICTION OF ORGANIZATION	11g ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

12. <input type="checkbox"/> ADDITIONAL SECURED PARTY'S or <input type="checkbox"/> ASSIGNOR S/P'S NAME - insert only <u>one</u> name (12a or 12b)				
12a ORGANIZATION'S NAME				
OR 12b INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
12c MAILING ADDRESS		CITY	STATE	POSTAL CODE
				COUNTRY

13. This FINANCING STATEMENT covers timber to be cut or as-extracted collateral, or is filed as a fixture filing

14. Description of real estate
220-22 Teal Avenue, City of Syracuse, County of Onondaga and State of New York.

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest)
Sage Teall Properties, LLC

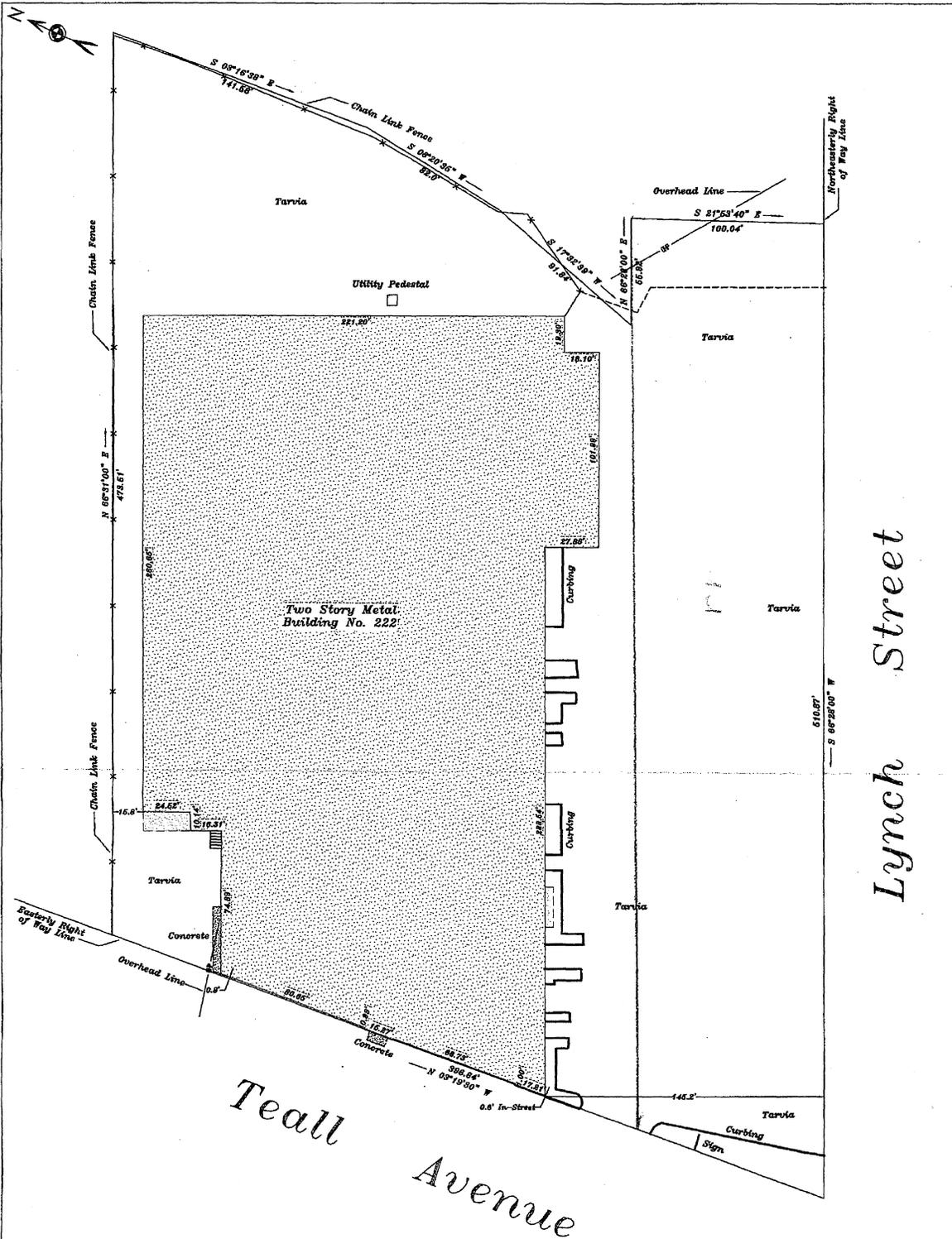
16. Additional collateral description
See attached Schedule A.

17. Check only if applicable and check only one box
 Debtor is a Trust or Trustee acting with respect to property held in trust or Decedent's Estate

18. Check only if applicable and check only one box
 Debtor is a TRANSMITTING UTILITY
 Filed in connection with a Manufactured Home Transaction — effective 30 years
 Filed in connection with a Public-Finance Transaction — effective 30 years

SCHEDULE A

ALL that tract or parcel of land, situate in the City of Syracuse, (formerly part of Lot No. 223 of the Salt Springs Reservation), County of Onondaga and State of New York, bounded and described as follows: beginning at a point in the easterly line of Teall Avenue at the intersection of the northerly line of Lynch Street and the easterly line of Teall Avenue; thence N 03° 19' 30" W along Teall Avenue a distance of 396.64 feet to a point; thence N 66° 31' 00" E a distance of 473.51 feet to a point; thence S 03° 16' 38" E a distance of 141.58 feet to a point; thence S 08° 20' 35" W a distance of 82.0 feet to a point; thence S 17° 32' 39" W a distance of 91.84 feet to a point; thence N 66° 28' 00" E a distance of 55.92 feet to a point; thence S 21° 53' 40" E a distance of 100.04 feet to a point in the northerly line of Lynch Street; thence S 66° 28' 00" W along Lynch Street a distance of 510.87' to a point in the east line of Teall Avenue, said point being the place and point of beginning.



To:

<p>Michael J. McCully Land Surveying PLLC 6875 Fieldstone Drive Casenovia New York 13035 Phone : (315) 440-6088</p>		<p>Location Survey on Part of Farm Lot 223 of the Former Salt Springs Reservation.</p>
<p>I hereby certify that this map was made from an actual survey and plans in accord.</p> <p><i>[Signature]</i> M.J. McCully NYSLIS 60696</p>		<p>Known as No. 222 Teall Avenue, City of Syracuse, County of Onondaga, State of New York.</p>
<p>Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of Section 7209, Subdivision 2 of the New York State Education Law. Only copies from the original of this survey marked with an original of the land surveyor's linked seal or his endorsed seal shall be considered to be valid true copies. Certifications shall run only to the persons or entities for whom the survey is prepared and are not transferable to subsequent persons or entities. Copyright 2018, Michael J. McCully Land Surveying, all rights reserved.</p>	<p>Drawn by: MJM Scale: 1" = 50'</p>	<p>Date(s): 06-11-18</p>

**GENERAL CERTIFICATE OF THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

This certificate is made in connection with the execution by the City of Syracuse Industrial Development Agency (the "**Agency**") of the Project Agreement, the Company Lease, the Agency Lease, the PILOT Agreement, the Mortgage and any other document now or hereafter executed by the Agency (collectively, the "**Agency Documents**") with respect to a project (the "**Project**") undertaken at the request of Sage Teall Properties, LLC (the "**Company**") consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

Capitalized terms used herein which are not otherwise defined herein and which are defined in the Agency Lease Agreement dated as of November 1, 2018 (the "**Agency Lease**"), between the Agency and the Company, and shall have the meanings ascribed to such terms in the Agency Lease except that, for purposes of this certificate: (A) all definitions with respect to any document shall be deemed to refer to such document only as it exists as of the date of this certificate and not as of any future date; and (B) all definitions with respect to any Person shall be deemed to refer to such Person only as it exists as of the date of this certificate and not as of any future date or to any successor or assign.

I, the undersigned Executive Director of the Agency, Do Hereby Certify:

1. I am an officer of the Agency and am duly authorized to execute and deliver this certificate in the name of the Agency.

2. The Agency is an industrial development agency duly established under Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended (the "**Enabling Act**") and Chapter 641 of the Laws of 1979 of the State (said Chapter with the Enabling Act, the "**Act**") (a certified copy of Chapter 641 of the Laws of 1979 of the State is

attached hereto as **Exhibit "A"**), and it is a corporate governmental agency constituting a public benefit corporation of the State.

3. The Act empowers the Agency, among other things, to acquire, construct reconstruct, lease, improve, maintain, equip, sell and dispose of land and any building or other improvement, and all real and personal property, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, recreation or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the City of Syracuse and the State and to improve their standard of living. The Act further authorizes the Agency to lease any and all of its facilities on such terms and conditions as it deems advisable, to acquire, construct, lease, improve, and equip one or more projects as defined in the Act, to mortgage any or all of its facilities and to pledge the revenues and receipts from the sale or transfer of its facilities.

4. The Agency has full legal power and authority to own its property, conduct its business and execute, deliver, and perform its obligations under the Agency Documents and has taken all actions and obtained all approvals required in connection therewith by the Act and any other applicable laws and regulations, and no legislation has been enacted affecting the powers or authority of the Agency to execute and deliver the Agency Documents, affecting the financing of the Project, or affecting the validity thereof or of the Agency Documents, or contesting the existence and powers of the Agency or the appointment of the members and officers of the Agency to their respective offices.

5. Pursuant to the Act, the governing body of the City of Syracuse, New York, for whose benefit the Agency was established, duly filed or caused to be filed within six (6) months after the effective date of Chapter 641 of the Laws of 1979 of the State in the office of the Secretary of State of the State the Certificate of Establishment of the Agency pursuant to Section 926 of the New York General Municipal Law. The Certificate of Establishment of the Agency described in the preceding sentence also named the members and officers of the Agency as appointed by the Mayor of the City of Syracuse. Attached hereto as **Exhibit "B"** are certified copies of said Certificates of Establishment and copies of the Certificates of Appointment relating to all of the current members of the Agency, who are:

Michael Frame, Chairman
Steven Thompson, Vice Chairman
Rickey T. Brown, Secretary
Kathleen Murphy, Treasurer
Kenneth Kinsey, Member

6. Attached hereto as **Exhibit "C"** is a true, correct and complete copy of the by-laws of the Agency, together with all amendments thereto or modifications thereof; and said by-laws as so amended and modified are in full force and effect in accordance with their terms as of the date of this certificate.

7. That a resolution determining that the acquisition, renovation, equipping and completion of the Project constitutes a Project and describing the financial assistance in connection therewith and authorizing a public hearing (the "**Public Hearing Resolution**") was adopted by the Agency on July 16, 2018 and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Public Hearing Resolution is attached hereto at **Exhibit "D."**

8. Attached hereto as **Exhibit "E"** is proof of publication of a notice of the public hearing with respect to the Project (the "**Public Hearing Notice**"), required pursuant to Section 859-a of the Act and held on August 21, 2018, and proof of mailing of notice thereof pursuant to Section 859-a of the Act to the chief executive officers of the affected tax jurisdictions (as defined in Section 854(16) of the Act) on July 26, 2018.

9. Attached hereto as **Exhibit "F"** is a copy of the notice dated July 26, 2018, regarding relocation of the Company which was mailed to the Mayor of the City of Syracuse and the Onondaga County Executive pursuant to Section 859-a(5)(d) of the General Municipal Law of the State of New York.

10. That a resolution classifying the Project as an Unlisted Action pursuant to SEQRA, declaring the Agency lead agency for purposes of an uncoordinated review thereunder and determining that the Project will not have a significant effect on the environment (the "**SEQRA Resolution**") was adopted by the Agency on August 21, 2018 and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the SEQRA Resolution is attached hereto at **Exhibit "G."**

11. That a resolution approving the undertaking of the acquisition, renovation, equipping and completion of the Project, appointing the Company as agent of the Agency for the purpose of the acquisition, renovation, equipping and completion of the Project, and authorizing the execution and delivery of an agreement between the Agency and the Company (the "**Inducement Resolution**") was adopted by the Agency on August 21, 2018 and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Inducement Resolution is attached hereto at **Exhibit "H."**

12. That a resolution approving a payment in lieu of tax schedule and authorizing the execution and delivery of certain documents by the Agency in connection with the Project was adopted by the Agency on August 21, 2018 (the "**Original PILOT Resolution**"). The Original PILOT Resolution was amended by a resolution adopted on October 16, 2018 (the "**Amended PILOT Resolution**") The Amended PILOT Resolution remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Amended PILOT Resolution is attached hereto to **Exhibit "I"**.

13. That a resolution authorizing the execution and delivery of certain documents by the Agency in connection with the Project was adopted by the Agency on August 21, 2018 (the "**Final Approving Resolution**") and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Final Approving Resolution is attached hereto at **Exhibit "J"**.

14. Attached hereto at **Exhibit "K"** is a copy of the confirmation of the project by the chief executive officer of the City of Syracuse, New York pursuant to Section 862(2)(c) of the Act.

15. The execution, delivery and performance of all Agency Documents, certificates and documents required to be executed, delivered and performed by the Agency in order to carry out, give effect to and consummate the transactions contemplated by the Agency Documents have been duly authorized by all necessary action of the Agency, and the Agency Documents have been duly authorized, executed and delivered. The Agency Documents are in full force and effect on and as of the date hereof, and no authority or proceeding for the execution, delivery or performance of the Agency Documents has been materially amended, repealed, revoked or rescinded; and no event or circumstance has occurred or exists which constitutes, or with the giving of notice or the passage of time would constitute, a default on the part of the Agency under the Agency Documents.

16. The execution, delivery, and performance of the Agency Documents, the consummation of the transactions therein contemplated and compliance with the provisions of each do not and will not: (a) violate the Act or the by-laws of the Agency; (b) require consent (which has not heretofore been received) under or result in a breach or default of any credit agreement, purchase agreement, indenture, deed of trust, commitment, guaranty, lease, or other agreement or instrument to which the Agency is a party or by which the Agency may be bound or affected; or (c) conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction, or decree of any government, governmental instrumentality, or court, domestic or foreign, having jurisdiction over the Agency or any of its Property.

17. The Agency has not received written notice that any event of default has occurred and is continuing, or that any event has occurred which with the lapse of time or the giving of notice or both would constitute an event of default by any party to the Agency Documents.

18. There is no action, suit, proceeding or investigation at law or in equity, before or by any court, public board or body of the United States of America or the State of New York, pending or, to the best of my knowledge, threatened against or affecting the Agency (or to my knowledge any basis therefor): (a) wherein an unfavorable decision or finding would adversely affect: (i) the Inducement Resolution, the Final Approving Resolution, the Company Lease, the Agency Lease or the other Agency Documents; or (ii) the existence or organization of the Agency; or (iii) restrain or enjoin the financing, acquisition or construction of the Project or the performance by the Agency of the Agency Documents; or (b) in any manner questioning the proceedings or authority of the financing of the Project, or affecting the validity thereof or of the Agency Documents, or contesting the existence and powers of the Agency or the appointment of the directors and officers of the Agency to their respective offices.

19. November 13, 2018 has been duly designated as the date for the Closing.

20. The Agency has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Date.

21. In accordance with the Act, the Agency has determined:

(a) to assist the Company's acquisition, renovation, equipping and completion of the Project Facility;

(b) to grant the Financial Assistance to the Company;

(c) to designate the Company as the Agency's agent for the acquisition, renovation, equipping and completion of the Project Facility and to authorize the Company to appoint additional agents;

(d) that the Project will promote employment opportunities and prevent economic deterioration in the City by the preservation and the creation of both full and part-time jobs; and

(e) to pledge its interest in the Company Lease and the Agency Lease (except the Agency's Unassigned Rights) to the Mortgagee and grant the Mortgagee a security interest in the Agency's leasehold interest in the Project Facility.

22. That I did officially cause all certificates necessary for the granting of the Financial Assistance and included in the official transcript of closing, to be executed, as required, in the name of the Agency by the signing of each of such certificates with the signature of the Executive Director of the Agency.

23. That I did officially cause the following Agency Documents to be executed in the name of the Agency by the signing of each of such Agency Documents with the signature of the Honora Spillane, Executive Director of the Agency:

(a) a Project Agreement between the Agency and the Company;

(b) a Company Lease from the Company to the Agency pursuant to which the Company agrees to lease the Land and the Facility to the Agency;

(c) an Agency Lease from the Agency to the Company pursuant to which the Agency agrees to sublease the Project Facility to the Company; and

(d) the Mortgage pursuant to which the Mortgagee has been granted a security interest in the Project Facility.

24. No member, officer or employee of the Agency having power to: (i) negotiate, prepare, authorize or approve any of the Agency Documents; (ii) audit bills or claims under any of the Agency Documents; or (iii) appoint an officer or employee who has any of the powers or duties set forth in (i) or (ii):

(a) directly or indirectly owns any stock of the Company;

(b) is a partner, director or employee of the Company;

(c) is related to the Company within the meaning of Section 800.3(a) of the New York General Municipal Law.

No member, officer, or employee of the Agency has publicly disclosed, in a writing included as part of the official minutes of the Agency, any Interest (as defined in Section 800.3 of the New York General Municipal Law), direct or indirect, in the Company.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

WITNESS, as of the 1st day of November, 2018.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

Honora Spillane, Executive Director

EXHIBIT "A"

**CHAPTER 641 OF THE LAWS OF 1979
OF THE STATE OF NEW YORK**

LAWS OF NEW YORK, 1979

CHAPTER 641

AN ACT to amend the general municipal law, in relation to creating and establishing for the city of Syracuse industrial development agency and, providing for its functions and duties

Became a law July 11, 1979, with the approval of the Governor. Passed on Home Rule request pursuant to Article IX, section 2 (b) (2) of the Constitution, by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general municipal law is amended by adding a new section nine hundred twenty-six to read as follows:

§ 926. *City of Syracuse industrial development agency. (a) For the benefit of the city of Syracuse and the inhabitants thereof, an industrial development agency, to be known as the CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter. It shall constitute a body corporate and politic, and be perpetual in duration. It shall consist of five members who shall be appointed by the mayor of the city of Syracuse and its chairman shall be designated by such mayor. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of this chapter upon industrial development agencies. It shall organize in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. The agency, its members, officers and employees, and its operations and activities shall in all respects be governed by the provisions of title one of article eighteen-A of this chapter.*

(b) The city shall have the power to make, or contract to make grants or loans, including but not limited to grants or loans of money, to the agency in such amounts, upon such terms and conditions and for such period or periods of time as in the judgment of the city and the agency are necessary or appropriate for the accomplishment of any of the purposes of the agency.

§ 2. This act shall take effect immediately.

EXHIBIT "B"

**AGENCY'S CERTIFICATE OF ESTABLISHMENT
AND
CERTIFICATES OF APPOINTMENT OF CURRENT MEMBERS**

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
April 10, 2018.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State

CERTIFICATE OF THE CITY OF SYRACUSE
INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to Article 18-A of the General Municipal Law, Lee Alexander, Mayor of the City of Syracuse, certifies as follows:

1) The name of the industrial development agency herein is the City of Syracuse Industrial Development Agency.

2) Chapter 641 of the Laws of 1979, the special act of the New York State Legislature establishing the City of Syracuse Industrial Development Agency, was adopted by the New York State Legislature on June 16, 1979 and signed by the Governor on July 18, 1979. 11th

3) The names of the Chairman and the Members, respectively, of the City of Syracuse Industrial Development Agency and their terms of office are as follows:

(a)	Frank L. Canino	Chairman
	David M. Garber	Member
	David S. Michel	Member
	Erwin G. Schultz	Member
	Irwin L. Davis	Member

(b) The term of office of the Chairman and of the Members of the City of Syracuse Industrial Development Agency is at the pleasure of the Mayor and continues until a successor is appointed and has qualified.

4) The facts establishing the need for the creation of a City of Syracuse Industrial Development Agency are as follows:

Expansion of its industrial-commercial base is essential to the City of Syracuse, especially in a time of mounting economic pressures. To achieve this goal of expansion, the City has designed a comprehensive economic development program, requiring an Industrial Development Agency.

The existing potential for economic development will be augmented by the financial incentives of an Industrial Development Agency. Various City agencies and departments, such as the Department of Community Development and the Office of Federal and State Aid Coordination will interface with the Syracuse Industrial Development Agency to strengthen the business and industrial climate of the community.

Access to the Department of Community Development will make available to the Syracuse Industrial Development Agency an array of staff assistance, technical expertise, and various other development services. The City's Office of Federal and State Aid Coordination will provide assistance to it in locating, analyzing, and obtaining various forms of federal and state assistance and participation.

STATE OF NEW YORK
DEPARTMENT OF STATE

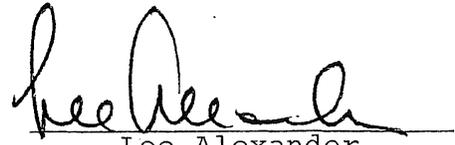
FILED JUL 20 1979

Bill Patterson

Secretary of State

The Syracuse Industrial Development Agency, in combination with, and utilizing these and other resources, will greatly enhance the City's ability to compete for, and successfully attract, the commercial and industrial enterprises necessary for continued economic health and growth.

July 20, 1979


Lee Alexander
Mayor

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED JUL 20 1979


Secretary of State

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
April 10, 2018.



A handwritten signature in black ink, appearing to read "B. Fitzgerald", is written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State



OFFICE OF THE MAYOR

Ben Walsh, Mayor

FILED
STATE RECORDS

JAN 29 2018

DEPARTMENT OF STATE

CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Ben Walsh, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as an Officer of the City of Syracuse Industrial Development Agency:

Mr. Steven P. Thompson - Member/Vice Chair

The following Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Officer of said Agency :

Mr. Steven P. Thompson - Member/Secretary

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 16, 2018.

Ben Walsh
Mayor, City of Syracuse

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
April 10, 2018.



A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State



FILED
STATE RECORDS

JAN 29 2018

OFFICE OF THE MAYOR

DEPARTMENT OF STATE

Ben Walsh, Mayor

CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Ben Walsh, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a member of the City of Syracuse Industrial Development Agency:

Mr. Michael Frame - Member/Chair

The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency :

Mr. William A. Ryan - Member/Chair

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 16, 2018.

Ben Walsh
Mayor, City of Syracuse

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
April 10, 2018.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State



FILED
STATE RECORDS

OFFICE OF THE MAYOR

JAN 29 2018

Ben Walsh, Mayor

DEPARTMENT OF STATE

CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Ben Walsh, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a member of the City of Syracuse Industrial Development Agency:

Mr. Rickey Brown - Member/Secretary

The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency :

Ms. M. Catherine Richardson - Member/Vice-Chair

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 16, 2018.

Ben Walsh
Mayor, City of Syracuse

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on April 10, 2018.

A handwritten signature in black ink, appearing to read "Brendan Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State



OFFICE OF THE MAYOR

Ben Walsh, Mayor

FILED
STATE RECORDS

JAN 29 2018

DEPARTMENT OF STATE

CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Ben Walsh, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a member of the City of Syracuse Industrial Development Agency:

Ms. Kathy Murphy

- Member/Treasurer

The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Mr. Donald Schoenwald

- Member/Treasurer

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 16, 2018.

Ben Walsh

Mayor, City of Syracuse

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.

WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
June 20, 2018.



A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan Fitzgerald
Executive Deputy Secretary of State



FILED
STATE RECORDS

MAR 16 2018

OFFICE OF THE MAYOR

DEPARTMENT OF STATE

Stephanie A. Miner, Mayor

**CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member of the City of Syracuse Industrial Development Agency:

Mr. Kenneth Kinsey

- Member

The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Ms. Pamela Hunter

- Member

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 13, 2016.

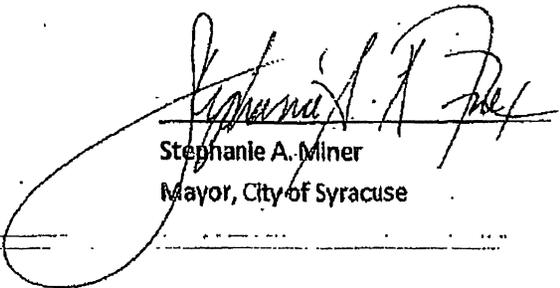

Stephanie A. Miner
Mayor, City of Syracuse

EXHIBIT "C"

AGENCY'S BY-LAWS

**BY-LAWS OF
THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
(as amended August 18, 2009)**

Article I

THE AGENCY

Section 1. Name

The name of the agency shall be "City of Syracuse Industrial Development Agency", and it shall be referred to in these by-laws as the Agency.

Section 2. Seal

The seal of the Agency shall be in such form as may be determined by the members of the Agency.

Section 3. Office

The principal office of the Agency shall be located in the City of Syracuse, New York, County of Onondaga, and State of New York. The Agency may have such other offices at such other places as the members of the Agency may, from time to time, designate by resolution.

Article II

MEMBERS

Section 1. Members

(a) There shall be five members of the Agency. All references in these by-laws to members shall be references to Members of the Agency. The persons designated in the certificates of appointment filed in the office of the Secretary of State as members of the Agency and their successors in office and such other persons as may, from time to time, be appointed as

Members of the Agency by the Mayor of the City of Syracuse, or by special act of the Legislature, shall constitute all the members.

(b) Members shall hold office at the pleasure of the Mayor and shall continue to hold office until his or her successor is appointed and has qualified. The Mayor may remove any Member at his discretion, with or without cause.

(c) Upon the resignation or removal of a Member, a successor shall be selected by the Mayor.

(d) Members may resign at any time by giving written notice to the Mayor and to the Chairman of the Agency. Unless otherwise specified in the notice the resignation shall take effect upon receipt of the notice by the Chairman or the Mayor. Acceptance of the resignation shall not be necessary to make it effective.

Section 2. Meeting of the Members

(a) The Annual Meeting of the members shall be held on such date or dates as shall be fixed, from time to time, by the Members of the Agency. The first Annual Meeting of Members shall be held on a date within twelve (12) months after the filing of the Certificate of the Agency with the Secretary of State as required by General Municipal Law §856 (1) (a). Each successive Annual Meeting of Members shall be held on a date not more than twelve (12) months following the preceding Annual Meeting of Members.

(b) Regular meetings of the Agency may be held at such time and place as, from time to time, may be determined by the Members.

(c) Upon the written request of the Mayor, the Chairman or two (2) Members of the Agency, the Chairman of the Agency shall call a special meeting of the Members. Special meetings may be held on such date or dates as may be fixed in the call for such special meetings.

The call for a special meeting may be personally delivered to each Member of the Agency or may be mailed to the business or home address of such Member. A waiver of notice may be signed by any Member failing to receive a proper notice.

Section 3. Procedure at Meetings of Members

(a) The Chairman shall preside over the meetings of the Agency. In the absence of the Chairman, the Vice-Chairman shall preside. In the absence of both the Chairman and Vice-Chairman, any Member directed by the Chairman may preside.

(b) At all meetings of Members, a majority of the Members of the Agency shall constitute a quorum for the purpose of transacting business. If less than a quorum is present for any meeting, the Members then present may adjourn the meeting to such other time or until a quorum is present. Except to the extent provided for by law, all actions shall be by a majority of the votes cast, provided that the majority of the votes cast shall be at least equal to a quorum.

(c) When determined by the Agency that a matter pending before it is confidential in nature, it may, upon motion, establish an executive session and exclude any non-member from such session.

(d) Order of business

At all meetings of the Agency, the following shall be the order of business:

- (1) Roll Call;
- (2) Proof of Notice of Meeting;
- (3) Reading and approval of the minutes of the previous meeting;
- (4) bills and communications;
- (5) Report of the Treasurer;
- (6) Reports of Committees;

- (7) Unfinished business;
- (8) New business;
- (9) Adjournment.

The order of business may be altered or suspended at any meeting by the Members of the Agency.

(e) All resolutions shall be in writing and shall be recorded in the journal of the proceedings of the Agency.

Article III

OFFICERS AND PERSONNEL

Section 1. Officers

The officers of the Agency shall be Chairman or Co-Chairman, Vice-Chairman, Secretary and Treasurer and such other offices as may be prescribed, from time to time, by the Agency. The Chairman or Co-Chairman and other officers shall be appointed by the Mayor of the City of Syracuse and may be removed with or without cause at his discretion. Each officer shall be a Member of the Agency during his or her term of office.

Section 2. Chairman or Co-Chairmen

The Chairman shall be chief executive officer of the Agency, and shall serve as an ex officio member of all duly constituted committees, shall supervise the general management and the affairs of the Agency, and shall carry out the orders and resolutions of the Agency. Except as otherwise authorized by resolution of the Agency, the Chairman shall execute (manually and by facsimile signature) all agreements, contracts, deeds, bonds, notes or other evidence of indebtedness and any other instruments of the Agency on behalf of the Agency. The Mayor may from time to time appoint two Co-Chairmen in place of the Chairman. During their term of office the Co-

Chairmen shall share equally the duties, rights, powers and responsibilities of the Chairman. The action of either Co-Chairman or execution (manually or by facsimile signature) by either Co-Chairman of any agreement, contract, deed, bond, note or other evidence of indebtedness or any other instrument of the Agency on behalf of the Agency shall have the same force and effect as such action or execution by the Chairman.

Section 3. Vice-Chairman

The Vice-Chairman shall have all the powers and functions of the Chairman or Co-Chairmen in the absence or disability of the Chairman or Co-Chairmen, as the case may be. The Vice-Chairman shall perform such other duties as the Members of the Agency shall prescribe or as delegated by the Chairman or Co-Chairmen.

Section 4. Secretary

The Secretary shall keep the minutes of the Agency, shall have the custody of the seal of the Agency and shall affix and attest the same to documents when duly authorized by the Agency, shall attest to the giving or serving of all notices of the Agency, shall have charge of such books and papers as the Members of the Agency may order, shall attest to such correspondence as may be assigned, and shall perform all the duties incidental to his office.

Section 5. Treasurer

The Treasurer shall have the care and custody of all the funds and securities of the Agency, shall deposit such funds in the name of the Agency, in such bank or trust company as the members of the Agency may elect, shall sign such instrument as may require the Treasurer's signature, but only with the approval of the Chairman or Co-Chairman, as the case may be, shall at all reasonable times exhibit the books and accounts of the Agency to the Mayor or any Member of

the Agency, and at the end of each fiscal year shall present an annual report setting forth in full the financial condition of the Agency.

Section 6. Additional Personnel

The Agency, with the consent of the Mayor, may appoint an Administrative or Executive Director to supervise the administration of the business and affairs of the Agency, subject to the direction of the Agency. The Agency may, from time to time, employ such other personnel as it deems necessary to execute its powers, duties and functions as prescribed by the New York State Industrial Development Agency Act (General Municipal Law, Article 18-A), as amended, and all other laws of the State of New York applicable thereto.

Section 7. Compensation of Chairman, Co-Chairmen, Members, Officers, and Other Personnel

The Chairman, Co-Chairmen, Members and Officers shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties. The compensation of other personnel, including the Administrative Director, shall be determined by the Members of the Agency.

Article IV

AMENDMENTS

Section 1. Amendments to By-Laws

These by-laws may be amended or revised, from time to time, by a two-third (2/3) vote of the Agency, but no such amendment or revision shall be adopted unless written notice of the proposed action shall have been given by mail to each Member and the Mayor at least ten (10) days prior to the date of the meeting at which it is proposed that such action be taken; provided, however,

that this provision and other provisions relating to the appointment, renewal and terms of office of Members and officers may be amended only with the prior written approval of the Mayor.

Article V

MISCELLANEOUS

Section 1. Sureties and Bonds

In case the Agency shall so require, any officer, employee or agent of the Agency shall execute to the Agency a bond in such sum and with such surety or sureties as the Agency may direct, conditioned upon the faithful performance of his or her duties to the Agency and including responsibility for negligence and for the accounting for all property, funds or securities of the Agency which may come into the hands of the officer, employee or agent.

Section 2. Indemnification

(a) Upon compliance by a Member or Officer of the Agency (including a former Member or Officer, the estate of a Member or Officer or a judicially appointed personal representative thereof) (referred to in this Section 2 collectively as "Member") with the provisions of subdivision (i) of this Section 2, the Agency shall provide for the defense of the Member in any civil action or proceeding, state or federal, arising out of any alleged act or omission which occurred or allegedly occurred while the Member was acting within the scope of the public employment or duties of such Member. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or at the behest of the Agency.

(b) Subject to the conditions set forth in paragraph (a) of this subdivision, the Member shall be entitled to be represented by private counsel of the Member's choice in any civil action or proceeding whenever the chief legal officer of the Agency or other counsel designated by the

Agency determines that a conflict of interest exists, or whenever a court, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the Member is entitled to be represented by counsel of the Member's choice, provided, however, that the chief legal officer or other counsel designated by the Agency may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such Members be represented by the same counsel. Reasonable attorneys' fees and litigation expenses shall be paid by the Agency to such private counsel from time to time during the pendency of the civil action or proceeding with the approval of a majority of the Members of the Agency eligible to vote thereon.

(c) Any dispute with respect to representation of multiple Members by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

(d) Where the Member delivers process and a written request for a defense to the Agency under subdivision (i) of this Section 2, the Agency shall take the necessary steps on behalf of the Member to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

(e) The Agency shall indemnify and save harmless its Members in the amount of any judgment obtained against such Members in a State or Federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while the Member was acting within the scope of the Member's public employment or duties; provided further that in the case of a settlement, the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by a majority of the Members of the Agency eligible to vote thereon.

(f) Except as otherwise provided by law, the duty to indemnify and save harmless prescribed by this Section 2 shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the Member seeking indemnification.

(g) Nothing in this subdivision shall authorize the Agency to indemnify or save harmless any Member with respect to punitive or exemplary damages, fines or penalties; provided, however, that the Agency shall indemnify and save harmless its Members in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that the Member, acting within the scope of the Member's public employment or duties, has, without willfulness or intent on the Member's part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of the State or of the United States.

(h) Upon entry of a final judgment against the Member, or upon the settlement of the claim, the Member shall serve a copy of such judgment or settlement, personally or by certified or registered mail within thirty (30) days of the date of entry or settlement, upon the Chairman and the chief administrative officer of the Agency; and if not inconsistent with the provisions of this Section 2, the amount of such judgment or settlement shall be paid by the Agency.

(i) The duty to defend or indemnify and save harmless prescribed by this Section 2 shall be conditioned upon: (i) delivery by the Member to the Chairman of the Agency and the chief legal officer of the Agency or to its chief administrative officer of a written request to provide for such Member's defense together with the original or a copy of any summons, complaint, process, notice, demand or pleading within ten (10) days after the Member is served with such document, and (ii) the full cooperation of the Member in the defense of such action or

proceeding and in defense of any action or proceeding against the Agency based upon the same act or omission, and in the prosecution of any appeal.

(j) The benefits of this Section shall inure only to Members as defined in subdivision (a) of this Section 2 and shall not enlarge or diminish the rights of any other party.

(k) This Section 2 shall not in any way affect the obligation of any claimant to give notice to the Agency under Section 10 of the Court of Claims Act, Section 880 of the General Municipal Law, or any other provision of law.

(l) The Agency is hereby authorized and empowered to purchase insurance from any insurance company created by or under the laws of the State, or authorized by law to transact business in the State, against any liability imposed by the provisions of this Section 2, or to act as a self-insurer with respect thereto. The provisions of this Section 2 shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

(m) All payments made under the terms of this Section 2, whether for insurance or otherwise, shall be deemed to be for a public purpose and shall be audited and paid in the same manner as other public charges.

(n) Except as otherwise specifically provided in this Section 2, the provisions of this Section 2 shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity to liability available to or conferred upon any Member of the Agency by, in accordance with, or by reason of, any other provision of State or Federal statutory or common law. The benefits under this Section 2 shall supplement, and be available in addition to, defense or indemnification protection conferred by any law or enactment. This Section 2 is intended to confer upon Members of the Agency all of the benefits of Section 18 of the Public Officers Law

and to impose upon the Agency liability for costs incurred under the provisions hereof and thereof.

Section 3. Fiscal Year

The fiscal year of the Agency shall be fixed by the Members, subject to the applicable law.

Section 4. Powers of the Agency

The Agency shall have all the powers of an Industrial Development Agency authorized by Article 18-A of the General Municipal Law and shall have the power to do all things necessary or convenient to carry out its purposes and exercise the powers authorized herein.

EXHIBIT "D"

PUBLIC HEARING RESOLUTION

RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on July 17, 2018, at 8:30 o'clock a.m. in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and upon the roll being duly called, the following members were:

PRESENT: Michael Frame, Steven Thompson, Rickey T. Brown, Kenneth Kinsey

EXCUSED: Kathleen Murphy

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Honora Spillane, Meghan Ryan, Esq., Judith DeLaney, John Vavonese, Susan Katzoff, Esq., Debra Ramsey-Burns; Others Present: Lauryn LaBorde, Aggie Lane, Jim Mason, D. Mitch Latimor, Bob Wilmot, Athena; Media: Rick Moriarty

The following resolution was offered by Rickey T. Brown and seconded by Steven Thompson:

RESOLUTION DETERMINING THAT THE ACQUISITION, RENOVATION, EQUIPPING AND COMPLETION OF A COMMERCIAL FACILITY AT THE REQUEST OF THE COMPANY CONSTITUTES A PROJECT; DESCRIBING THE FINANCIAL ASSISTANCE IN CONNECTION THEREWITH; AND AUTHORIZING A PUBLIC HEARING

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, 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, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to grant "financial assistance" (as defined in the Act) in connection with the acquisition, reconstruction and equipping of one or more "projects" (as defined in the Act); and

WHEREAS, by application dated June 18, 2018, as supplemented on July 12, 2018 (the “*Application*”), Gerharz Equipment, Inc., or an entity to be formed (the “*Company*”), requested the Agency undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “*SEQRA*”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as said quoted term is defined in SEQRA) to be taken by the Agency and the approval of the Project constitutes such an action; and

WHEREAS, the Agency has not yet made a determination under SEQRA; and

WHEREAS, the Agency has not approved undertaking the Project or granting the Financial Assistance; and

WHEREAS, the grant of Financial Assistance to the Project is subject to, among other things, the Agency finding after a public hearing pursuant to Section 859-a of the Act that the Project will serve the public purposes of the Act by promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State or increasing the overall number of permanent, private sector jobs in the State.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

(1) Based upon the representations made by the Company to the Agency, the Agency makes the following findings and determinations:

(A) The Project constitutes a “project” within the meaning of the Act;

(B) The Financial Assistance contemplated with respect to the Project consists of assistance in the form of exemptions from real property taxes, State and local sales and use taxation and mortgage recording tax; and

(C) The Project is located in a “Highly Distressed Area” as defined in Section 854(18) of the Act.

(2) The Agency hereby directs that pursuant to Section 859-a of the Act, a public hearing with respect to the Project and Financial Assistance shall be scheduled with notice thereof published, and such notice, as applicable, shall further be sent to affected tax jurisdictions within which the Project is located.

(3) The Secretary or the Executive Director of the Agency is hereby authorized to and may distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(4) A copy of this Resolution shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
Michael Frame	X	
Steven Thompson	X	
Rickey T. Brown	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

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

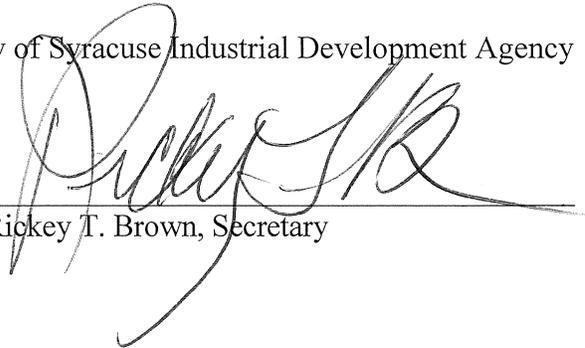
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on July 17, 2018, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Agency this 30th day of AUG, 2018.

City of Syracuse Industrial Development Agency



Rickey T. Brown, Secretary

(S E A L)

EXHIBIT “E”

**NOTICE OF PUBLIC HEARING WITH EVIDENCE OF PUBLICATION AND COPIES
OF LETTERS TO AFFECTED TAX JURISDICTIONS PURSUANT TO SECTIONS
859-a OF THE ACT**

THE POST-STANDARD

LEGAL AFFIDAVIT

INV#: 0008724217

ADVANCE

MEDIA NEW YORK

syracuse.com | THE POST-STANDARD

nyup.com

BOUSQUET HOLSTEIN PLLC
KAREN KELLER
110 W FAYETTE ST STE 1000
SYRACUSE, NY 13202

Name: BOUSQUET HOLSTEIN PLLC

Sales Rep: Pamela Gallagher

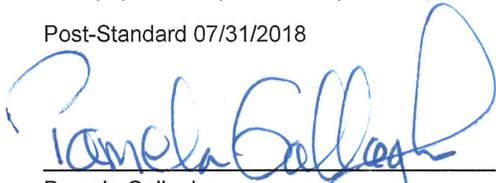
Account Number: 12145

INV#: 0008724217

Date	Position	Description	P.O. Number	Ad Size
07/31/2018	Other Legals NY	NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that	C2147L.00004	1 x 126.00 CL

State of New York, County of Onondaga ss. Pamela Gallagher, of the City of Syracuse, in said County, being duly sworn, doth depose and says: this person is the Principal Clerk in the office of THE POST-STANDARD, a public newspaper, published in the City of Syracuse, Onondaga County, New York and that the notice, is an accurate and true copy of the ad as printed in said newspaper, was printed and published in the regular edition and issue of said newspaper on the following days, viz.:

Post-Standard 07/31/2018



Pamela Gallagher
Principal Clerk

An Authorized Designee of the President, Timothy R. Kennedy
Subscribed and sworn to before me, this 31th day of July 2018



NOTARY PUBLIC

FOR QUESTIONS CONCERNING THIS AFFIDAVIT,
PLEASE CONTACT PAMELA GALLAGHER AT
(315) 470-2051 OR Legals@Syracuse.com

ANNE PETRO
Notary Public - State of New York
No. 01PE6366489
Qualified in Onondaga County
Commission Expires: 10-30-2021

Date	Position	Description	P.O. Number	Ad Size
07/31/2018	Other Legals NY	NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that a	C2147L.00004	1 x 126.00 CL

NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a of the New York General Municipal Law, will be held by the City of Syracuse Industrial Development Agency (the "Agency") on the 21st day of August, 2018, at 8:40 a.m., local time, at 233 East Washington Street, Common Council Chambers, City Hall, Syracuse, New York, in connection with the following matter: Gerharz Equipment, Inc., or an entity to be formed (the "Company"), requested the Agency undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the "Land"); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the "Facility"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the

with Section 874 of the General Municipal Law) (collectively the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement. The Company is the initial owner or operator of the Project Facility. The Agency will at the above-stated time and place hear all persons with views with respect to the proposed Financial Assistance to the Company, the proposed owner/operator, the location of the Project Facility and the nature of the Project. A copy of the application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, are available for public inspection during the business hours at the office of the Agency located at 201 East Washington Street, 6th Floor, Syracuse, New York. Dated: July 26, 2018 CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY



BOUSQUET HOLSTEIN PLLC

110 WEST FAYETTE STREET • ONE LINCOLN CENTER • SUITE 1000 • SYRACUSE, NEW YORK 13202 • PH: 315.422.1500 • FX: 315.422.3549*

July 26, 2018

LAURENCE G. BOUSQUET
PHILIP S. BOUSQUET
CECELIA R. S. CANNON
CHRISTINE WOODCOCK DETTOR

JEAN S. EVERETT **
AARON D. FRISHMAN *
DAVID A. HOLSTEIN †
EMILEE K. LAWSON HATCH ***
SUSAN R. KATZOFF
SHARON A. McAULIFFE
L. MICHA ORDWAY, JR.
STEVEN A. PAQUETTE
J.P. PARASCHOS
PAUL M. PREDMORE
JAMES L. SONNEBORN
RYAN S. SUSER
THOMAS E. TAYLOR **
JOHN L. VALENTINO
ROBERT K. WEILER
JOSHUA S. WERBECK
EVA K. WOJTALEWSKI ****

OF COUNSEL:

VIRGINIA A. HOVEMAN
KAVITHA JANARDHAN *****
GARY J. LAVINE **
BRYN LOVEJOY-GRINNELL
SIDNEY L. MANES
JANA K. McDONALD †
ANNA V. PUTINTSEVA
CATERINA A. RANIERI
ANAS SALEH
HARRISON V. WILLIAMS, JR.

ASSOCIATES:

CAMERON T. BERNARD †
REBECCA R. COHEN ***
GEORGIA G. CRINNIN
GREGORY D. ERIKSEN
COLLEEN M. GIBBONS
GWEN Z. GOU
NATALIE P. HEMPSON-ELLIOTT
CASEY A. JOHNSON
IRENE K. KABUNDUH
JULIA J. MARTIN
AIDAN C. MITCHELL-EATON
MICHAEL W. TYSZKO

ALSO ADMITTED TO CO BAR *
ALSO ADMITTED TO DC BAR **
ALSO ADMITTED TO MA ***
ALSO ADMITTED TO CA BAR ****
ALSO ADMITTED TO IL BAR *****
ALSO ADMITTED TO FL BAR †
ALSO ADMITTED TO DC, FL & NJ BAR ‡
ALSO ADMITTED TO DC, MA & PA BAR ††
NOT FOR SERVICE OF PROCESS †

WWW.BHLAWPLLC.COM

VIA CERTIFIED MAIL
7017 0530 0000 5693 8727

Honorable Benjamin Walsh
Mayor, City of Syracuse
City Hall
233 East Washington Street
Syracuse, New York 13202

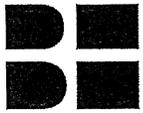
VIA CERTIFIED MAIL
7017 0530 0000 5693 8710

Honorable Joanne M. Mahoney
County Executive, Onondaga County
John Mulroy Civic Center, 14th Floor
421 Montgomery Street
Syracuse, New York 13202

Re: City of Syracuse Industrial Development Agency (the “*Agency*”)
Gerharz Equipment, Inc. (the “*Company*”)
Gerharz Equipment Project

Dear Mayor and County Executive:

Enclosed herewith please find a Notice of Public Hearing in relation to the above-referenced project. The proposed project (the “*Project*”) consists of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in



July 26, 2018
Page 2

accordance with Section 874 of the General Municipal Law) (collectively the "*Financial Assistance*"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

General Municipal Law Section 859-a requires that notice of the Public Hearing be given to the chief executive officer of each affected tax jurisdiction in which the Project is located.

As stated in the notice, the public hearing is scheduled for **August 21, 2018** at 8:40 a.m. in the Common Council Chambers at City Hall.

Very truly yours,

BOUSQUET HOLSTEIN PLLC

Susan R. Katzoff

SRK/llm
Enclosure

cc: Meghan Ryan, Esq., City of Syracuse, via email
Honora Spillane, City of Syracuse Industrial Development Agency, via email
Judy DeLaney, City of Syracuse Industrial Development Agency, via email

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a of the New York General Municipal Law, will be held by the City of Syracuse Industrial Development Agency (the "Agency") on the 21st day of August, 2018, at 8:40 a.m., local time, at 233 East Washington Street, Common Council Chambers, City Hall, Syracuse, New York, in connection with the following matter:

Gerharz Equipment, Inc., or an entity to be formed (the "Company"), requested the Agency undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the "Land"); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the "Facility"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company is the initial owner or operator of the Project Facility.

The Agency will at the above-stated time and place hear all persons with views with respect to the proposed Financial Assistance to the Company, the proposed owner/operator, the location of the Project Facility and the nature of the Project.

A copy of the application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, are available for public inspection during the business hours at the office of the Agency located at 201 East Washington Street, 6th Floor, Syracuse, New York.

Dated: July 26, 2018

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Honorable Benjamin Walsh
Mayor, City of Syracuse
City Hall
233 East Washington Street
Syracuse, New York 13202

2. Article Number (Transfer from service label)
7017 0530 0000 5693 8727

COMPLETE THIS SECTION ON DELIVERY

A. Signature
* *Benjamin Walsh* Agent
 Addressee

B. Received by (Printed Name)
Mayor

C. Date of Delivery
7/27/18

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Adult Signature
 Adult Signature Restricted Delivery
 Certified Mail®
 Certified Mail Restricted Delivery
 Collect on Delivery
 Collect on Delivery Restricted Delivery
 Insured Mail
 Insured Mail Restricted Delivery (over \$500)

Priority Mail Express®
 Registered Mail™
 Registered Mail Restricted Delivery
 Return Receipt for Merchandise
 Signature Confirmation™
 Signature Confirmation Restricted Delivery

Domestic Return Receipt

PS Form 3811, July 2015 PSN 7530-02-000-9053

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Honorable Joanne M. Mahoney
County Executive, Onondaga County
John Mulroy Civic Center, 14th Floor
421 Montgomery Street
Syracuse, New York 13202

2. Article Number (Transfer from service label)
7017 0530 0000 5693 8710

COMPLETE THIS SECTION ON DELIVERY

A. Signature
* *Melissa Kelly* Agent
 Addressee

B. Received by (Printed Name)
M. Kelly

C. Date of Delivery
7/27/2018

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Adult Signature
 Adult Signature Restricted Delivery
 Certified Mail®
 Certified Mail Restricted Delivery
 Collect on Delivery
 Collect on Delivery Restricted Delivery
 Insured Mail
 Insured Mail Restricted Delivery (over \$500)

Priority Mail Express®
 Registered Mail™
 Registered Mail Restricted Delivery
 Return Receipt for Merchandise
 Signature Confirmation™
 Signature Confirmation Restricted Delivery

Domestic Return Receipt

PS Form 3811, July 2015 PSN 7530-02-000-9053

7017 0530 0000 5693 8710

7017 0530 0000 5693 8727

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT

Domestic Mail Only

Official Use

For delivery information, visit our website at www.usps.com

Certified Mail Fee \$
 Extra Services & Fees (check box, add fee as appropriate)
 Return Receipt (hardcopy) \$
 Return Receipt (electronic) \$
 Certified Mail Restricted Delivery \$
 Adult Signature Required \$
 Adult Signature Restricted Delivery \$

Postage \$
 Total Postage and Fees \$ 6.67

Sent to *Mayor Walsh, City of Syracuse*
 Street and Apt. No., or PO Box No. *City Hall*
 City, State, ZIP+4® *Syracuse, NY 13202*

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Postmark Here

Postmark Here

U.S. Postal Service™ 21497 00004
 CERTIFIED MAIL® RECEIPT
 Domestic Mail Only
 LLW

EXHIBIT "F"

RELOCATION LETTER

City of Syracuse
Industrial Development Agency
City Hall Commons
201 East Washington Street, 6th Floor
Syracuse, NY 13202
Tel (315) 473-3275 Fax (315) 435-3669

July 26, 2018

Honorable Benjamin Walsh
Mayor, City of Syracuse
City Hall, 233 East Washington Street
Syracuse, New York 13202

Honorable Joanne M. Mahoney
County Executive, Onondaga County
John Mulroy Civic Center, 14th Floor
421 Montgomery Street
Syracuse, New York 13202

Re: City of Syracuse Industrial Development Agency (the “**Agency**”)
Gerharz Equipment, Inc. (the “**Company**”)
Gerharz Equipment Project

Dear Mayor and County Executive:

The City of Syracuse Industrial Development Agency (the “**Agency**”) provides this notice pursuant to Section 859-a(5)(d) of the General Municipal Law of the State of New York.

The Agency is considering undertaking a project (the “**Project**”) on behalf of Gerharz Equipment, Inc. (the “**Company**”) consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the

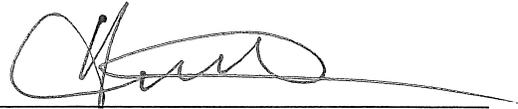
acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company is currently located at 6146 East Molloy Road, East Syracuse, New York (the "***Current Facility***"). The Company has informed the Agency that it will relocate from the Current Facility to the new Facility to allow for the expansion of the Company's operations.

Very truly yours,

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____



Honora Spillane, Executive Director

EXHIBIT "G"

SEQRA RESOLUTION

SEQRA RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on August 21, 2018 at 8:30 o'clock a.m., local time, in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and upon the roll being duly called, the following members were:

PRESENT: Michael Frame, Steven Thompson, Rickey T. Brown, Kathleen Murphy, Kenneth Kinsey

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Honora Spillane, Meghan Ryan, Esq., Judith DeLaney, Susan Katzoff, Esq., Debra Ramsey-Burns; Others Present: Lauryn LaBorde, Aggie Lane, Mitch Latimer, Mark Olsen, Bob Wilmott, Linda Malik, Rachel May, Gwen Cheffin, Lew Thomas, Mel Menan, Peter McCarthy, Ryan Benz, Pete King, Mike Irwin, Charlie Pierce-El, Emanuel Henderson, Mary Traynor, Louise Poindexter, Kayla Kelchian, Rich Puchalski, Charlie Wallace, Dave Nutting, Scott Gerharz

The following resolution was offered by Kathleen Murphy and seconded by Steven Thompson:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS AN UNLISTED ACTION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT, DECLARING THE AGENCY LEAD AGENCY FOR PURPOSES OF AN UNCOORDINATED REVIEW THEREUNDER AND DETERMINING THAT THE ACTION WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, 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, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, Gerharz Equipment, Inc., a New York business corporation, or an entity to be formed (the "**Company**"), by application dated June 18, 2018, as supplemented on July 12, 2018 (the "**Application**"), requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the renovation of

an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “*SEQRA*”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as defined by SEQRA) to be taken by the Agency and the Project constitutes such an action; and

WHEREAS, to aid the Agency in determining whether the action described above may have a significant adverse impact upon the environment, an Environmental Assessment Form (the “*EAF*”) was prepared, a copy of which is on file at the office of the Agency; and

WHEREAS, the Agency has examined and reviewed the EAF in order to classify the action and make a determination as to the potential significance of the action pursuant to SEQRA; and

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

(1) Based upon an examination of the materials provided by the Company in furtherance of the Project, the criteria contained in 6 NYCRR §§617.6 and 617.7(c), and based further upon the Agency’s knowledge of the action and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations pursuant to SEQRA:

(a) The action constitutes an “Unlisted Action” (as said quoted term is defined in SEQRA);

(b) The Agency declares itself “Lead Agency” (as said quoted term is defined in SEQRA) with respect to an uncoordinated review pursuant to SEQRA;

(c) The action is designed to preserve the Facility and ensure its continued viability and will not have a significant effect on the environment, and the Agency hereby issues a negative declaration pursuant to SEQRA, attached hereto as **Exhibit "A"**, which shall be filed in the office of the Agency in a file that is readily accessible to the public.

(2) A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

(3) This Resolution shall take effect immediately. The Secretary and/or Executive Director of the Agency is hereby authorized to distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(4) The Agency hereby authorizes Agency staff to take all further actions deemed necessary and appropriate to fulfill the Agency's responsibilities under SEQRA.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
Michael Frame	X	
Steven Thompson	X	
Rickey T. Brown	X	
Kathleen Murphy	X	
Kenneth Kinsey	X	

The foregoing resolution was thereupon declared duly adopted.

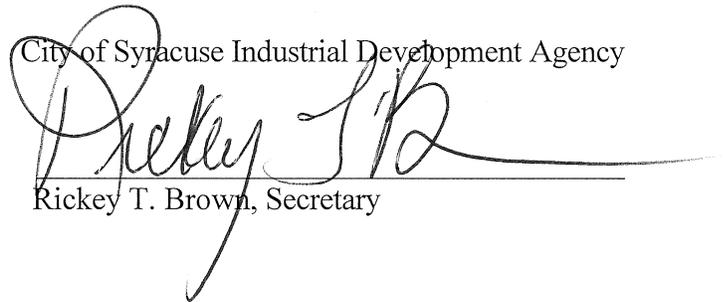
STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “**Agency**”) held on August 21, 2018, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Agency this 28 day of AUG, 2018.

City of Syracuse Industrial Development Agency


Rickey T. Brown, Secretary

(SEAL)

EXHIBIT "A"

Project:

Date:

**Short Environmental Assessment Form
Part 2 - Impact Assessment**

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Project: _____

Date: _____

Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

City of Syracuse Industrial Development Agency

Name of Lead Agency

8-21-18

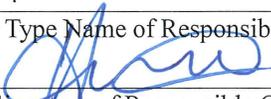
Date

Honora Spillane

Print or Type Name of Responsible Officer in Lead Agency

Executive Director

Title of Responsible Officer


 Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from Responsible Officer)

EXHIBIT "H"

INDUCEMENT RESOLUTION

INDUCEMENT RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on August 21, 2018 at 8:30 o'clock a.m., local time, in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and upon the roll being duly called, the following members were:

PRESENT: Michael Frame, Steven Thompson, Rickey T. Brown, Kathleen Murphy, Kenneth Kinsey

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Honora Spillane, Meghan Ryan, Esq., Judith DeLaney, Susan Katzoff, Esq., Debra Ramsey-Burns; Others Present: Lauryn LaBorde, Aggie Lane, Mitch Latimer, Mark Olsen, Bob Wilmott, Linda Malik, Rachel May, Gwen Cheffin, Lew Thomas, Mel Menan, Peter McCarthy, Ryan Benz, Pete King, Mike Irwin, Charlie Pierce-El, Emanuel Henderson, Mary Traynor, Louise Poindexter, Kayla Kelchian, Rich Puchalski, Charlie Wallace, Dave Nutting, Scott Gerharz

The following resolution was offered by Kathleen Murphy and seconded by Kenneth Kinsey:

**RESOLUTION AUTHORIZING THE UNDERTAKING,
ACQUISITION, RENOVATION, EQUIPPING AND
COMPLETION OF A COMMERCIAL FACILITY;
APPOINTING THE COMPANY AS AGENT OF THE
AGENCY FOR THE PURPOSE OF THE ACQUISITION,
RENOVATION, EQUIPPING AND COMPLETION OF
THE PROJECT; AND AUTHORIZING THE
EXECUTION AND DELIVERY OF AN AGREEMENT
BETWEEN THE AGENCY AND THE COMPANY**

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**") to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, 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, lease and sell real property and grant financial assistance in connection with one or more “projects” (as defined in the Act); and

WHEREAS, Gerharz Equipment, Inc., a New York business corporation, or an entity to be formed (the “**Company**”), by application dated June 18, 2018 (the “**Application**”), requested the Agency undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency adopted a resolution on July 17, 2018, describing the Project and the proposed financial assistance and authorizing a public hearing (“**Public Hearing Resolution**”); and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on August 21, 2018 pursuant to Section 859-a of the Act, notice of which was published on July 31, 2018, in the Post-Standard, a newspaper of general circulation in the City of Syracuse, New York and given to the chief executive officers of the affected tax jurisdictions by letters dated July 26, 2018; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**SEQRA**”), the Agency is required to make a determination whether the “action” (as said quoted term is defined in SEQRA) to be taken by the Agency may have a “significant impact on the environment” (as said quoted term is utilized in SEQRA), and the preliminary agreement of the Agency to undertake the Project constitutes such an action; and

WHEREAS, by resolution adopted August 21, 2018 (the “**SEQRA Resolution**”), the

Agency determined that the Project constitutes an “Unlisted Action” as defined under SEQRA and will not have a significant adverse effect on the environment and issued a negative declaration; and

WHEREAS, the Agency has considered the policy, purposes and requirements of the Act in making its determinations with respect to taking official action regarding the Project; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the City of Syracuse (the “*City*”); (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act; and (iii) the Project will serve the purposes of the Act by advancing job opportunities and the economic welfare of the people of the State and the City and improve their standard of living.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency as follows:

Section 1. It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

Section 2. Based upon the representations and projections made by the Company to the Agency, the Agency hereby and makes the following determinations:

(A) Ratifies the findings in its Public Hearing Resolution and SEQRA Resolution;

(B) The Project constitutes a “*project*” within the meaning of the Act;

(C) The Project is located in a “Highly Distressed Area” as defined in Section 854(18) of the Act.

(D) The acquisition of a controlling interest in the Project Facility by the Agency and the designation of the Company as the Agency’s agent for completion of the Project will be an inducement to the Company to acquire, construct, reconstruct, renovate, equip and complete the Project Facility in the City, and will serve the purposes of the Act by, among other

things, advancing job opportunities, the standard of living and economic welfare of the inhabitants of the City;

(E) The Project will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act;

(F) The Financial Assistance approved hereby includes an exemption from real property taxes, State and local sales and use taxes and mortgage recording taxes.

Section 3. As a condition of the appointment of the Company as the agent of the Agency, and the conference of any approved Financial Assistance, the Company and the Agency shall first execute and deliver a project agreement in substantially the same form used by the Agency in similar transactions (the "**Project Agreement**"). The Chairman or Vice Chairman or Executive Director of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Project Agreement, with changes in terms and form as shall be consistent with this Resolution and as the Chairman or Vice Chairman shall approve. The execution thereof by the Chairman or Vice Chairman shall constitute conclusive evidence of such approval. Subject to the due execution and delivery by the Company of the Agreement (as defined herein), the Project Agreement, the satisfaction of the conditions of this Resolution, the Agreement, the Project Agreement and the payment by the Company of any attendant fees, the Company and its designees, are appointed the true and lawful agent of the Agency to proceed with the reconstruction, renovation, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf. The amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved herein shall not exceed **\$96,000**.

Section 4. As a further condition to the extension of State and local sales and use tax exemption benefits, and the Company's appointment as provided herein, the Company agrees to execute an agreement with the Agency setting forth the preliminary undertakings of the Agency and the Company with respect to the Project. The form and substance of the proposed agreement (as set forth as on **Exhibit "A"** attached hereto and presented at this meeting) (the "**Agreement**") are hereby approved. The Chairman or Vice Chairman or Executive Director of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, in substantially the same form as presented at this meeting and attached hereto as **Exhibit "A"**, with changes in terms and form as shall be consistent with this Resolution and as the Chairman or Vice Chairman shall approve. The execution thereof by the Chairman or Vice Chairman shall constitute conclusive evidence of such approval.

Section 5. Subject to the terms of this Resolution and the execution and delivery of, and the conditions set forth in, the Agreement and the Project Agreement the Agency will: (i) acquire an interest in the Land and Facility pursuant to a lease agreement (the "**Lease**") to be

entered into between the Company and the Agency; accept an interest in the Equipment pursuant to a bill of sale from the Company (the "**Bill of Sale**"); (ii) sublease the Project Facility to the Company pursuant to a sublease agreement (the "**Sublease**" and with the Lease and the Bill of Sale, the "**Lease Documents**") to be entered into between the Agency and the Company; (iii) grant the approved Financial Assistance; and (iv) provided that no default shall have occurred and be continuing under the Agreement (as defined herein) and provided the Company has executed and delivered all documents and certificates required by the Agency in conjunction with the Agency's undertaking of the Project, execute and deliver all other certificates and documents necessary or appropriate for the grant of the approved Financial Assistance or requested by the Agency, in form and substance acceptable to the Agency.

Section 6. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from State and local sales and use tax exemptions benefits.

Section 7. The Company may utilize, and subject to the terms of this Resolution, the Agreement and the Project Agreement, is hereby authorized to appoint, a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "**Additional Agents**") to proceed with the reconstruction, renovation, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf, provided the Company execute, deliver and comply with the Agreement. The Company shall provide, or cause its Additional Agents to provide, and the Agency shall maintain, records of the amount of State and local sales and use tax exemption benefits provided to the Project and the Company shall, and cause each Additional Agent, to make such records available to the State Commissioner of Taxation and Finance (the "**Commissioner**") upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company or Project's receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits realized by the Project available to the Agency or its designee upon request. for purposes of exemption from New York State (the "**State**") sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

Section 8. The Chairman and/or Vice Chairman and/or the Executive Director of the Agency, acting individually, are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified herein and any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or

amendments to the documents referred herein and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this Resolution and the Agreement.

Section 9. The obligation of the Agency to consummate any transaction contemplated herein or hereby is subject to and conditioned upon the Agency's approval of the Financial Assistance and the Company's execution and delivery of, among other things, the Agreement, the Project Agreement and an Environmental Compliance and Indemnification Agreement in favor of the Agency in form and substance acceptable to the Agency and its counsel, in the discretion of the Chairman and/or Vice Chairman of the Agency.

Section 10. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

Section 11. Should the Agency's participation in the Project, or the appointments made in accordance herewith, be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursement of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

Section 12. Bousquet Holstein PLLC, as counsel to the Agency, is hereby authorized to work with the Company and others to prepare for submission to the Agency, all documents necessary to effect the grant of Financial Assistance and consummate the Lease Documents.

Section 13. The Secretary and/or the Executive Director of the Agency are hereby authorized and may distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 14. This Resolution shall take effect immediately. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
Michael Frame	X	
Steven Thompson	X	
Rickey T. Brown	X	
Kathleen Murphy	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

EXHIBIT "A"

AGENCY/COMPANY AGREEMENT

THIS AGREEMENT is between **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY** (the "**Agency**"), with an office at 201 East Washington Street, 6th Floor, Syracuse, New York 13202 and **GERHARZ EQUIPMENT, INC.**, with a mailing address of 6146 East Molloy Road, East Syracuse, New York 13057 (the "**Company**").

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the "**Act**") to designate an agent for constructing, renovating and equipping "projects" (as defined in the Act).

1.02. The purposes of the Act are to promote, attract, encourage and develop recreation and economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to acquire and dispose of interests in real property and to appoint agents for the purpose of completion of projects undertaken by the Agency.

1.03. The Company, by application dated by application dated June 18, 2018, as supplemented on July 12, 2018 (the "**Application**"), requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in

connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

1.03(a). All documents necessary to effectuate the Agency's undertaking of the Project and the granting of the approved Financial Assistance between the Agency and the Company, including but not limited to, a project agreement, a company lease agreement, an agency lease agreement, a bill of sale and an environmental compliance and indemnification agreement, shall be collectively referred to herein as the "***Lease Documents***".

1.04. The Company hereby represents to the Agency that undertaking the Project, the designation of the Company as the Agency's agent for the reconstruction, renovation, equipping and completion of the Project Facility, and the use and appointment, as necessary, by the Company of a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "***Additional Agents***"): (i) will be an inducement to it to construct, reconstruct, renovate and equip the Project Facility in the City of Syracuse (the "***City***"); (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or of any other proposed occupant of the Project Facility from one area of the State to another or in the abandonment of one or more plants or facilities of the Company or of any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act; and (iii) undertaking the Project Facility will promote, create and/or preserve private sector jobs in the State. The Company hereby further represents to the Agency that the Project Facility is not primarily used in making retail sales to customers who personally visit the Facility.

1.05. The Agency has determined that the acquisition of a controlling interest in, and the reconstruction, renovation and equipping of the Project Facility and the subleasing of the same to the Company will promote and further the purposes of the Act.

1.06. On August 21, 2018, the Agency adopted a resolution (the "***Inducement Resolution***") agreeing, subject to the satisfaction of all conditions precedent set forth in such Resolution, to designate the Company as the Agency's agent for the acquisition, renovation and equipping of the Project Facility and determining that the leasing of the same to the Company will promote further purposes of the Act. For purposes of that designation, the Agency authorized as part of the approved Financial Assistance, State and local sales and use tax exemption benefits in an amount not exceed **\$96,000**.

1.07. In the Resolution, subject to the execution of, and compliance with, this Agreement by the Company, the execution and delivery of a project agreement by the Company, and other conditions set forth in the Resolution and herein, the Agency appointed the Company as its agent for the purposes of renovation and equipping the Project Facility, entering into contracts and doing all things requisite and proper for reconstruction, renovation and equipping the Project Facility.

Article 2. Undertakings on the Part of the Agency. Based upon the statement, representations and undertakings of the Company and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. The Agency confirms that it has authorized and designated, pursuant to the terms hereof, the Company as the Agency's agent for constructing, renovation and equipping the Project Facility.

2.02. The Agency will adopt such proceedings and authorize the execution of such Agency documents as may be necessary or advisable for: (i) acquisition of a controlling interest in the Project Facility; (ii) designation by the Company of Additional Agents for reconstruction, renovation and equipping of the Project Facility subject to the terms hereof; and (iii) the leasing or subleasing of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.03. Nothing contained in this Agreement shall require the Agency to apply its funds to Project costs.

2.04. After satisfying the conditions precedent set forth in the Sections 2.05, 3.06 and 4.02 hereof and in the Inducement Resolution, the Company may proceed with the reconstruction, renovation and equipping of the Project Facility and the utilization of and, as necessary the appointment of, Additional Agents.

2.05. Subject to the execution of the Lease Documents and Section 4.02 hereof, the Company is appointed the true and lawful agent of the Agency: (i) for the reconstruction and equipping of the Project Facility; and (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for the reconstruction, renovation and equipping of the Project Facility, all with the same powers and the same validity as if the Agency were acting in its own behalf.

2.06. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof. The Agency may in accordance with Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "**SEQRA**"), undertake supplemental review of the Project. Such review to be limited to specific significant adverse environmental impacts not addressed or inadequately addressed in the Agency's review under SEQRA that arise from changes in the proposed Project, newly discovered information or a change in the circumstances related to the Project.

Article 3. Undertakings on the Part of the Company. Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein the Company agrees as follows:

3.01. (a) The Company shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition of a controlling interest in, and reconstruction, renovation and equipping of the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether such claims or liabilities arise as a result of the Company or Additional Agents acting as agent for the Agency pursuant to this Agreement or otherwise.

(b) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove, any mechanics' or other liens against the Project Facility for labor or material furnished in connection with the acquisition, reconstruction, renovation and equipping of the Project Facility.

(c) The Company shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project Facility, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(d) The Company shall defend, indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on the non-disclosure of information, if any, requested by the Company in accordance with Section 4.05 hereof.

(e) The defense and indemnities provided for in this Article 3 shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(f) The Company shall provide and carry: (i) worker's compensation and disability insurance as required by law; and (ii) comprehensive liability and property insurance with such coverages (including without limitation, owner's protective coverage for the benefit of the Agency, naming the Agency as an additional insured on all policies of coverage regarding the Project; providing the coverage with respect to the Agency be primary and non-contributory; and contractual coverage covering the indemnities herein provided for), with such limits and which such companies as may be approved by the Agency. Upon the request of the Agency, the Company shall provide certificates, endorsements, binders and/or policies of insurance in form

satisfactory to the Agency evidencing such insurance.

(g) The Company shall apply and diligently pursue all approvals, permits and consents from the State of New York, the City, the City Planning Commission and any other governmental authority which approvals, permits and consents are required under applicable law for the development, reconstruction, renovation and equipping of the Project and any related site improvements. The Company acknowledges and agrees that the Agency's findings and determinations under SEQRA do not and shall not in and of themselves (except as specifically set forth in SEQRA) satisfy or be deemed to satisfy applicable laws, regulations, rules and procedural requirements applicable to such approvals, permits and consents.

(h) The Company shall complete a Local Access Agreement to be obtained from the City of Syracuse Industrial Development Agency and agrees to utilize, and cause its Additional Agents to utilize, local contractors and suppliers for the reconstruction, renovation, equipping and completion of the Project unless a waiver is received from the Agency in writing. For purposes of this Agency Agreement, the term "**Local**" shall mean Onondaga, Oswego, Oneida, Madison, Cayuga and Cortland Counties. The Company agrees that such Local contractors shall be provided the opportunity to bid on contracts related to the Project Facility.

3.02. The Company agrees that, as agent for the Agency or otherwise, it will comply at the Company's sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or Company with respect to the Project Facility, the acquisition of a controlling interest therein, reconstruction, renovation and equipping thereof, the operation and maintenance of the Project Facility, supplemental review of adverse environmental impacts in accordance with SEQRA and the financing of the Project. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full, including, but not limited to, Section 875 of the Act; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.03. The Company agrees that, as agent for the Agency or otherwise, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute) it will comply with the requirements of Section 220 of the Labor Law of the State of New York, as amended.

3.04. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.05. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the Project Facility, or are in any manner otherwise payable directly or indirectly in connection with the Project Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.06 The Company shall proceed with the acquisition, reconstruction, renovation, equipping and completion of the Project Facility and advance such funds as may be necessary to accomplish such purposes. The Company may appoint Additional Agents as agents of the Agency in furtherance thereof. Any appointment of an Additional Agent is conditioned upon the Company first obtaining and providing the Agency the following:

(1) A written, executed agreement, in form and substance acceptable to the Agency, from each Additional Agent which provides for the assumption by the Additional Agent, for itself, certain of the obligations under this Agreement relative to the appointment, work and purchases done and made by each Additional Agent; (ii) a commitment to utilize local contractors and suppliers for the reconstruction, renovation and equipping of the Project (“local” being defined in Section 3.01(h) hereof); (iii) an acknowledgement that the Additional Agent is obligated, to timely provide the Company with the necessary information to permit the Company, pursuant to General Municipal Law §874(8), to timely file an Annual Statement with the Agency and the New York State Department of Taxation and Finance on “Annual Report of Sales and Use Tax Exemptions” (Form ST-340) regarding the value of sales and use tax exemptions the Additional Agent claimed pursuant to the agency conferred on it by the Company with respect to this Project; (iv) an acknowledgment by the Additional Agent that the failure to comply with the foregoing will result in the loss of the exemption; and (v) such other terms and conditions as the Agency deems necessary; and

(2) A completed “IDA Appointment of Project Operator or Agent for Sales Tax Purposes” (Form ST-60) for each Additional Agent appointed within fifteen (15) days of the appointment of each Additional Agent such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment of each such Additional Agent.

Failure of the Company to comply with the foregoing shall nullify the appointment of any Additional Agent and may result in the loss of the Company’s exemption with respect to the Project at the sole discretion of the Agency.

The Company acknowledges that the assumption by the Additional Agent in accordance with Section 3.06(1) above, does not relieve the Company of its obligations under those provisions or any other provisions of this Agreement with respect to the Project.

3.07 The Company ratifies and confirms its obligations to pay an annual administrative reporting fee in accordance with the Agency’s fee schedule to cover administrative and reporting requirements to comply with New York State reporting regulations on Agency assisted projects.

Article 4. General Provisions.

4.01. This Agreement shall take effect on the date of the execution hereof by the Agency and the Company and, subject to Section 4.04 hereof, shall remain in effect until the Lease Documents become effective. It is the intent of the Agency and the Company that, except

as to those provisions that survive, this Agreement be superseded in its entirety by the Lease Documents.

4.02. (a) It is understood and agreed by the Agency and the Company that the grant of Financial Assistance and the execution of the Lease Documents and related documents are subject to: (i) payment by the Company of the Agency's fee and Agency's counsel fees; (ii) obtaining all necessary governmental approvals, permits and consents of any kind required in connection with the Project Facility; (iii) approval by the members of the Agency; (iv) approval by the Company; and (v) the condition that there are no changes in New York State Law, including regulations, which prohibit or limit the Agency from fulfilling its obligations hereunder; and

(b) the Company, by executing this agreement, acknowledges and agrees to make, or cause its Additional Agents, to make, all records and information regarding State and local sales and use tax exemption benefits given to the Project as part of the Financial Assistance available to the Agency upon request, including but not limited to the Form ST-340 for itself and each Additional Agent; and

(c) the Company, by executing this Agreement, acknowledges and agrees to the terms and conditions of Section 875(3) of the Act as if such section were fully set forth herein and further agrees to cause all of its Additional Agents to acknowledge, agree and consent to same. Without limiting the scope of the foregoing the Company acknowledges that pursuant to Section 875(3) of the Act, and in accordance with the Agency's Recapture of Benefits Policy, the Agency shall, and in some instances may, recover, recapture, receive or otherwise obtain from the Company some or all of the Financial Assistance (the "**Recapture Amount**") including, but not limited to: (1) (a) that portion of the State and local sales and use tax exemption to which the Company was not entitled, which is in excess of the amount of the State and local sales and use tax exemption authorized by the Agency or which is for property or services not authorized by the Agency; or (b) the full amount of such State and local sales and use tax exemption, if the Company fails to comply with a material term or condition regarding the use of the property or services as represented to the Agency in its Application or otherwise; or (c) the full amount of such State and local sales and use tax exemption in the event the Company fails to execute and deliver the Lease Documents in accordance herewith or fails to complete the Project; and (2) any interest or penalties thereon imposed by the Agency or by operation of law or by judicial order or otherwise; and (d) the failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the Commissioner to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties. In addition to the foregoing, the Company acknowledges and agrees that for purposes of exemption from New York State (the "**State**") sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight. In addition to the foregoing, the Agency may recapture other benefits comprising the Financial Assistance in accordance with the Agency's Recapture Policy (a copy of which is on the Agency's website).

4.03. The Company agrees that it will, within thirty (30) days of a written request for same, regardless of whether or not this matter closes or the Project Facility is completed: (i) reimburse the Agency for all reasonable and necessary expenses, including without limitation the fees and expenses of counsel to the Agency arising from, out of or in connection with the Project, and/or any documents executed in connection therewith, including, but not limited to any claims or actions taken by the Agency against the Company, Additional Agents or third parties; and (ii) indemnify the Agency from all losses, claims, damages and liabilities, in each case which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder, including but not limited to, any obligations related to Additional Agents.

4.04. If for any reason the Lease Documents are not executed and delivered by the Company and the Agency on or before **August 21, 2019**, the provisions of this Agreement (other than the provisions of Articles 1.04, 2.02, 2.04, 3.01, 3.02, 3.03, 3.05, 3.06, 4.02, 4.03, 4.04, 4.05 and 4.06, which shall survive) shall unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses incurred by the Agency in connection with the acquisition, renovation and equipping of the Project Facility;

(b) The Company shall assume and be responsible for any contracts for the reconstruction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Project Facility; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency and counsel for the Agency incurred in connection with the Project Facility and will pay the fees of counsel for the Agency for legal services relating to the Project Facility, Additional Agents or the proposed financing thereof.

4.05. **The Company acknowledges that Section 875(7) of the New York General Municipal Law (“GML”) requires the Agency to post on its website all resolutions and agreements relating to the Company’s appointment as an agent of the Agency or otherwise related to the Project, including this Agreement; and Article 6 of the New York Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency’s possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Company’s competitive position, the Company must identify such elements in writing, supply same to the Agency: (i) with respect to this Agreement, prior to or contemporaneously with the execution hereof; and (ii) with respect to all other agreements executed in connection with the Project, on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.**

4.06 That every controversy, dispute or claim arising out of or relating to this Agreement shall be governed by the laws of the State of New York, without regard to its conflict-of-laws provisions that if applied might require the application of the laws of another jurisdiction; and that the Company irrevocably and expressly submits to the exclusive personal jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Northern District of New York, to the exclusion of all other courts, for the purposes of litigating every controversy, dispute or claim arising out of or relating to this Agreement.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the 21st day of August, 2018.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Honora Spillane, Executive Director

GERHARZ EQUIPMENT, INC.

By: _____
Name:
Title:

EXHIBIT "I"

AMENDED PILOT RESOLUTION

AMENDED PILOT RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on October 16, 2018 at 8:30 o'clock a.m., local time, in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and upon roll being called, the following members of the Agency were:

PRESENT: Michael Frame, Kathleen Murphy, Rickey T. Brown and Kenneth Kinsey

EXCUSED: Steven Thompson

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Honora Spillane, Susan Katzoff, Esq., Meghan Ryan, Esq., Judith DeLaney, John Vavonese, Debra Ramsey-Burns; Others Present: Lauryn LaBorde, Aggie Lane, Timothy Lynn, Esq., Tom Iorizzo, Bob Wilmott, Max Eberts, Jennifer Granzow, Mary Spitzer, Patrick Parker

The following resolution was offered by Rickey T. Brown and seconded by Kenneth Kinsey:

RESOLUTION APPROVING AN AMENDED PAYMENT IN LIEU OF TAX SCHEDULE AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION THEREWITH

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, 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, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, 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, lease and sell real property and grant financial assistance in connection with one or more "projects" (as defined in the Act); and by application dated June 18, 2018 (the "**Application**"), Gerharz Equipment, Inc., or an entity to be formed (the "**Company**"), requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City

of Syracuse, New York (the “**Land**”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, on August 21, 2018, the Agency adopted an Inducement Resolution, PILOT Resolution and Final Approving Resolution authorizing the Project and granting the Financial Assistance (collectively, the “**Approving Resolutions**”); and

WHEREAS, on August 21, 2018, the Agency approved a request for a payment in lieu of taxes schedule (the “**PILOT**”), as more fully described on **Exhibit “A”** attached hereto, which schedule conforms with the Agency’s Uniform Tax Exemption Policy (“**UTEP**”) established pursuant to General Municipal Law Section 874(4); and

WHEREAS, following the approval of the PILOT, an error was discovered in the calculation causing the Agency to perform an updated PILOT analysis which resulted in a new schedule, as more fully set forth on **Exhibit “B”** attached hereto (the “**Revised Schedule**”) which schedule conforms to the Agency’s UTEP; and

WHEREAS, the Revised Schedule results in an increase in PILOT payments to the Agency in the amount of \$211,151.44 over the course of the PILOT term; and

WHEREAS, approval of the Revised Schedule is in furtherance of the Project, which underwent an environmental review by the Agency pursuant to the State Environmental Quality Review Act (“**SEQRA**”), and does not require reconsideration or further review by the Agency under SEQRA.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

(1) Approval of the Revised Schedule is in furtherance of the Project and does not require reconsideration or further review by the Agency under SEQRA.

(2) The Agency hereby approves the Revised Schedule and the (Vice) Chairman and/or Executive Director, acting individually, are each authorized to execute and deliver a PILOT

agreement (the “*PILOT Agreement*”) providing for the Revised Schedule attached as **Exhibit “B”** hereto, all in such form and substance as shall be substantially the same as approved by the Agency for other similar transactions and consistent with this Resolution and as approved by the Chairman or Vice Chairman of the Agency upon the advice of counsel to the Agency.

(3) The Chairman, Vice Chairman and or Executive Director of the Agency, acting individually, are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified herein and any and all such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to herein and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this Resolution.

(4) No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to above shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

(5) The Secretary and/or the Executive Director of the Agency are hereby authorized to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(6) This Resolution shall take effect immediately, but is subject to execution by the Company of a PILOT agreement and other related documents as set forth in the Approving Resolutions and compliance with the Approving Resolutions.

(7) A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing Resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
Michael Frame	X	
Kathleen Murphy	X	
Rickey T. Brown	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

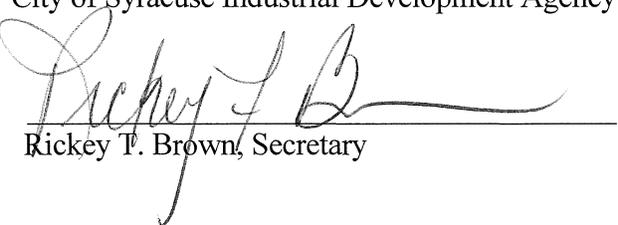
STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on October 16, 2018, with the original thereof on file in my office, and that the same (including any and all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Agency this 13 day of October, 2018.

City of Syracuse Industrial Development Agency


Rickey T. Brown, Secretary

(S E A L)

EXHIBIT "A"

PILOT SCHEDULE

<i>Year</i>	<i>Amount</i>
1	\$43,000.45
2	\$43,860.46
3	\$44,737.67
4	\$45,632.43
5	\$46,545.07
6	\$47,475.98
7	\$48,425.49
8	\$60,846.52
9	\$73,745.02
10	\$87,135.12
Total	\$541,404.22

EXHIBIT "B"

REVISED PILOT SCHEDULE

<i>Year</i>	<i>Amount</i>
1	\$66,000.70
2	\$67,320.71
3	\$68,667.12
4	\$70,040.47
5	\$71,441.28
6	\$72,870.10
7	\$74,327.50
8	\$80,661.56
9	\$87,219.24
10	\$94,006.97
Total	\$752,555.66

EXHIBIT "J"

FINAL APPROVING RESOLUTION

FINAL APPROVING RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on August 21, 2018 at 8:30 o'clock a.m., local time, in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and upon the roll being duly called, the following members were:

PRESENT: Michael Frame, Steven Thompson, Rickey T. Brown, Kathleen Murphy, Kenneth Kinsey

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Honora Spillane, Meghan Ryan, Esq., Judith DeLaney, Susan Katzoff, Esq., Debra Ramsey-Burns; Others Present: Lauryn LaBorde, Aggie Lane, Mitch Latimer, Mark Olsen, Bob Wilmott, Linda Malik, Rachel May, Gwen Cheffin, Lew Thomas, Mel Menan, Peter McCarthy, Ryan Benz, Pete King, Mike Irwin, Charlie Pierce-El, Emanuel Henderson, Mary Traynor, Louise Poindexter, Kayla Kelchian, Rich Puchalski, Charlie Wallace, Dave Nutting, Scott Gerharz

The following resolution was offered by Kathleen Murphy and seconded by Rickey T. Brown:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A COMMERCIAL PROJECT UNDERTAKEN AT THE REQUEST OF THE COMPANY

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, 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, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, Gerharz Equipment, Inc., a New York business corporation, or an entity to be formed (the "**Company**"), by application dated June 18, 2018, as supplemented on July 12, 2018 (the "**Application**"), requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of

foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on August 21, 2018 pursuant to Section 859-a of the Act, notice of which was published on July 31, 2018, in the Post-Standard, a newspaper of general circulation in the City of Syracuse, New York and given to the chief executive officers of the affected tax jurisdictions by letters dated July 26, 2018; and

WHEREAS, pursuant to Article 8 of the State Environmental Conservation Law, as amended and the regulations promulgated thereunder (collectively “*SEQRA*”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as defined by SEQRA) to be taken by the Agency and the approval of the Project and grant of Financial Assistance constitute such an action; and

WHEREAS, the Agency adopted a resolution on August 21, 2018 (the “*SEQRA Resolution*”) entitled:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS AN UNLISTED ACTION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT, DECLARING THE AGENCY LEAD AGENCY FOR PURPOSES OF AN UNCOORDINATED REVIEW THEREUNDER AND DETERMINING THAT THE ACTION WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

which resolution is in full force and effect and has not been amended or modified; and

WHEREAS, the Agency adopted a resolution on August 21, 2018 (the “*Inducement Resolution*”) entitled:

RESOLUTION AUTHORIZING THE UNDERTAKING, ACQUISITION, RENOVATION, EQUIPPING AND COMPLETION OF A COMMERCIAL FACILITY; APPOINTING THE COMPANY AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, RENOVATION, EQUIPPING AND COMPLETION OF THE PROJECT; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BETWEEN THE AGENCY AND THE COMPANY

which resolution is in full force and effect and has not been amended or modified; and

WHEREAS, the Agency adopted a resolution on August 21, 2018 (the “*PILOT Resolution*”) entitled:

RESOLUTION APPROVING AN PAYMENT IN LIEU OF TAX SCHEDULE AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A PILOT AGREEMENT

which resolution is in full force and effect and has not been amended or modified; and

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

Section 1. Based upon the representations made by the Company to the Agency and after consideration of the comments received at the public hearing, if any, the Agency hereby ratifies all of its prior resolutions adopted in conjunction with the Project, including but not limited to the SEQRA Resolution, the PILOT Resolution, the Inducement Resolution and all other action with respect to the Project and Financial Assistance taken by the Agency, and makes the following findings and determinations:

(a) The acquisition of a controlling interest in the Project Facility by the Agency, the granting of the approved Financial Assistance in accordance with the Inducement Resolution and the designation of the Company as the Agency’s agent for completion of the Project will be an inducement to, and permit, the Company to develop and operate the Project Facility in the City of Syracuse, thus serving the public purposes of Article 18-A of the General Municipal Law of New York State by promoting and preserving the job opportunities, general

prosperity, health and economic welfare of the inhabitants of the City of Syracuse (the “*City*”) in furtherance of the purposes of the Act;

(b) The Project will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act;

(c) The commitment of the Agency to provide the approved Financial Assistance in accordance with the Inducement Resolution to the Company will enable and induce the Company to acquire, renovate, equip and complete the Project Facility;

(d) The acquisition, renovation, equipping and completion of the Project Facility and the attendant promotion of the local economy will advance the job opportunities, health, prosperity and economic welfare of the people of the City and the granting of the Financial Assistance is a necessary component to the financing of the Project;

(e) The Project Facility constitutes a “project” within the meaning of the Act;
and

(f) It is desirable and in the public interest for the Agency to grant Financial Assistance in connection with the Project.

Section 2. It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. The Project will serve the public purposes of Article 18-A of the General Municipal Law of the State of New York by advancing job opportunities and promoting economic development.

Section 3. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

Section 4. Subject to the conditions set forth in this and prior resolutions adopted by the Agency, the Project Agreement, and the Agreement (each as defined in the Inducement Resolution), the Agency will: (A) acquire a controlling interest in the Project Facility; (B) lease or sell the Land and Facility from the Company pursuant to a lease or sale agreement between the Agency and the Company (the “*Company Lease*”); acquire an interest in the Equipment pursuant to a bill of sale from the Company (the “*Bill of Sale*”); and sublease or sell the Project Facility to the Company pursuant to a sublease or sale agreement (the “*Agency*”

Lease"); (C) secure the Company's borrowings with respect to the Project Facility by joining in one or more construction or permanent mortgages on the Project Facility in favor of the Company's lenders(s); (D) provide the approved Financial Assistance; and (E) execute and deliver any other documents necessary to effectuate the actions contemplated by and consistent with this Resolution upon the advice of counsel to the Agency.

Section 5. The Chairman, Vice Chairman and any authorized representative of the Agency, acting individually, are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified in Section 4 of this Resolution as well as the Lease Documents (as defined in the Inducement Resolution) and any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to in Section 4 of this Resolution and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this Resolution.

Section 6. The Agency's participation in any of the documents referenced herein and in the Inducement Resolution, or the granting of the approved Financial Assistance, is contingent upon counsel for the Agency's review and the Chairman or Vice Chairman's approval of, all documents requested or required by the Agency in connection with the Project Facility, as well as the Company's execution of the Agreement (as defined in the Inducement Resolution) and all other documents required by the Agency to effectuate the intent of this Resolution and as required in similar transactions.

Section 7. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

Section 8. Bousquet Holstein PLLC, as counsel to the Agency, is hereby authorized to work with the Company and others to prepare, for submission to the Chairman and/or Vice Chairman, all documents necessary to effect the undertaking of the Project and the grant of Financial Assistance in connection with the Project.

Section 9. The approvals provided for herein are contingent upon the Company's payment of all of the Agency's fees and costs, including but not limited to attorneys fees.

Section 10. The Secretary and/or Executive Director of the Agency is hereby authorized to distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 11. This Resolution shall take effect immediately. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

	<u>AYE</u>	<u>NAY</u>
Michael Frame	X	
Steven Thompson	X	
Rickey T. Brown	X	
Kathleen Murphy	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

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

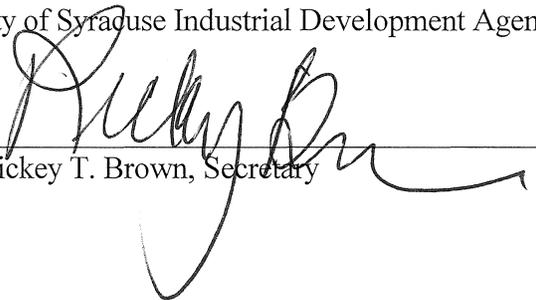
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on August 21, 2018, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

I FURTHER CERTIFY that, as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the Agency this 28 day of AUG, 2018.

City of Syracuse Industrial Development Agency



Rickey T. Brown, Secretary

(SEAL)

EXHIBIT "K"

CONFIRMATION OF PROJECT

City of Syracuse
Industrial Development Agency
City Hall Commons, 6th Floor
201 East Washington Street
Syracuse, NY 13202
Tel (315) 473-3275 Fax (315) 435-3669

August 23, 2018

Honorable Benjamin Walsh
Mayor, City of Syracuse
City Hall
233 East Washington Street
Syracuse, New York 13202

Re: City of Syracuse Industrial Development Agency
Sage Teall Properties, LLC
Gerharz Equipment Project

Dear Mayor:

The City of Syracuse Industrial Development Agency (the "**Agency**") has agreed to undertake, at the request of Sage Teall Properties, LLC (the "**Applicant**" and/or "**Company**") a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Agency conducted a public hearing with respect to the Project as required by Section 859-a of the New York General Municipal Law on August 21, 2018, including the proposed Financial Assistance at which persons interested and desiring to be heard were heard, and the Agency considered all statements or comments received.

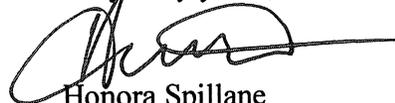
At a meeting of the Agency conducted on August 21, 2018, the Agency took action to approve its undertaking of the Gerharz Equipment Project, and based upon, inter alia, the representations made by the Company to the Agency, the Agency made the following findings and determinations:

- a) The Project Facility constitutes a "project" within the meaning of the Act.
- b) The granting of the Financial Assistance will be an inducement to the Company to develop the Project Facility in the City of Syracuse.
- c) The acquisition, reconstruction, renovation, equipping, completion and operation of the Project Facility and the attendant promotion of the local economy will advance the job opportunities, health, prosperity and economic welfare of the people of the City of Syracuse through, among other things, the creation of full and/or part time jobs.
- d) The Project will not result in the removal of any commercial, industrial or manufacturing plant or facility of the Company or of any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as permitted under the New York State General Municipal Law (the "**GML**").
- e) The Project is a retail facility located in a Highly Distressed Area (as defined in the GML).

Section 862(2)(c) of the General Municipal Law requires that the chief executive officer of the municipality for whose benefit the Agency was created confirm the proposed action of the Agency.

Accordingly we hereby respectfully request that you sign the enclosed confirmation to evidence such confirmation.

Very truly yours,



Honora Spillane
Executive Director

Enclosure

**CONFIRMATION OF CHIEF EXECUTIVE OFFICER OF THE CITY OF SYRACUSE
PURSUANT TO SECTION 862(2)(c) OF THE GENERAL MUNICIPAL LAW**

I hereby confirm the action and findings taken by the City of Syracuse Industrial Development Agency at its meeting on August 21, 2018 with respect to its approval of the undertaking of the Gerharz Equipment Project.

August 23, 2018



Honorable Benjamin Walsh

AFFIDAVIT RE: MORTGAGE TAX EXEMPTION

STATE OF NEW YORK)
) SS.
COUNTY OF ONONDAGA)

HONORA SPILLANE, being duly sworn, deposes and says:

She is the Executive Director of the City of Syracuse Industrial Development Agency (the “*Agency*”).

The Agency is an industrial development agency duly established under Title I of Article 18-A of the General Municipal Law of the State of New York (the “*State*”), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the “*Act*”), and it is a corporate governmental agency constituting a public benefit corporation of the State.

On or about August 21, 2018, the Agency adopted a resolution at the request of Sage Teall Properties, LLC (the “*Applicant*” and/or “*Company*”) agreeing to undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company and the Agency are mortgaging their respective interests in the improved real property described on **Exhibit “A”** to: NBT Bank, National Association (the “*Mortgagee*”), pursuant to a certain Mortgage Indenture and Security Agreement dated November 13, 2018 in the amount of \$1,375,000 (the “*Mortgage*”). The Mortgage is pledged to secure a note given by the Company to the Mortgagee.

Pursuant to Article 18-A of the New York General Municipal Law, as amended from time to time (the “*Act*”), the Agency is regarded as performing a governmental function and is

generally not required to pay taxes or assessments upon any property acquired by it or under its jurisdiction, control or supervision or upon its activities.

Deponent submits that no mortgage tax, other than as may be required in Section 874(1) of the Act and Section 252(2) of the Tax Law of the State of New York with respect to the portion of the tax allocable to the Central New York Regional Transportation District, should be imposed upon the Mortgage, insomuch as the Mortgage is being executed and delivered under the State authority creating the Agency, insomuch as the use by the Agency of its powers to secure the payment of principal and interest on the loan is deemed by Article 18-A public purpose essential to the public interest, and insomuch as both the New York State Department of Taxation and Finance and Counsel to the New York State Department of Taxation and Finance have expressed their opinion that the recording of similar documents by similar agencies organized under Article 18-A of the New York General Municipal Law are operations of said agencies entitled to exemption from the mortgage recording tax.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

Honora Spillane, Executive Director

Subscribed and sworn to before me
this 7 day of November, 2018.



Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2022

EXHIBIT "A"

LEGAL DESCRIPTION

ALL that tract or parcel of land, situate in the City of Syracuse, (formerly part of Lot No. 223 of the Salt Springs Reservation), County of Onondaga and State of New York, bounded and described as follows: beginning at a point in the easterly line of Teall Avenue at the intersection of the northerly line of Lynch Street and the easterly line of Teall Avenue; thence N 03° 19' 30" W along Teall Avenue a distance of 396.64 feet to a point; thence N 66° 31' 00" E a distance of 473.51 feet to a point; thence S 03° 16' 38" E a distance of 141.58 feet to a point; thence S 08° 20' 35" W a distance of 82.0 feet to a point; thence S 17° 32' 39" W a distance of 91.84 feet to a point; thence N 66° 28' 00" E a distance of 55.92 feet to a point; thence S 21° 53' 40" E a distance of 100.04 feet to a point in the northerly line of Lynch Street; thence S 66° 28' 00" W along Lynch Street a distance of 510.87' to a point in the east line of Teall Avenue, said point being the place and point of beginning.

**GENERAL CERTIFICATE OF
SAGE TEALL PROPERTIES, LLC**

This certificate is made in connection with the execution by **SAGE TEALL PROPERTIES, LLC**, a New York State limited liability company (the “**Company**”) of the Project Agreement, the Company Lease, the Agency Lease, the Mortgage, the Environmental Compliance and Indemnification Agreement and any other document now or hereafter executed by the Company in connection with the City of Syracuse Industrial Development Agency (the “**Agency**”) agreeing, at the Company’s request, to undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Project Facility is owned by the Company. The Company will lease the Land and Facility to the Agency pursuant to a Company Lease Agreement dated as of November 1, 2018 (the “**Company Lease**”) and transfer its interest in the Equipment to the Agency pursuant to a bill of sale dated as of November 1, 2018 (the “**Bill of Sale**”) and the Agency will sublease the Project Facility back to the Company pursuant to an Agency Lease Agreement dated as of November 1, 2018 (the “**Agency Lease**”).

Capitalized terms used herein which are not otherwise defined herein shall have the meanings ascribed to such terms in the Agency Lease, except that, for purposes of this certificate: (A) all definitions with respect to any document shall be deemed to refer to such document only as it exists as of the date of this Certificate and not as of any future date; and (B) all definitions with respect to any Person shall be deemed to refer to such Person only as it exists as of the date of this certificate and not as of any future date or to any successor or assign.

The undersigned does hereby certify as follows:

1. Attached hereto as **Exhibit “A”** is a true, correct and complete copy of the Articles of Organization of the Company and any amendments thereto filed with the New York State Secretary of State with proof of publication thereof attached thereto, which Articles (including any amendments) are in full force and effect on the date hereof.

2. Attached hereto as **Exhibit “B”** is a true, correct and complete copy of the Company’s Operating Agreement, and any amendments thereto, and such Operating Agreement, as may have been amended, is in full force and effect on the date hereof.

3. The Company was formed on August 21, 2018 and is, and at all times will be, a limited liability company, duly organized, validly existing and in good standing under the laws of New York State and authorized and licensed under the laws of New York State to transact business as a business corporation for the purpose of owning and operating the Project Facility in New York.

4. The Company has full legal right, power and authority to execute and deliver the Company Documents and to consummate the transactions on the part of the Company contemplated by the Company Documents. The Company Documents have been duly authorized, executed, and delivered by the Manager on behalf of the Company and are in full force and effect as of the date hereof. Attached hereto as **Exhibit “C”** is a true, correct and complete copy of the authorizing resolution of the Managing Member of the Company (the “**Resolution**”) in respect of the execution, delivery and performance of the Company Documents.

5. The Company understands and agrees that, unless a written waiver is first obtained from the Agency, the Company and its Additional Agents shall utilize local labor, contractors and suppliers for the construction, renovation, reconstruction and equipping of the Project Facility. The term “**local**” shall mean Onondaga, Oswego, Madison, Cayuga, Oneida and Cortland Counties. The Company further understands and agrees that failure to comply with these local labor requirements may result in the revocation or recapture of benefits provided/approved to the Project by the Agency. In furtherance thereof, Appendix I to the Agency’s Application entitled “Local Access Agreement” has been completed and is attached hereto as **Exhibit “D”**.

6. The Company understands and agrees that it is the preference of the Agency that the Company provide opportunities for the purchase of goods and services from: (i) business enterprises located in the City; (ii) certified minority and or women-owned business enterprises; and (iii) business enterprises that employ residents of the City. The Company further understands and acknowledges that consideration will be given by the Agency to the Company’s efforts to comply, and compliance, with this objective at any time an extension of benefits is sought or involvement by the Agency with the Project is requested by the Company.

7. All consents, approvals, authorizations or orders of, notices to, or filings, registrations or declarations with, any court or governmental authority, board, agency, commission or body having jurisdiction which are required on behalf of the Company or for the execution and delivery by the Company of the Company Documents or the consummation on the part of the Company of the transactions contemplated thereby have been obtained.

8. After performing due diligence, there is no legal action, suit, proceeding, inquiry or investigation at law or in equity (before or by any court, agency, arbitrator, public board or body or other entity or person) pending or threatened against or affecting the Company or, to the

knowledge of the Company, any basis therefor: (i) in any way affecting the organization, existence or good standing of the Company; (ii) contesting or materially affecting the validity or enforceability of the Company Documents; (iii) contesting the powers of the Company or its authority with respect to the Company Documents; (iv) contesting the authority of the Company to act on behalf of the Company or the authority of the representatives of the Company to act on behalf of the Company; (v) wherein an unfavorable decision, ruling or finding would have a material adverse effect on: (A) the financial condition or operations of the Company; or (B) the consummation on the part of the Company of the transactions contemplated by any Company Documents.

9. The execution and delivery by the Company of the Company Documents and the consummation by the Company of the transactions contemplated thereby are not prohibited by, do not violate any provision of, and will not result in a breach of or default under: (i) the organizational documents of the Company; (ii) any applicable law, rule, regulation, order, writ, injunction, judgment or decree of any court or governmental body or other requirement to which the Company is subject; or (iii) any contract, agreement, mortgage, lease, guaranty, commitment or other obligation or instrument to which the Company is a party or by which the Company or its properties is bound.

10. All information concerning the Project Facility and the Company submitted to the Agency and any Mortgagee by the Company is true and correct in all material respects and does not omit to state a material fact necessary to make the statements therein not misleading.

11. Assuming the valid authorization, execution and delivery of the Agency Lease and the other Company Documents by the other parties thereto, the Agency Lease and the other Company Documents are the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally or by the exercise of judicial discretion in accordance with general principles of equity. No default by the Company or, to the best of knowledge of the undersigned, no event of default on the part of any other party to the Company Documents has occurred or is continuing and no event has occurred which, with the giving of notice or passage of time or both, would be such an event of default. The Company has duly authorized the taking of and has taken all actions necessary to carry out and give effect to the transactions contemplated to be performed on its part by the Company Documents.

12. All permits (including building permits), licenses and authorizations necessary for the construction, ownership and operation of the Project in the manner contemplated by each of the Company Documents have been obtained or will be obtained, and said construction, ownership and operation will not, to the best knowledge of the Company, conflict with any zoning or similar ordinance applicable to the Project. To the best of the Company's knowledge, the Project conforms to all material environmental regulations.

13. There is no Event of Default or default on the part of the Company under the Project Agreement, the Company Lease, the Agency Lease, the Mortgage, the PILOT Agreement, the Environmental Compliance and Indemnification Agreement or any other

Company Document, and no event has occurred and is continuing which, after notice or passage of time or both, would give rise to a default under any thereof.

14. The Project Agreement, the Company Lease, the Agency Lease, the Mortgage, the PILOT Agreement, the Environmental Compliance and Indemnification Agreement and the other Company Documents are in full force and effect and the Company has not assigned or pledged any of its rights under these documents.

15. The Company acknowledges and restates all of the obligations, representations and covenants in Sections 2.2, 8.12, 11.12 and 11.14 of the Agency Lease and incorporates same herein by reference as if fully set forth herein.

16. The Company further acknowledges its obligation under Section 8.5 of the Agency Lease to provide the additional information as set forth therein and agrees to same.

17. The authorized representatives of the Company who, pursuant to the Resolution, are authorized to execute the Company Documents and the office held by each person are as set forth below. The signature set opposite the name of such officer, if any, is a genuine specimen of such officer's signature:

<u>Name</u>	<u>Signature</u>	<u>Office/Title</u>
<u>Scott Gerharz</u>		<u>Manager</u>

IN WITNESS WHEREOF, I have set my hand and signature as officer of the Company as of November 1, 2018.

SAGE TEALL PROPERTIES, LLC

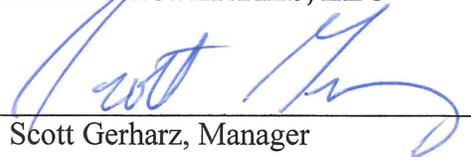
By: 
Scott Gerharz, Manager

EXHIBIT "A"
ARTICLES OF ORGANIZATION

ONLINE FILING RECEIPT

=====

ENTITY NAME: SAGE TEALL PROPERTIES, LLC

DOCUMENT TYPE: ARTICLES OF ORGANIZATION (DOM. LLC)

COUNTY: ONON

=====

FILED:08/21/2018 DURATION:***** CASH#:180821010070 FILE#:180821010070
DOS ID:5396697

FILER:

EXIST DATE

AMY L. LABARGE, PARALEGAL
BOND SCHOENECK & KING, PLLC
ONE LINCOLN CENTER
SYRACUSE, NY 13202

08/21/2018

ADDRESS FOR PROCESS:

SAGE TEALL PROPERTIES, LLC
6146 EAST MOLLOY ROAD
EAST SYRACUSE, NY 13057

REGISTERED AGENT:



The limited liability company is required to file a Biennial Statement with the Department of State every two years pursuant to Limited Liability Company Law Section 301. Notification that the Biennial Statement is due will only be made via email. Please go to www.email.ebiennial.dos.ny.gov to provide an email address to receive an email notification when the Biennial Statement is due.

=====

SERVICE COMPANY: BOND, SCHOENECK & KING, PLLC-42
SERVICE CODE: 42

FEE:	210.00	PAYMENTS	210.00
	-----		-----
FILING:	200.00	CHARGE	0.00
TAX:	0.00	DRAWDOWN	210.00
PLAIN COPY:	0.00		
CERT COPY:	10.00		
CERT OF EXIST:	0.00		

400179

=====

DOS-1025 (04/2007)

Authentication Number: 1808210076 To verify the authenticity of this document you may access the Division of Corporation's Document Authentication Website at <http://ecorp.dos.ny.gov>

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on August 21, 2018.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan W. Fitzgerald
Executive Deputy Secretary of State

**ARTICLES OF ORGANIZATION
OF**

Sage Teall Properties, LLC

Under Section 203 of the Limited Liability Company Law

FIRST: The name of the limited liability company is:

Sage Teall Properties, LLC

SECOND: The county, within this state, in which the office of the limited liability company is to be located is ONONDAGA.

THIRD: The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is:

Sage Teall Properties, LLC
6146 East Molloy Road
East Syracuse, NY 13057

FOURTH: The limited liability company is to be managed by: ONE OR MORE MANAGERS.

I certify that I have read the above statements, I am authorized to sign these Articles of Organization, that the above statements are true and correct to the best of my knowledge and belief and that my signature typed below constitutes my signature.

Amy L. LaBarge, Organizer (signature)

Amy L. LaBarge , ORGANIZER
Bond Schoeneck & King, PLLC
One Lincoln Center
Syracuse, NY 13202

Filed by:

Amy L. LaBarge, Paralegal
Bond Schoeneck & King, PLLC
One Lincoln Center
Syracuse, NY 13202

BOND, SCHOENECK & KING, PLLC (42)
DRAWDOWN
CUSTOMER REF# 400179

FILED WITH THE NYS DEPARTMENT OF STATE ON: 08/21/2018
FILE NUMBER: 180821010070; DOS ID: 5396697

EXHIBIT "B"
OPERATING AGREEMENT

OPERATING AGREEMENT

OF

SAGE TEALL PROPERTIES, LLC

Dated as of August 21, 2018

5.10.	Vacancies.....	15
5.11.	Limitation on Liability of Managers.....	15
ARTICLE 6.	TRANSFER OF INTERESTS, WITHDRAWAL OF MEMBERS AND ADDITIONAL MEMBERS.....	15
6.1.	Transfers.....	15
6.2.	Voluntary Withdrawal.....	16
6.3.	Involuntary Withdrawal.....	16
ARTICLE 7.	DISSOLUTION, LIQUIDATION AND TERMINATION OF THE COMPANY.....	16
7.1.	Events of Dissolution.....	16
7.2.	Procedure for Winding Up and Dissolution.....	16
7.3.	Filing of Articles of Dissolution.....	17
ARTICLE 8.	BOOKS, RECORDS, ACCOUNTING AND TAX ELECTIONS.....	17
8.1.	Bank Accounts.....	17
8.2.	Books and Records.....	17
8.3.	Annual Accounting Period.....	18
8.4.	Reports.....	18
8.5.	Tax Matters Member.....	18
8.6.	Tax Elections.....	18
8.7.	Title to Company Property.....	18
ARTICLE 9.	GENERAL PROVISIONS.....	19
9.1.	Assurances.....	19
9.2.	Notifications.....	19
9.3.	Specific Performance.....	19
9.4.	Complete Agreement.....	19
9.5.	Applicable Law.....	19
9.6.	Article and Section Titles.....	20
9.7.	Binding Provisions.....	20
9.8.	Exclusive Jurisdiction and Venue.....	20
9.9.	Terms.....	20
9.10.	Separability of Provisions.....	20
9.11.	Counterparts.....	20
9.12.	Estoppel Certificate.....	20
9.13.	Counterparts.....	20
Exhibit A.	List of Members, Capital, and Percentages	
Exhibit B.	Adherence Agreement	

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1. DEFINED TERMS	1
ARTICLE 2. FORMATION AND NAME: OFFICE; PURPOSE; TERM.....	6
2.1. Organization	6
2.2. Name of the Company.....	6
2.3. Purpose.....	6
2.4. Term.....	7
2.5. Members	7
ARTICLE 3. MEMBERS; CAPITAL; CAPITAL ACCOUNTS.....	7
3.1. Initial Capital Contributions.....	7
3.2. Additional Capital Contributions	7
3.3. No Interest on Capital Contributions	7
3.4. Return of Capital Contributions.....	7
3.5. Form of Return of Capital	8
3.6. Capital Accounts	8
3.7. Loans.....	8
ARTICLE 4. PROFIT, LOSS AND DISTRIBUTIONS	8
4.1. Distributions of Cash Flow and Allocations of Profit or Loss Other than Capital Transactions.....	8
4.2. Distributions of Capital Proceeds and Allocation of Profit or Loss from Capital Transactions	8
4.3. Regulatory Allocations.....	9
4.4. Liquidation and Dissolution.....	11
4.5. General.....	11
ARTICLE 5. MANAGEMENT: RIGHTS, POWERS AND DUTIES	
5.1. Appointment of the Manager	12
5.2. Authority of the Managers	
5.3. Right to Rely on the Manager	12
5.4. Transactions Requiring Approval of the Manager	12
5.5. Duties and Obligations of the Manager	13
5.6. Indemnification.....	14
5.7. Compensation and Expenses of Managers	14
5.8. Operating Restrictions.....	14
5.9. Removal of a Manager	14

**OPERATING AGREEMENT
OF
SAGE TEALL PROPERTIES, LLC**

This Operating Agreement (the "Agreement") is entered into as of the 21st day of August, 2018 by and among **SAGE TEALL PROPERTIES, LLC**, a New York limited liability company, **SCOTT GERHARZ, RICHARD GERHARZ** and **JOAN GERHARZ** (hereinafter referred to individually as "Member" and collectively as "Members").

RECITALS

WHEREAS, the parties have formed a limited liability company under the New York Limited Liability Company Law and wish to set forth this Agreement as to how the business and affairs of the Company shall be managed and the rights and obligations of the Members with respect to the Company.

NOW, THEREFORE, in exchange for the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, intending to be legally bound, the parties mutually agree as follows:

**ARTICLE 1.
DEFINED TERMS**

The following capitalized terms shall have the meaning specified in this Article 1. Other terms are defined in the text of this Agreement; and, throughout this Agreement, those terms shall have the meanings respectively ascribed to them.

"Adjusted Capital Account Deficit" means, with respect to any Interest Holder, the deficit balance, if any, in the Interest Holder's Capital Account as of the end of the relevant taxable year, after giving effect to the following adjustments:

(i) the deficit shall be decreased by the amounts which the Interest Holder is obligated to restore pursuant to Section 4.4(b) or is deemed obligated to restore pursuant to Regulation Section 1.704-1(b)(2)(ii)(c); and

(ii) the deficit shall be increased by the items described in Regulation Sections 1.704-1(b)(2)(ii)-(d)(4), (5), and (6).

"Adjusted Capital Balance" means, as of any day, an Interest Holder's total Capital Contributions less all amounts actually distributed to the Interest Holder pursuant to Sections 4.2(c)(iv)(A) and 4.4 hereof. If any Interest is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Adjusted Capital Balance of the transferor to the extent the Adjusted Capital Balance relates to the Interest transferred.

"Affiliate" means, with respect to any Member, any Person: (i) which owns more than 50% of the voting interests in the Member; or (ii) in which the Member owns more than 50% of the voting interests; or (iii) in which more than 50% of the voting interests are owned by a Person who

has a relationship with the Member described in clause (i) or (ii) above, or (iv) who otherwise controls, is controlled by, or under common control with, another Person.

"Agent" means any officer, director, employee, trustee, partner, agent or representative of a Member or Manager acting for or on behalf of such Member, the Manager or the Company.

"Agreement" means this Operating Agreement, as amended from time to time.

"Capital Account" means the account to be maintained by the Company for each Interest Holder in accordance with the following provisions:

(i) an Interest Holder's Capital Account shall be credited with the Interest Holder's Capital Contributions, the amount of any Company liabilities assumed by the Interest Holder (or which are secured by Company property distributed to the Interest Holder), the Interest Holder's distributive share of Profit and any item in the nature of income or gain specially allocated to the Interest Holder pursuant to the provisions of Article 4 (other than Section 4.3(c)); and

(ii) an Interest Holder's Capital Account shall be debited with the amount of money and the fair market value of any Company property distributed to the Interest Holder, the amount of any liabilities of the Interest Holder assumed by the Company (or which are secured by property contributed by the Interest Holder to the Company), the Interest Holder's distributive share of Loss and any item in the nature of expenses or losses specially allocated to the Interest Holder pursuant to the provisions of Article 4 (other than Section 4.3(c)).

If any Interest is transferred pursuant to the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent the Capital Account is attributable to the transferred Interest. If the book value of Company property is adjusted pursuant to Section 4.3(c), the Capital Account of each Interest Holder shall be adjusted to reflect the aggregate adjustment in the same manner as if the Company had recognized gain or loss equal to the amount of such aggregate adjustment. It is intended that the Capital Accounts of all Interest Holders shall be maintained in compliance with the provisions of Regulation Section 1.704-1(b), and all provisions of this Agreement relating to the maintenance of Capital Accounts shall be interpreted and applied in a manner consistent with that Regulation.

"Capital Contribution" means the total amount of cash and the fair market value of any other assets contributed (or deemed contributed under Regulation Section 1.704-1(b)(2)(iv)(d)) to the Company by a Member, net of liabilities assumed or to which the assets are subject.

"Capital Proceeds" means the gross receipts received by the Company from a Capital Transaction.

"Capital Transaction" means any transaction not in the ordinary course of business which results in the Company's receipt of cash or other consideration other than Capital Contributions, including, without limitation, proceeds of sales or exchanges or other dispositions of property not in the ordinary course of business, financings, refinancings, condemnations, recoveries of damage awards, and insurance proceeds.

"Cash Flow" means all cash funds derived from operations of the Company (including interest received on reserves), without reduction for any noncash charges, but less cash funds used to pay current operating expenses and to pay or establish reasonable reserves for future expenses, debt payments, capital improvements, and replacements as determined by the Manager. Cash Flow shall not include Capital Proceeds but shall be increased by the reduction of any reserve previously established.

"Code" means the Internal Revenue Code of 1986, as amended, or any corresponding provision of any succeeding law or any corresponding provision.

"Company" means the limited liability company formed in accordance with this Agreement.

"Manager" means the Person or Persons designated as such in Article 5.

"Incapacity" means (i) the entry of a judgment by a court of competent jurisdiction to the effect that a Member who is an individual is incompetent to manage such Member's affairs, or the appointment of a guardian ad litem by a court of competent jurisdiction to manage such Member's affairs; or (ii) the incapacity of a Member who is an individual to perform his or her duties as a Member as determined by (a) the Manager, and if such Member is not in agreement with such determination, the certification of a physician selected by mutual agreement between such Member and the Manager, or (b) the certification of a physician selected by the Member and, if the Manager is not in agreement with such certification, the certification of a physician selected by mutual agreement between the Member and the Manager.

"Interest" means a Person's share of the Profits and Losses of, and the right to receive distributions from, the Company.

"Interest Holder" means any Person who holds an Interest, whether as a Member or an unadmitted assignee of a Member.

"Involuntary Withdrawal" means, with respect to any Member, the occurrence of any of the following events:

- (i) the Member makes an assignment for the benefit of creditors;
- (ii) the Member files a voluntary petition of bankruptcy;
- (iii) the Member is adjudged bankrupt or insolvent or there is entered against the Member an order for relief in any bankruptcy or insolvency proceeding;
- (iv) the Member files a petition seeking for the Member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(v) the Member seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the Member or of all or any substantial part of the Member's properties;

(vi) the Member files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in any proceeding described in Subsections (i) through (v);

(vii) any proceeding against the Member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, continues for one hundred twenty (120) days after the commencement thereof, or the appointment of a trustee, receiver, or liquidator for the Member or all or any substantial part of the Member's properties without the Member's agreement or acquiescence, which appointment is not vacated or stayed for one hundred twenty (120) days or, if the appointment is stayed, for one hundred twenty (120) days after the expiration of the stay during which period the appointment is not vacated;

(viii) if the Member is an individual, the Member's death or Incapacity;

(ix) if the Member is acting as a Member by virtue of being a trustee of a trust, the termination of the trust;

(x) if the Member is a partnership or limited liability company, the dissolution and commencement of winding up of the partnership or limited liability company;

(xi) if the Member is a corporation, the dissolution of the corporation or the revocation of its charter; or

(xii) if the Member is an estate, the distribution by the fiduciary of the estate's entire interest in the Company.

"Law" means the New York Limited Liability Company Law, as amended from time to time.

"Member" means each Person who has signed this Agreement and any Person who subsequently is admitted as a member of the Company.

"Membership Interest" means all of the rights of a Member in the Company, including a Member's: (i) Interest; (ii) right to inspect the Company's books and records; (iii) right to participate in the management of and vote on matters coming before the Company; and (iv) unless this Agreement or the Articles of Organization provide to the contrary, right to act as an agent of the Company.

"Member Loan Nonrecourse Deductions" means any Company deductions that would be Nonrecourse Deductions if they were not attributable to a loan made or guaranteed by a Member within the meaning of Regulation Section 1.704-2(i).

"Membership Percentages" means, at any time, the Percentages then held by Members.

"Minimum Gain" has the meaning set forth in Regulation Section 1.704-2(d). Minimum Gain shall be computed separately for each Interest Holder in a manner consistent with the Regulations under Code Section 704(b).

"Negative Capital Account" means a Capital Account with a balance of less than zero.

"Nonrecourse Deductions" has the meaning set forth in Regulation Section 1.704-2(b)(1). The amount of Nonrecourse Deductions for a taxable year of the Company equals the net increase, if any, in the amount of Minimum Gain during that taxable year, determined according to the provisions of Regulation Section 1.704-2(c).

"Nonrecourse Liability" means any liability of the Company with respect to which no Member has personal liability, as determined in accordance with Code Section 752 and the Regulations promulgated thereunder.

"Percentage" means, as to a Member, the percentage set forth after the Member's name on **Exhibit A**, as amended from time to time, and as to an Interest Holder who is not a Member, the Percentage of the Member whose Interest has been acquired by such Interest Holder, to the extent the Interest Holder has succeeded to that Member's Interest.

"Person" means and includes an individual, corporation, partnership, association, limited liability company, trust, estate or other entity.

"Positive Capital Account" means a Capital Account with a balance greater than zero.

"Profit" and "Loss" mean, for each taxable year of the Company (or other period for which Profit or Loss is to be computed), the Company's taxable income or loss determined in accordance with Code Section 703(a), with the following adjustments:

(i) all items of income, gain, loss, deduction, or credit required to be stated separately pursuant to Code Section 703(a)(1) shall be included in computing taxable income or loss; and

(ii) any tax-exempt income of the Company, not otherwise taken into account in computing Profit or Loss, shall be included in computing taxable income or loss; and

(iii) any expenditures of the Company described in Code Section 705(a)(2)(B) (or treated as such pursuant to Regulation Section 1.704-1(b)(2)(iv)(i)) and not otherwise taken into account in computing Profit or Loss, shall be subtracted from taxable income or loss; and

(iv) gain or loss resulting from any taxable disposition of Company property shall be computed by reference to the adjusted book value of the property disposed of,

notwithstanding the fact that the adjusted book value differs from the adjusted basis of the property for federal income tax purposes; and

(v) in lieu of the depreciation, amortization, or cost recovery deductions allowable in computing taxable income or loss, there shall be taken into account the depreciation computed based upon the adjusted book value of the asset; and

(vi) notwithstanding any other provision of this definition, any items which are specially allocated pursuant to Section 4.3 hereof shall not be taken into account in computing Profit or Loss.

"Regulation" means the income tax regulations, including any temporary regulations, from time to time promulgated under the Code.

"Transfer" means — when used as a noun — any sale, hypothecation, pledge, assignment, gift, bequest, attachment, or other transfer, including transfers by operation of Law, and — when used as a verb — means to sell, hypothecate, pledge, assign, give, bequeath, or otherwise transfer.

"Voluntary Withdrawal" means a Member's disassociation with the Company by means other than a Transfer or an Involuntary Withdrawal.

ARTICLE 2.

FORMATION AND NAME; OFFICE; PURPOSE; TERM

2.1 Organization. The parties have organized a limited liability company pursuant to the Law and the provisions of this Agreement and, for that purpose, have caused Articles of Organization to be prepared, executed and filed with the New York Department of State on August 21, 2018.

2.2 Name of the Company. The name of the Company is "**Sage Teall Properties, LLC**". The Company may do business under that name and under any other name or names which the Manager selects. If the Company does business under a name other than that set forth in its Articles of Organization, then the Company shall file an assumed name certificate with the Department of State as required by General Business Law Section 130.

2.3 Purpose. The Company is organized to engage in any business permitted under the Law, except to do in New York any business for which any statute of New York other than the Limited Liability Company Law specifically requires some other business entity or natural person to be formed or used for such business.

2.4 Term. The term of the Company shall begin upon the filing of Articles of Organization with the Department of State and shall have a perpetual existence unless its existence is sooner terminated pursuant to Article 7 of this Agreement.

2.5 Members. The name, present mailing address and email address, social security or taxpayer identification number and Percentage of each Member are set forth on **Exhibit A**.

ARTICLE 3.
MEMBERS; CAPITAL; CAPITAL ACCOUNTS

3.1 Initial Capital Contributions. The initial capital contribution of each Member is maintained on the Company's books and records that are maintained with the Company.

3.2 Additional Capital Contributions.

(a) If the Manager at any time or from time to time determines, in its discretion, that the Company requires additional Capital Contributions, then the Manager shall give notice to each Member of (i) the total amount of additional Capital Contributions required; (ii) the reason the additional Capital Contribution is required; (iii) each Member's proportionate share of the total additional Capital Contribution (determined in accordance with this Section); and (iv) the date each Member's additional Capital Contribution is due and payable, which date shall be thirty (30) days after the notice has been given. A Member's share of the total additional Capital Contribution shall be equal to the product obtained by multiplying the Member's Percentage and the total additional Capital Contribution required. A Member's share shall be payable in cash, or by certified check, or wire transfer.

(b) Except as provided in Section 3.2(a), no Member shall be required to contribute any additional capital to the Company, and no Member shall have any personal liability for any debt, obligation, or liability of the Company.

(c) If a Member fails to pay when due all or any portion of any Capital Contribution, the Manager shall request the nondefaulting Members to pay the unpaid amount of the defaulting Member's Capital Contribution (the "Unpaid Contribution"). To the extent the Unpaid Contribution is contributed by any other Member, the defaulting Member's Percentage shall be reduced and the Percentage of each Member who makes up the Unpaid Contribution shall be increased, so that each Member's Percentage is equal to a fraction, the numerator of which is that Member's total Capital Contribution and the denominator of which is the total Capital Contributions of all Members. The Manager shall amend **Exhibit A** accordingly. This remedy is in addition to any other remedies allowed by law or by this Agreement.

3.3 No Interest on Capital Contributions. Interest Holders shall not be paid interest on their Capital Contributions.

3.4 Return of Capital Contributions. Except as otherwise provided in this Agreement, no Interest Holder shall have the right to receive any return of any Capital Contribution.

3.5 Form of Return of Capital. If an Interest Holder is entitled to receive a return of a Capital Contribution, the Interest Holder shall not have the right to receive anything but cash in return of the Interest Holder's Capital Contribution.

3.6 Capital Accounts. A separate Capital Account shall be maintained for each Interest Holder.

3.7 Loans. Any Member other than the Manager may, at any time, make or cause a loan to be made to the Company in any amount and on such terms as shall be approved by the Manager. The Manager may, at any time, make or cause a loan to be made to the Company in any amount and on such terms as approved by a majority in interest of the Members other than the Manager.

ARTICLE 4.
PROFIT, LOSS AND DISTRIBUTIONS

4.1 Distributions of Cash Flow and Allocations of Profit or Loss Other than Capital Transactions.

(a) Profit or Loss Other Than from a Capital Transaction. After giving effect to the special allocations set forth in Section 4.3, for any taxable year of the Company, Profit or Loss (other than Profit or Loss resulting from a Capital Transaction, which Profit or Loss shall be allocated in accordance with the provisions of Sections 4.2(a) and 4.2(b)) shall be allocated to the Interest Holders in proportion to their Percentages.

(b) Mandatory Cash Flow. Cash Flow for each taxable year of the Company shall be distributed to the Interest Holders in proportion to their Percentages no later than ninety (90) days after the end of the taxable year.

4.2 Distributions of Capital Proceeds and Allocation of Profit or Loss from Capital Transactions.

(a) Profit. After giving effect to the special allocations set forth in Section 4.3, Profit from a Capital Transaction shall be allocated as follows:

(i) If one or more Interest Holders has a Negative Capital Account, to those Interest Holders, in proportion to their Negative Capital Accounts, until all of those Negative Capital Accounts have been increased to zero.

(ii) Any Profit not allocated pursuant to Section 4.2(a)(i) shall be allocated to the Interest Holders in proportion to, and to the extent of, the amounts distributable to them pursuant to Section 4.2(c)(iv)(A) and 4.2(c)(iv)(B).

(iii) Any Profit in excess of the foregoing allocations shall be allocated to the Interest Holders in proportion to their Percentages.

(b) Loss. After giving effect to the special allocations set forth in Section 4.3, Loss from a Capital Transaction shall be allocated as follows:

(i) If one or more Interest Holders has a Positive Capital Account, to those Interest Holders, in proportion to their Positive Capital Accounts, until all Positive Capital Accounts have been reduced to zero.

(ii) Any Loss not allocated to reduce Positive Capital Accounts to zero pursuant to Section 4.2(b)(i) shall be allocated to the Interest Holders in proportion to their Percentages.

(c) Capital Proceeds. Capital Proceeds shall be distributed and applied by the Company in the following order and priority:

(i) to the payment of all expenses of the Company incident to the Capital Transaction; then

(ii) to the payment of debts and liabilities of the Company then due and outstanding (including all debts due to any Interest Holder); then

(iii) to the establishment of any reserves which the Manager deems necessary for liabilities or obligations of the Company; then

(iv) the balance shall be distributed as follows:

(A) to the Interest Holders in proportion to their Adjusted Capital Balances, until their remaining Adjusted Capital Balances have been paid in full;

(B) the balance, to the Interest Holders in proportion to their Percentages.

4.3. Regulatory Allocations.

(a) Qualified Income Offset. No Interest Holder shall be allocated Losses or deductions if the allocation causes the Interest Holder to have an Adjusted Capital Account Deficit. If an Interest Holder receives (1) an allocation of Loss or deduction (or item thereof) or (2) any distribution, which causes the Interest Holder to have an Adjusted Capital Account Deficit at the end of any taxable year, then all items of income and gain of the Company (consisting of a pro rata portion of each item of Company income, including gross income and gain) for that taxable year shall be allocated to that Interest Holder, before any other allocation is made of Company items for that taxable year, in the amount and in proportions required to eliminate the excess as quickly as possible. This Section 4.3(a) is intended to comply with, and shall be interpreted consistently with, the "qualified income offset" provisions of the Regulations promulgated under Code Section 704(b).

(b) Minimum Gain Chargeback. Except as set forth in Regulation Section 1.704-2(f)(2), (3), and (4), if, during any taxable year, there is a net decrease in Minimum Gain, each Interest Holder, prior to any other allocation pursuant to this Article 4, shall be specially allocated items of gross income and gain for such taxable year (and, if necessary, subsequent taxable years) in an amount equal to that Interest Holder's share of the net decrease of Minimum Gain, computed in accordance with Regulation Section 1.704-2(g). Allocations of gross income and gain pursuant to this Section 4.3(b) shall be made first from gain recognized from the

disposition of Company assets subject to nonrecourse liabilities (within the meaning of the Regulations promulgated under Code Section 752), to the extent of the Minimum Gain attributable to those assets, and thereafter, from a pro rata portion of the Company's other items of income and gain for the taxable year. It is the intent of the parties hereto that any allocation pursuant to this Section 4.3(b) shall constitute a "minimum gain chargeback" under Regulation Section 1.704-2(f).

(c) Contributed Property and Book-Ups. In accordance with Code Section 704(c) and the Regulations thereunder, as well as Regulation Section 1.704-1(b)(2)(iv)(d)(3), income, gain, loss, and deduction with respect to any property contributed (or deemed contributed) to the Company shall, solely for tax purposes, be allocated among the Interest Holders so as to take account of any variation between the adjusted basis of the property to the Company for federal income tax purposes and its fair market value at the date of contribution (or deemed contribution). If the adjusted book value of any Company asset is adjusted as provided herein, subsequent allocations of income, gain, loss, and deduction with respect to the asset shall take account of any variation between the adjusted basis of the asset for federal income tax purposes and its adjusted book value in the manner required under Code Section 704(c) and the Regulations thereunder.

(d) Code Section 754 Adjustment. To the extent an adjustment to the tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulation Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of the adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases basis), and the gain or loss shall be specially allocated to the Interest Holders in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to that Section of the Regulations.

(e) Nonrecourse Deductions. Nonrecourse Deductions for a taxable year or other period shall be specially allocated among the Interest Holders in proportion to their Percentages.

(f) Member Loan Nonrecourse Deductions. Any Member Loan Nonrecourse Deduction for any taxable year or other period shall be specially allocated to the Interest Holder who bears the risk of loss with respect to the loan to which the Member Loan Nonrecourse Deduction is attributable in accordance with Regulation Section 1.704-2(b).

(g) Guaranteed Payments. To the extent any compensation paid to any Member by the Company, including any fees payable to any Member pursuant to Section 5.3 hereof, is determined by the Internal Revenue Service not to be a guaranteed payment under Code Section 707(c) or is not paid to the Member other than in the Person's capacity as a Member within the meaning of Code Section 707(a), the Member shall be specially allocated gross income of the Company in an amount equal to the amount of that compensation, and the Member's Capital Account shall be adjusted to reflect the payment of that compensation.

(h) Unrealized Receivables. If an Interest Holder's Interest is reduced (provided the reduction does not result in a complete termination of the Interest Holder's Interest), the Interest Holder's share of the Company's "unrealized receivables" and "substantially appreciated inventory"

(within the meaning of Code Section 751) shall not be reduced, so that, notwithstanding any other provision of this Agreement to the contrary, that portion of the Profit otherwise allocable upon a liquidation or dissolution of the Company pursuant to Section 4.4 hereof which is taxable as ordinary income (recaptured) for federal income tax purposes shall, to the extent possible without increasing the total gain to the Company or to any Interest Holder, be specially allocated among the Interest Holders in proportion to the deductions (or basis reductions treated as deductions) giving rise to such recapture. Any questions as to the aforesaid allocation of ordinary income (recapture), to the extent such questions cannot be resolved in the manner specified above, shall be resolved by the Manager.

(i) Withholding. All amounts required to be withheld pursuant to Code Section 1446 or any other provision of federal, state, or local tax law shall be treated as amounts actually distributed to the affected Interest Holders for all purposes under this Agreement.

4.4 Liquidation and Dissolution.

(a) If the Company is liquidated, the assets of the Company shall be distributed to the Interest Holders in accordance with the provisions of Section 4.2(c)(iv).

(b) No Interest Holder shall be obligated to restore a Negative Capital Account.

4.5 General.

(a) Except as otherwise provided in this Agreement, the timing and amount of all distributions shall be determined by the Manager.

(b) If any assets of the Company are distributed in kind to the Interest Holders, those assets shall be valued on the basis of their fair market value, and any Interest Holder entitled to any interest in those assets shall receive that interest as a tenant-in-common with all other Interest Holders so entitled. Unless the Members otherwise agree, the fair market value of the assets shall be determined by an independent appraiser who shall be selected by the Manager. The Profit or Loss for each unsold asset shall be determined as if the asset had been sold at its fair market value, and the Profit or Loss shall be allocated as provided in Section 4.2 and shall be properly credited or charged to the Capital Accounts of the Interest Holders prior to the distribution of the assets in liquidation pursuant to Section 4.4.

(c) All Profit and Loss shall be allocated, and all distributions shall be made to the Persons shown on the records of the Company to have been Interest Holders as of the last day of the taxable year for which the allocation or distribution is to be made. Notwithstanding the foregoing, unless the Company's taxable year is separated into segments, if there is a Transfer or an Involuntary Withdrawal during the taxable year, the Profit and Loss shall be allocated between the original Interest Holder and the successor on the basis of the number of days each was an Interest Holder during the taxable year; provided, however, the Company's taxable year shall be segregated into two or more segments in order to account for Profit, Loss, or proceeds attributable to a Capital Transaction or to any other extraordinary nonrecurring items of the Company.

(d) The Manager is hereby authorized, upon the advice of the Company's tax counsel, to amend this Article 4 to comply with the Code and the Regulations promulgated under Code Section 704(b); provided, however, that no amendment shall materially affect distributions to an Interest Holder without the Interest Holder's prior written consent.

ARTICLE 5.
MANAGEMENT: RIGHTS, POWERS AND DUTIES

5.1 Appointment of Manager. The initial Manager of the Company is Scott Gerharz. The Manager has been appointed by the terms of this Agreement and shall not be elected by the Members except as otherwise expressly provided herein.

5.2 Authority of the Manager. Except to the extent otherwise provided herein, the Manager shall have the sole and exclusive right to manage the business of the Company, shall have all of the rights and powers which may be possessed by managers under the Law and is hereby authorized to take all steps and actions necessary and/or advisable to accomplish the purpose of the Company. The actions of the Manager taken in accordance with the provisions of this Agreement shall bind the Company. No other Member of the Company shall have any authority or right to act on behalf of or bind the Company, unless otherwise provided herein or unless specifically authorized by the Manager pursuant to a resolution expressly authorizing such action. In the event more than one Person is a Manager, the rights and powers of the Managers hereunder shall be exercised by them in such manner as they may agree. In the absence of an agreement among such persons, the decisions of the Managers shall be made by majority vote of the Managers.

5.3 Right to Rely on the Manager. Any Person dealing with the Company may rely upon a certificate signed by any Manager as to: (a) the identity of any Manager or Member; (b) the existence or nonexistence of any fact or facts which constitute a condition precedent to acts by a Manager or which are in any other manner germane to the affairs of the Company; (c) the Persons who are authorized to execute and deliver any instrument or document on behalf of the Company; or (d) any act or failure to act by the Company or any other matter whatsoever involving the Company or any Member.

5.4 Transactions Requiring Approval of the Members.

(a) Notwithstanding any other provision of this Agreement, the Manager shall not, without the consent of all Members:

(i) Do any act which would make it impossible to carry on the ordinary business of the Company;

(ii) Confess a judgment against the Company or submit a Company claim in excess of \$1,000,000.00 to arbitration;

(iii) Possess Property or assign rights in specific Company assets for other than a Company purpose;

(iv) Dissolve the Company; or

(iv) Knowingly perform any act that would subject any Members to liability in any jurisdiction.

(b) Notwithstanding any other provision of this Agreement, the Manager shall not, without the consent of the majority in interest of the Members:

(i) Approve the sale or other disposition of all or substantially all of the assets of the Company;

(ii) Approve the merger or consolidation of the Company with or into another entity;

(iii) Borrow in excess of \$1,000,000.00 other than in the ordinary course of the Company's Business; or

(v) Amend this Agreement.

5.5 Duties and Obligations of the Manager.

(a) The Manager shall take all actions which may be necessary or appropriate for the continuation of the Company's valid existence as a limited liability company under the laws of the State of New York (and of each other jurisdiction in which such existence is necessary to protect the limited liability of the Members or to enable the Company to conduct the business in which it is engaged).

(b) The Manager shall have the fiduciary duty to conduct the affairs of the Company in the best interests of the Company and the Members, including the safekeeping and use of all Property, whether or not in the immediate possession or control of the Manager, and shall not employ or permit another to employ Company assets in any manner except for the exclusive benefit of the Company.

(c) The Manager shall devote to the Company such time as may be necessary for the proper performance of all duties hereunder; provided, however, in no event shall the Manager be required to devote full time to the performance of such duties.

5.6 Indemnification. The Company, its receiver, or its trustee shall indemnify and hold harmless and shall advance expenses to any Member or Manager relating to any liability or damage incurred by reason of any act performed or omitted to be performed by such Member or Manager in connection with the business of the Company, including attorney fees incurred by such Member or Manager in connection with the defense of any action based on any such act or omission, to the maximum extent permitted by law.

5.7 Compensation and Expenses of the Manager. The Manager may charge the Company for any reasonable expenses incurred in connection with the Company business.

Except as otherwise set forth in this Agreement, no Manager shall receive any fees or other compensation for serving as a Manager, unless such fees or other compensation are approved by a majority in interest of the Members. However, each Manager (if such Manager is also a Member) shall be entitled to the distributions and allocations provided for elsewhere in this Agreement.

5.8 Operating Restrictions.

(a) No loans or guarantees of loans shall be made by the Company to any Member or any Affiliate of a Member.

(b) No rebates, kickbacks, or reciprocal arrangements may be received or entered into by any Manager, nor may any Manager participate in any business arrangement which would circumvent this Agreement.

(c) The funds of the Company shall not be commingled with the funds of any other Person.

(d) The signature of any one of the Managers shall be necessary to convey title to any real property owned by the Company or to execute any promissory notes, trust deeds, mortgages or other instruments of hypothecation, and all of the Members agree that a copy of this Agreement may be shown to the appropriate parties in order to confirm the same, and further agree that the signature of any one of the Managers shall be sufficient to execute any documents necessary to effectuate this or any other provision of this Agreement.

5.9 Removal of a Manager.

(a) In the event of the Disability of a Manager, the remaining Managers (if any) or if there is no remaining Manager other than the Manager whose condition is in question, the Members by a majority in interest thereof, shall have the right to remove the disabled Manager.

(b) In the event of the proven fraud, willful misconduct, gross negligence or material breach of this Agreement by a Manager (collectively the "Removal Events"), which Removal Event causes material harm to the Company, the Members shall have the right by a majority in interest thereof to remove the offending Manager.

(c) Solely for purposes of this Section, in determining whether an action has received the requisite approval, the Manager whose condition is in question or who has been charged with committing a Removal Event, as the case may be, shall have no vote and his Membership Percentage shall be disregarded in calculating Membership Percentages. Such removal shall not affect such removed Manager's status, if any, as a Member and such removed Manager shall remain a Member of the Company, subject to the provisions of this Agreement.

(d) The right of removal set forth in this Section shall be null and void unless, prior to the exercise of such right, the Members receive an opinion of counsel satisfactory to the

Members to the effect that the existence and exercise of such right will not prevent the treatment of the Company as a partnership for federal income tax purposes.

5.10 Vacancies.

(a) In the event of a vacancy due to the death, resignation or any other cause (including, but not limited to, removal pursuant to Section 5.9 of a Manager, the remaining Managers (if any) shall have the authority to appoint a successor to fill such vacancy or to determine in his or their own discretion that such vacancy should not be filled. In the event there is no such remaining Manager, such vacancy shall be filled (or not filled) by a majority in interest of the Members.

(b) The Manager shall have the right exercisable at any time, to increase the number of Managers. In the event of a vacancy in the Managers by reason of any such increase, the Manager and not the Members shall have the right to fill such vacancy.

5.11 Limitation on Liability of Managers. Neither the Manager nor their employees or agents shall be liable, responsible or accountable in damages or otherwise to the Company or any Member for any loss to the Company or any Member resulting from the operation of the business of the Company or any action taken or not taken by the Manager; provided, however, nothing in this Section shall be deemed to relieve the Manager of any liability resulting from their bad faith, intentional misconduct, knowing violation of law or breach of any fiduciary duty.

ARTICLE 6.
TRANSFER OF INTERESTS, WITHDRAWAL OF
MEMBERS AND ADDITIONAL MEMBERS

6.1 Transfers.

(a) Except as permitted herein, no Member may Transfer all or any portion of or any interest or rights in the Membership Interest or Interests owned by the Member. Each Member hereby acknowledges the reasonableness of this prohibition in view of the purposes of the Company and the relationship of the Members. The Transfer of any Membership Interest or Interests in violation of the prohibition contained in this Section shall be deemed invalid, null and void, and of no force or effect. Any Person to whom any Membership Interest or Interests are attempted to be transferred in violation of this Section shall not be entitled to vote on matters coming before the Members, participate in the management of the Company, act as an agent of the Company, receive distributions from the Company, or have any other rights in or with respect to the Membership Interest or Interests.

(b) Notwithstanding the provisions of Section 6.1(a), a Member may transfer a Membership Interest to a Permitted Transferee (as defined below) without the prior written consent of the remaining Members; provided, however, that the Permitted Transferee executes an Adherence Agreement in form and substance as **Exhibit B** or such other agreement as counsel for the Company shall determine pursuant to which the Permitted Transferee shall agree to and

become obligated to the terms and conditions of this Agreement as if an original party hereto. A "Permitted Transferee" shall mean:

- (i) A spouse, child or other lineal descendent of a Member;
- (ii) a trust created for the benefit of a spouse, child or other lineal descendent of a Member; or
- (iii) any other party to this Agreement.

6.2 Voluntary Withdrawal. No Member shall have the right or power to Voluntarily Withdraw from the Company, except as otherwise provided by this Agreement. Any withdrawal in violation of this Agreement shall entitle the Company to damages for breach, which may be offset against the amounts otherwise distributable to such Member.

6.3 Involuntary Withdrawal. Immediately upon the occurrence of an Involuntary Withdrawal, the successor of the Withdrawn Member shall thereupon become an Interest Holder but shall not become a Member. The successor Interest Holder shall have all the rights of an Interest Holder (i.e., the right to receive the profits, losses and distributions that the Member would have received, at the time the Member would otherwise have been entitled to receive them had the Member not withdrawn), but shall not be entitled by reason of the withdrawal to receive in liquidation of the Interest, the fair market value of the Member's Interest as of the date the Member Involuntarily withdrew from the Company.

ARTICLE 7. DISSOLUTION, LIQUIDATION AND TERMINATION OF THE COMPANY

7.1 Events of Dissolution. The Company shall be dissolved upon the happening of any of the following events:

- (a) Upon the unanimous written agreement of the Members; or
- (b) Upon the entry of a judicial decree or by operation of law.

7.2 Procedure for Winding Up and Dissolution. If the Company is dissolved, the Manager shall wind up its affairs. On winding up of the Company, the assets of the Company shall be distributed, first, to creditors of the Company, including Interest Holders who are creditors, in satisfaction of the liabilities of the Company, and then to the Interest Holders in accordance with Section 4.4.

7.3 Filing of Articles of Dissolution. If the Company is dissolved, the Manager shall promptly file Articles of Dissolution with the New York Department of State. If there is no Manager, then the Articles of Dissolution shall be filed by the remaining Members; if there are no remaining Members, the Articles shall be filed by the last Person to be a Member; if there is

neither a Manager, remaining Members, nor a Person who last was a Member, the Articles shall be filed by the legal or personal representatives of the Person who last was a Member.

ARTICLE 8.
BOOKS, RECORDS, ACCOUNTING AND TAX ELECTIONS

8.1 Bank Accounts. All funds of the Company shall be deposited in a bank account or accounts opened in the Company's name. The Manager shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts, and the Persons who will have authority with respect to the accounts and the funds therein.

8.2 Books and Records.

(a) The Manager shall keep or cause to be kept complete and accurate books and records of the Company and supporting documentation of the transactions with respect to the Company's business. The records shall include, but not be limited to:

(i) a current alphabetized list of the names and addresses of all of the members, as well as the contribution and the share of profits and losses of each member or information from which such share can be readily derived;

(ii) a current alphabetized list of the names and addresses of all of the managers;

(iii) a copy of the Articles of Organization and all amendments thereto or restatements thereof, together with executed copies of any powers of attorney pursuant to which any certificate or amendment has been executed;

(iv) a copy of the operating agreement and any amendments thereto and any amended and restated operating agreement; and

(v) a copy of the Company's federal, state, and local income tax or information returns and reports, if any, for the three most recent fiscal years.

(b) The books and records shall be maintained in accordance with sound accounting practices and shall be available at the Company's principal office for examination by any Member or the Member's duly authorized representative at any and all reasonable times during normal business hours.

(c) Each Member shall reimburse the Company for all costs and expenses incurred by the Company in connection with the Member's inspection and copying of the Company's books and records.

8.3 Annual Accounting Period. The annual accounting period of the Company shall be its taxable year. The Company's taxable year shall be selected by the Manager, subject to the requirements and limitations of the Code.

8.4 Reports. Within seventy-five (75) days after the end of each taxable year of the Company, the Manager shall cause to be sent to each Person who was a Member at any time during the taxable year then ended an annual compilation report, prepared by the Company's independent accountants in accordance with standards issued by the American Institute of Certified Public Accountants. In addition, within seventy-five (75) days after the end of each taxable year of the Company, the Manager shall cause to be sent to each Person who was an Interest Holder at any time during the taxable year then ended, that tax information concerning the Company which is necessary for preparing the Interest Holder's income tax returns for that year. At the request of any Member holding twenty (20) percent or more of the Membership Interest, and at the Member's expense, the Manager shall cause an audit of the Company's books and records to be prepared by independent accountants for the period requested by the Member.

8.5 Tax Matters Member. The Manager shall be the Company's tax matters partner pursuant to Code Section 6231(a)(7) ("Tax Matters Member"). The Tax Matters Member shall have all powers and responsibilities provided in Code Section 6221, *et seq.* The Tax Matters Member shall keep all Members informed of all notices from government taxing authorities which may come to the attention of the Tax Matters Member. The Company shall pay and be responsible for all reasonable third party costs and expenses incurred by the Tax Matters Member in performing those duties. A Member shall be responsible for any costs incurred by the Member with respect to any tax audit or tax-related administrative or judicial proceeding against any Member, even though it relates to the Company. The Tax Matters Member shall not compromise any dispute with the Internal Revenue Service without the approval of the Members.

8.6 Tax Elections. The Manager shall have the authority to make all Company elections permitted under the Code, including, without limitation, elections of methods of depreciation and elections under Code Section 754. The decision to make or not make an election shall be at the Manager's sole and absolute discretion.

8.7 Title to Company Property.

(a) Except as provided in Section 8.7(b), all real and personal property acquired by the Company shall be acquired and held by the Company in its name.

(b) The Manager may direct that legal title to all or any portion of the Company's property be acquired or held in a name other than the Company's name. Without limiting the foregoing, the Manager may cause title to be acquired and held in its name or in the names of trustees, nominees, or straw parties for the Company. It is expressly understood and agreed that the manner of holding title to the Company's property (or any part thereof) is solely for the convenience of the Company and all of that property shall be treated as Company property.

ARTICLE 9.
GENERAL PROVISIONS

9.1 Assurances. Each Member shall execute all certificates and other documents and shall do all such filing, recording, publishing, and other acts as the Manager deems appropriate to comply with the requirements of law for the formation and operation of the Company and to comply with any laws, rules, and regulations relating to the acquisition, operation, or holding of the property of the Company.

9.2 Notifications. Any notice, demand, consent, election, offer, approval, request, or other communication (collectively a "notice") required or permitted under this Agreement must be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, return receipt requested or by facsimile transmission, provided receipt of facsimile transmission is actually acknowledged by the member or member's agent. Any notice to be given hereunder by the Company shall be given by the Manager. A notice must be addressed to a Member at the Member's last known address on the records of the Company. A notice to the Company must be addressed to the Company's principal office. A notice that is sent by mail will be deemed given three (3) business days after it is mailed. Any party may designate, by notice to all of the others, substitute addresses or addressees for notices; and, thereafter, notices are to be directed to those substitute addresses or addressees. A notice sent by facsimile is deemed given when receipt is acknowledged.

9.3 Specific Performance. The parties recognize that irreparable injury will result from a breach of any provision of this Agreement and that money damages will be inadequate to fully remedy the injury. Accordingly, in the event of a breach or threatened breach of one or more of the provisions of this Agreement, the Company as well as any party who may be injured (in addition to any other remedies which may be available to the Company or that party) shall be entitled to one or more preliminary or permanent orders (a) restraining and enjoining any act which would constitute a breach or (b) compelling the performance of any obligation which, if not performed, would constitute a breach.

9.4 Complete Agreement. This Agreement constitutes the complete and exclusive statement of the agreement among the Members with respect to the subject matter thereof. It supersedes all prior written and oral statements, including any prior representation, statement, condition, or warranty. Except as expressly provided otherwise herein, this Agreement may not be amended without the written consent of the Members holding two-thirds (2/3) or more of the Percentages then held by Members.

9.5 Applicable Law. All questions concerning the construction, validity, and interpretation of this Agreement and the performance of the obligations imposed by this Agreement shall be governed by the internal law, not the law of conflicts, of the State of New York.

9.6 Article and Section Titles. The headings herein are inserted as a matter of convenience only and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

9.7 Binding Provisions. This Agreement is binding upon, and inures to the benefit of, the parties hereto and their respective heirs, executors, administrators, personal and legal representatives, successors, and permitted assigns.

9.8 Exclusive Jurisdiction and Venue. Any suit involving any dispute or matter arising under this Agreement or relating to the organization or operation of the Company may only be brought in a United States District Court located in the State of New York or any New York State Court having jurisdiction over the subject matter of the dispute or matter. All Members hereby consent to the exercise of personal jurisdiction by any such court with respect to any such proceeding and waive any objection to venue or inconvenient forum.

9.9 Terms. Common nouns and pronouns shall be deemed to refer to the masculine, feminine, neuter, singular, and plural, as the identity of the Person may in the context require.

9.10 Separability of Provisions. Each provision of this Agreement shall be considered separable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

9.11 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

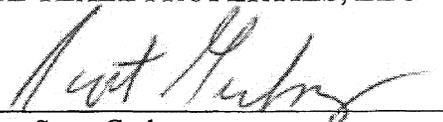
9.12 Estoppel Certificate. Each Member shall, within ten (10) days after written request by the Manager, deliver to the requesting Person a certificate stating, to the Member's knowledge, that: (a) this Agreement is in full force and effect; (b) this Agreement has not been modified except by any instrument or instruments identified in the certificate; and (c) there is no default hereunder by the requesting Person, or if there is a default, the nature and extent thereof. If the certificate is not received within that ten (10)-day period, the Manager shall execute and deliver the certificate on behalf of the requested Member, without qualification, pursuant to the power of attorney granted to the Manager.

9.13 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, constitute one and the same document. The signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

[Signature Page Follows.]

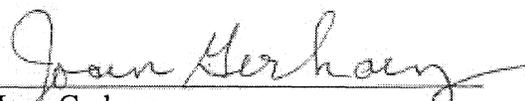
IN WITNESS WHEREOF, the parties have executed, or caused this Agreement to be executed, as of the date set forth hereinabove.

SAGE TEALL PROPERTIES, LLC

By: 
Name: Scott Gerharz
Title: Manager

MEMBERS:


Richard Gerharz


Joan Gerharz


Scott Gerharz

EXHIBIT A

<u>Member</u>	<u>Membership Percentage</u>	<u>Initial Contribution</u>
Richard Gerharz	.162338	See Company Books/Records
Joan Gerharz	.108225	See Company Books/Records
Scott Gerharz	99.729437	See Company Books/Records

Member Name, Address, Email Address and Social Security Number

Member

Richard Gerharz
Address: 214 Woodspath Rd - Liverpool NY 13090
Email Address: N/A
SS#: 082-26-7089

Joan Gerharz
Address: 214 Woodspath Road - Liverpool, NY 13090
Email Address: N/A
SS#: 074-28-6984

Scott Gerharz
Address: 5 WATERFRONT Drive, Baldwinsville, NY 13027
Email Address: Scott@gerharzequipment.com
SS#: 117-68-1650

EXHIBIT B

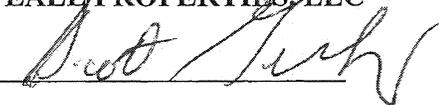
ADHERENCE AGREEMENT

The undersigned, _____, hereby acknowledges that he/she has read the Operating Agreement, dated effective as of the 21st day of August, 2018, by and among **SAGE TEALL PROPERTIES, LLC** (the "Company") and its Members attached hereto as Exhibit "A." By signing this Adherence Agreement, the undersigned hereby agrees to adhere to and be bound by the terms and conditions set forth in the Operating Agreement as if an original signatory.

By signing this Adherence Agreement, the Members of the Company acknowledge that the undersigned is a Member of the Company who upon execution of this Adherence Agreement shall be subject to and bound by the same terms and conditions, and entitled to the same rights and obligations as if an original signatory.

The parties have executed this Adherence Agreement on this ___ day of _____, 20__.

SAGE TEALL PROPERTIES, LLC

By: 
Name:
Title:

MEMBER:

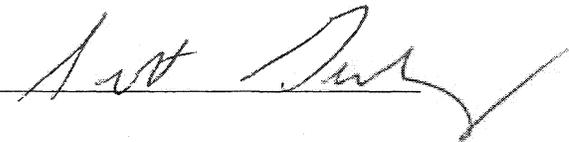


EXHIBIT "C"
RESOLUTION

**WRITTEN CONSENT OF THE MANAGER OF SAGE
TEALL PROPERTIES, LLC AUTHORIZING CERTAIN
TRANSACTIONS WITH THE CITY OF SYRACUSE
INDUSTRIAL DEVELOPMENT AGENCY.**

WHEREAS, Sage Teall Properties, LLC (the "Company") intends to undertake a certain project (the "Project") with the City of Syracuse Industrial Development Agency (the "Agency") pursuant to which the Company, as agent of the Agency, will (a) renovate the existing approximately 85,000 square foot building located on approximately 4.5 acres of improved real property at 220-22 Teall Avenue, in the City of Syracuse, New York (the "Land") for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot (the "Facility"), and (b) acquire and install in and at the Land and Facility certain furniture, fixtures and equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); and

WHEREAS, in connection with the Project, the Agency will grant certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (collectively the "Financial Assistance"); and

WHEREAS, in order to obtain the Financial Assistance, the Company will lease the Land and Facility to the Agency pursuant to a lease agreement (the "Company Lease") and will transfer an interest in the Equipment to the Agency pursuant to a bill of sale from the Company to the Agency (the "Bill of Sale"), and the Agency will simultaneously sublease the Project Facility back to the Company pursuant to a sublease agreement (the "Agency Lease"); and

WHEREAS, the Agency and the Company will also enter into a Payment in Lieu of Taxes Agreement (the "PILOT Agreement") with respect to the Project Facility, pursuant to which the Company will make certain payments in lieu of real property taxes on the Project Facility; and

WHEREAS, the Company will enter into other agreements with the Agency in connection with the Agency's Financial Assistance for the Project, including a Project Agreement, Environmental Compliance and Indemnification Agreement, and certain other documents (collectively with the Company Lease, the Bill of Sale, the Agency Lease and the PILOT Agreement, the "Company Documents"); and

WHEREAS, the Company's Manager now desires to authorize the Project and the execution, delivery and performance of the Company Documents.

NOW, THEREFORE, the undersigned, being the sole Manager of the Company, hereby consents and agrees as follows:

1. The Company is hereby authorized to undertake the Project.

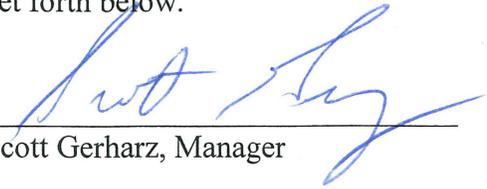
2. The Manager of the Company is hereby authorized, in the name and on behalf of the Company, to negotiate, execute, deliver and approve the Company Documents and all such further instruments, agreements, certificates and other documents, and to take all other actions on behalf of the Company, as are necessary or appropriate to complete the Project and obtain the related Financial Assistance from the Agency; and upon such execution and delivery, and assuming due execution by all other parties, same shall be binding upon the Company.

3. The Manager hereby affirms all prior action taken by the Company with respect to the Project.

[signature page follows]

IN WITNESS WHEREOF, the undersigned, being the sole Manager of the Company, has executed this Written Consent, to be effective as of the date set forth below.

Dated: 11/12, 2018



Scott Gerharz, Manager

EXHIBIT "D"
LOCAL ACCESS AGREEMENT

City of Syracuse
Industrial Development Agency

Local Access Agreement

Sage Teall Properties, LLC (the Company) understands and agrees that local labor, contractors and suppliers will be used for the construction, renovation, reconstruction and equipping of the Project unless a written waiver is first received from the Agency, and agrees to provide the information requested below as a way to provide access for local participation.

Company		Sage Teall Properties, LLC				General Contractor		Unique Development Companies Inc			
Representative for Contract Bids and Awards		Scott Gerharz				Contact		Joseph Piciucco or Maryann D'Alessio			
Address		6146 East Molloy Road				Address		2014 Grant Boulevard			
City	East Syracuse	ST	NY	Zip	13057	City	Syracuse	ST	NY	Zip	13208
Phone	315-463-0639		Fax	315-463-1939		Phone			Fax		
Email		scott@gerharzequipment.com				Email		Uniquedd1@aol.com			
Project Address		222 Teall Ave				Construction Start Date		End of November 2018			
City	Syracuse	ST	NY	Zip	13210	Occupancy Date		Approx June 2019			

Project Components – Indicate those for which bids will be sought:

Item	Estimated Value	Bid Date	Contact
Site work/Demolition	250,000	budget	
Foundation and footings	30,000	budget	
Building	173,000	budget	
Masonry	75,000	budget	
Metals	45,000	budget	
Wood/casework	125,000	budget	
Thermal/moisture proof	75,000	budget	
Doors, windows, glazing	345,000	budget	
Finishes	1,575,000	budget	
Electrical	300,000	budget	
HVAC	150,000	budget	
Plumbing	150,000	budget	
Specialties	35,000	budget	
Machinery & Equipment	15,000	budget	
Furniture and Fixtures	250,000	budget	
Utilities	85,000	budget	
Paving	280,000	budget	
Landscaping	50,000	budget	
Other (identify)	Misc 75,000	budget	

Date: 10-31-2018 _____

Company: _____ Sage Teall Properties, LLC

City of Syracuse

Industrial Development Agency

Signature: Scott Gerharz

Name: scott



BOUSQUET HOLSTEIN PLLC

110 WEST FAYETTE STREET ▪ ONE LINCOLN CENTER ▪ SUITE 1000 ▪ SYRACUSE, NEW YORK 13202 ▪ PH: 315.422.1500 ▪ FX: 315.422.3549*

November 13, 2018

LAURENCE G. BOUSQUET
PHILIP S. BOUSQUET
CECELIA R. S. CANNON
CHRISTINE WOODCOCK DETTOR
JEAN S. EVERETT **
AARON D. FRISHMAN *
DAVID A. HOLSTEIN †
EMILEE K. LAWSON HATCH ***
SUSAN R. KATZOFF
SHARON A. McAULIFFE
L. MICHA ORDWAY, JR.
STEVEN A. PAQUETTE
J.P. PARASCHOS
PAUL M. PREDMORE
JAMES L. SONNEBORN
RYAN S. SUSER
THOMAS E. TAYLOR **
JOHN L. VALENTINO
ROBERT K. WEILER
JOSHUA S. WERBECK
EVA K. WOJTALEWSKI ****

City of Syracuse Industrial Development Agency
201 East Washington Street, 6th Floor
Syracuse, New York 13202

Sage Teall Properties, LLC
6146 East Molloy Road
East Syracuse, New York 13057
Attn: Scott Gerharz, Manager

Re: City of Syracuse Industrial Development Agency
Lease/Leaseback Transaction
Gerharz Equipment Project

Ladies and Gentlemen:

We have acted as counsel to the City of Syracuse Industrial Development Agency (the “*Agency*”) in connection with a project (the “*Project*”) undertaken by the Agency at the request of Sage Teall Properties, LLC (the “*Company*”) consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the

OF COUNSEL:

VIRGINIA A. HOVEMAN
KAVITHA JANARDHAN *****
GARY J. LAVINE **
BRYN LOVEJOY-GRINNELL
SIDNEY L. MANES
JANA K. McDONALD †
ANNA V. PUTINTSEVA
CATERINA A. RANIERI
ANAS SALEH
HARRISON V. WILLIAMS, JR.

ASSOCIATES:

CAMERON T. BERNARD †
REBECCA R. COHEN ***
GEORGIA G. CRINNIN
GREGORY D. ERIKSEN
COLLEEN M. GIBBONS
GWEN Z. GOU
NATALIE P. HEMPSON-ELLIOTT
CASEY A. JOHNSON
IRENE K. KABUNDUH
JULIA J. MARTIN
AIDAN C. MITCHELL-EATON
KEVIN M. SAYLES
MICHAEL W. TYSZKO

ALSO ADMITTED TO CO BAR *
ALSO ADMITTED TO DC BAR **
ALSO ADMITTED TO MA ***
ALSO ADMITTED TO CA BAR ****
ALSO ADMITTED TO IL BAR *****
ALSO ADMITTED TO FL BAR †
ALSO ADMITTED TO DC, FL & NJ BAR †
ALSO ADMITTED TO DC, MA & PA BAR ††
NOT FOR SERVICE OF PROCESS ◆



November 13, 2018

Page 2

Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company has also requested that the Agency grant “financial assistance” (as defined in Section 854(14) of the New York General Municipal Law) (the “*Financial Assistance*”) to the Project in the form of exemptions from real property tax, as evidenced by a payment in lieu of taxes agreement (the “*PILOT Agreement*”) dated as of November 1, 2018 between the Agency and the Company and State and local sales and use taxation.

Capitalized terms used herein which are not otherwise defined shall have the meanings ascribed to them in the Agency Lease.

As counsel to the Agency, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates, and documents as we have deemed necessary or appropriate for the purposes of the opinion expressed below. In such examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to the original documents of all documents submitted to us as copies, and have assumed the accuracy and truthfulness of the factual information, expectations, conclusions, representations, warranties, covenants and opinions of the Company and its counsel and representatives as set forth in the various documents executed and delivered by them or any of them and identified in the Closing Memorandum in connection with the Project.

We are of the opinion that:

1. The Agency is a duly organized and existing corporate governmental agency constituting a public benefit corporation of the State of New York.
2. The Agency is duly authorized and empowered by law to acquire, construct, reconstruct, renovate and equip the Project, to lease the Land and the Facility from the Company pursuant to the Company Lease; to accept an interest in the Equipment pursuant to the Bill of Sale; to sublease the Project Facility back to the Company pursuant to the Agency Lease and to appoint the Company as its agent for completion of the Project.
3. The Agency Documents have been authorized by and lawfully executed and delivered by the Agency and (assuming the authorization, execution, and delivery by the other respective parties thereto) are valid and legally binding obligations enforceable against the Agency in accordance with their respective terms.



November 13, 2018
Page 3

In rendering this opinion, we advise you of the following:

The enforceability of the Agency Documents may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium, or similar law or enactment now or hereafter enacted by the State of New York or the Federal government affecting the enforcement of creditors' rights generally and the general principles of equity, including limitations on the availability of the remedy of specific performance which is subject to discretion of the court.

This opinion is rendered to the addressees named above and their successors and/or assigns, and may not be relied upon by any other person without our prior, express written consent.

Very truly yours,

BOUSQUET HOLSTEIN PLLC

Bousquet Holstein PLLC

November 13, 2018

Sage Teall Properties, LLC
6146 East Molloy Road
East Syracuse, New York 13057
Attn: Scott Gerharz, Manager

City of Syracuse Industrial Development Agency
201 East Washington Street, 6th Floor
Syracuse, New York 13202

Re: City of Syracuse Industrial Development Agency
Lease/Leaseback Transaction
Gerharz Equipment Project

Ladies and Gentlemen:

We have acted as counsel to Sage Teall Properties, LLC (the “*Company*”) in connection with a certain project (the “*Project*”) undertaken by the City of Syracuse Industrial Development Agency (the “*Agency*”) at the Company’s request. The Project consists of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Agency has acquired an interest in the Project Facility pursuant to that certain Company Lease Agreement dated as of November 1, 2018 (the “*Company Lease*”) and an interest in the Equipment pursuant to a bill of sale dated as of November 1, 2018 (the “*Bill of Sale*”) and the

Sage Teall Properties, LLC
City of Syracuse Industrial Development Agency
November 13, 2018
Page 2

Agency will sublease the Project Facility back to the Company pursuant to an Agency Lease Agreement dated as of November 1, 2018 (the "**Agency Lease**"). Capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Agency Lease.

The Company has also requested that the Agency grant the Financial Assistance to the Project. The Agency and the Company entered into a Payment in Lieu of Taxes Agreement dated November 1, 2018 (the "**PILOT Agreement**") with respect to the Project.

In that regard, we have examined the Project Agreement, the Company Lease, the Agency Lease, the Bill of Sale, the Mortgage, the Environmental Compliance, the Indemnification Agreement, the PILOT Agreement and all other documents both identified in the Closing Memorandum, defined in the Agency Lease and to which the Company is a party in connection with the Project (collectively, the "**Company Documents**").

We have also examined corporate documents and records of the Company and made such investigation of law and/or fact that we deem necessary or advisable in order to render this opinion. For purposes of such examination, we have assumed the genuineness of all certificates and the authenticity of all documents submitted to us as original counterparts or as certified or photostatic copies; the genuineness of all signatures of all parties to the Company Documents other than on behalf of the Company; and the due authorization, execution and delivery of the Company Documents by and the enforceability thereof against all parties thereto other than the Company.

As to questions of fact material to our opinion, we have relied upon the representations and warranties made by the Company in the Company Documents and upon one or more certificates of officers of the Company. Whenever the phrase "to the best of our knowledge" is used in this opinion, it refers to actual knowledge of members of this firm obtained from our representation of the Company and inquiries of responsible officers of the Company made in connection with this opinion, but no further investigation or review has been conducted.

Based upon the foregoing, it is our opinion that:

1. The Company is a validly existing New York limited liability company and possesses full corporate power and authority to own its property, to conduct its business, to execute and deliver the Company Documents, and to carry out and perform its obligations thereunder.
2. The execution, delivery and performance of the Company Documents have been duly authorized by the Company and the Company Documents have been duly executed and delivered by an Authorized Representative of the Company.

Sage Teall Properties, LLC
City of Syracuse Industrial Development Agency
November 13, 2018
Page 3

3. The Company Documents constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except as enforceability may be limited by applicable bankruptcy and insolvency laws and laws affecting creditors' rights generally and to the extent that the availability of the remedy of specific performance or injunctive relief or other equitable remedies is subject to the discretion of the court before which any proceeding therefor may be brought.

4. To the best of our knowledge, in reliance on the certificates and opinions specified herein, the execution and delivery by the Company of the Company Documents, the execution and compliance with the provisions of each and the consummation of the transactions contemplated therein do not and will not constitute a breach of, or default under the Company's Articles of Organization or Operating Agreement or any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Company or any of its Property may be bound, for which a valid consent has not been secured; nor is any approval or any action by any governmental authority required in connection with the execution, delivery and performance thereof by the Company.

5. To the best of our knowledge, in reliance on the certificates and opinions specified herein, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened against, or affecting the Company wherein an unfavorable decision, ruling or finding would in any way adversely affect in a material fashion the validity or enforceability of the Company Documents.

Our examination of law relevant to matters herein is limited to the laws of the State of New York and also the Federal law, where appropriate, and we express no opinion as to matters governed by the laws of any other state or jurisdiction.

This opinion is only for the benefit of and may be relied upon only by the Agency, its successors and assigns. The opinions set forth in this letter are limited to those expressly stated and no other opinion may be inferred nor is any implied. No other use of this opinion may be made without prior written consent. This opinion is given as of the date hereof and we undertake no obligation, and hereby disclaim any obligation, to update or supplement this opinion in response to a subsequent change in the law or future events affecting the documents identified in this letter.

Very truly yours,

Barbara Schwab & Co., PLLC

CLOSING MEMORANDUM

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

GERHARZ EQUIPMENT PROJECT

DATE AND TIME OF PRE-CLOSING: November 12, 2018

DATE OF CLOSING: November 13, 2018

PLACE OF CLOSING: Bousquet Holstein PLLC
110 West Fayette Street
One Lincoln Center, Suite 1000
Syracuse, New York 13202

I. Action Taken Prior to Closing

At the request of Sage Teall Properties, LLC (the “*Company*”), the City of Syracuse Industrial Development Agency (the “*Agency*”), a public benefit corporation organized under the laws of the State of New York, has undertaken a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in approximately 4.5 acres of improved real property located at 220-22 Teall Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the renovation of an existing approximately 85,000 square foot building for use in the wholesale and retail sale of foodservice equipment, supplies and design solutions primarily to restaurants and food service operators, including but not limited to the installation of a new roof, lights, windows, HVAC, painting, landscaping and resurfacing of parking lot, all located on the Land (the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from real property tax, State and local sales and use tax and mortgage recording tax (in accordance with Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, reconstruction, renovation, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company also requested that the Agency appoint the Company as its agent for purposes of completing the Project and the granting of certain Financial Assistance.

The Company is, or will be at the time of closing, the owner of the Project Facility.

The Agency will acquire a leasehold interest in the Land and Facility from the Company pursuant to a Company Lease Agreement dated as of November 1, 2018 (the "**Company Lease**"), between the Company, as landlord and the Agency, as tenant; and an interest in the Equipment pursuant to a bill of sale from the Company dated as of November 1, 2018 (the "**Bill of Sale**"). The Agency will sublease the Project Facility back to the Company, pursuant to an Agency Lease Agreement dated as of November 1, 2018 (the "**Agency Lease**") between the Agency, as sublessor and the Company, as sublessee. Capitalized terms used herein and not otherwise defined shall have the meaning given to such terms in Exhibit "C" to the Agency Lease.

Among the actions taken by the Agency with respect to the Project prior to Closing were the following:

- | | |
|-----------------|--|
| June 18, 2018 | The Company submitted an application for financial assistance for the project. |
| July 17, 2018 | A resolution determining that the acquisition, construction and equipping of a mixed-use project constitutes a project; describing the financial assistance in connection therewith; and authorizing a public hearing (the " Public Hearing Resolution "). |
| July 26, 2018 | Notice of the Public Hearing was mailed to the chief executive officers of the affected tax jurisdictions pursuant to Section 859-a of the Act. |
| July 26, 2018 | Notice of relocation was given pursuant to Section 859-a(5)(d) of the General Municipal Law of the State of New York. |
| July 31, 2018 | Notice of the Public Hearing was published in the <u>Post-Standard</u> pursuant to Section 859-a of the Act. |
| August 21, 2018 | The Agency conducted the Public Hearing pursuant to Section 859-a of the Act. |
| August 21, 2018 | A resolution classifying a certain project as an Unlisted Action pursuant to the State Environmental Quality Review Act, declaring the Agency lead agency for purposes of an uncoordinated review thereunder and determining that the Project will not have a significant effect on the environment (the " SEQRA Resolution "). |
| August 21, 2018 | A resolution authorizing the undertaking of the acquisition, acquisition, renovation, equipping and completion of a commercial facility; appointing the Company agent of the Agency for the purpose of the acquisition, renovation, equipping and completion |

of the Project Facility and authorizing the execution and delivery of an agreement between the Agency and the Company (the "**Inducement Resolution**").

August 21, 2018

A resolution approving a payment in lieu of tax schedule and authorizing the execution and delivery of certain documents by the Agency in connection with the Project (the "**PILOT Resolution**").

August 21, 2018

A resolution authorizing the execution and delivery of certain documents by the agency at the request of the Company (the "**Final Approving Resolution**").

II. Action To Be Taken At Closing

The following documents, or copies thereof, are to be delivered (except as indicated) to the Agency (A), Agency's Counsel (AC), the Company (C), Company's Counsel (CC), Lender's Counsel (LC) as follows:

A.	Basic Documents	Responsible Party	Signatories
1.	Project Agreement	AC	C, A
2.	Company Lease Agreement	AC	C, A
3.	Memorandum of Company Lease Agreement with TP-584	AC	C, A
4.	Bill of Sale		
5.	Agency Lease Agreement	AC	C, A
6.	Memorandum of Agency Lease Agreement with Form TP-584	AC	C, A
7.	Company Certification re: Local Labor Policy	AC	C
8.	Certificates of casualty, liability, workers' compensation and other required insurance	AC	
9.	Environmental Compliance and Indemnification Agreement	AC	C
10.	Closing Receipt	AC	C, A
11.	Sales Tax Exemption Letter	AC	A
12.	Form ST-60 indicating appointment of the Company to act as the agent of the Agency	AC	A
13.	PILOT Agreement	CC	A, C
14.	412 a	CC	A
15.	Mortgage	LC	C, A
16.	UCC-1 Financing Statement(s)	LC	
17.	Survey	CC	

B. Items To Be Delivered By The Agency

- | | | |
|--|----|----------|
| 1. General Certificate of the Agency relating to incumbency and signatures of officers, execution and delivery of Agency Documents to which it is a party, no litigation and continued existence, with the following items included as exhibits: | AC | A |
| Exhibit "A" - Chapter 641 of the Laws of 1979 of the State of New York, as amended | A | |
| Exhibit "B" - Certificate of Establishment of the Agency and Certificates of appointment of current members | A | |
| Exhibit "C" - By-laws | A | |
| Exhibit "D" - Public Hearing Resolution | AC | |
| Exhibit "E" - Notice of Public Hearing with evidence of publication and copies of letters to affected tax jurisdictions | AC | |
| Exhibit "F" - Relocation Letter | AC | |
| Exhibit "G" - SEQRA Resolution | AC | |
| Exhibit "H" - Inducement Resolution | AC | |
| Exhibit "I" - Amended PILOT Resolution | AC | |
| Exhibit "J" - Final Approving Resolution | AC | |
| Exhibit "K" - Retail Letter | AC | A, Mayor |
| 2. Mortgage Recording Tax Affidavit | AC | A |

C. Items To Be Delivered By The Company

- | | | |
|---|----|---|
| 1. General Certificate of the Company relating to capacity and signatures of officers, execution and delivery of the Documents to which it is a party, no litigation and approval, with the following items included as exhibits: | AC | C |
| Exhibit "A" - Articles of Organization | C | |
| Exhibit "B" - Operating Agreement | C | C |

Exhibit "C" - Company Resolution	C	
Exhibit "D" - Local Access Agreement	C	
D. Opinions of Counsel	C	
1. Opinion of Bousquet Holstein PLLC, counsel to the Agency, addressed to the Company and the Agency	AC	AC
2. Opinion of Bond Schoeneck & King PLLC counsel to the Company, addressed to the Agency and the Company.	AC	CC

III. Action To Be Required Concurrently With Or After Closing

Memorandum of Company Lease Agreement, Memorandum of Agency Lease Agreement and the Mortgage are to be filed with the Onondaga County Clerk and the UCC-1 Financing Statement(s) are to be filed as appropriate under the Uniform Commercial Code.

IV. Post-Closing

Scan copy of Local Access Agreement to SIDA.

SCHEDULE "A"

PERSONS APPEARING

For the Agency:	City of Syracuse Industrial Development Agency Honora Spillane, Executive Director
For the Company:	Sage Teall Properties, LLC Scott Gerharz, Manager
Company Counsel:	Bond, Schoeneck & King PLLC Kevin Pole, Esq.
For the Lender:	NBT Bank
Lender's counsel:	Barclay Damon LLP F. Paul Vellano, Jr.
Agency's Counsel:	Bousquet Holstein PLLC Susan R. Katzoff, Esq.