
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

SYRACUSE 727, LLC

TRANSCRIPT OF PROCEEDINGS

CLOSING DATE: AUGUST 10, 2017

(CAMPUS PLAZA PROJECT)

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

SYRACUSE 727, LLC

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PROJECT AGREEMENT

THIS PROJECT AGREEMENT (the “*Project Agreement*”), made as of August 1, 2017, 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, 7th Floor, Syracuse, New York 13202 (the “*Agency*”), **SYRACUSE 727 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 270 Sylvan Avenue, Englewood Cliffs, New Jersey 07632 (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 dated December 28, 2016 (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 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the “*Existing Building*”) located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the

partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 February 28, 2017 (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; and (b) an exemption from mortgage recording tax; (collectively, the sales and use tax exemption benefit and the mortgage recording tax benefit are hereinafter 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 **\$18,700,000**; and therefore, the value of the State and local sales and use tax exemption benefits authorized and approved by the Agency cannot exceed **\$1,496,000**; and (ii) the mortgage recording tax exemption amount shall be approximately **\$217,500** (as limited by Section 874 of the General Municipal Law). There are no real property tax abatement benefits to be provided to the Company; 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 August 1, 2017 (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 from the Company (the “*Bill of Sale*”); 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 August 1, 2017 (the “*Agency Lease*”); 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 and in the Resolutions; and

WHEREAS, in order to define the obligations of the Company regarding its ability to utilize the Agency's sales and use tax exemption benefit as agent of the Agency to acquire, construct, renovate, equip and complete the Project Facility and to undertake the Project and to benefit from the mortgage recording tax exemption, 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 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 that the Agency is entering into the Company Lease, Agency Lease and this Project Agreement 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. The Company is not receiving an exemption from real property taxes from the Agency; and notwithstanding the Agency's interest in the Project Facility, the Company shall pay real property taxes as if privately owned.

ARTICLE III

SALES AND USE TAX EXEMPTION

Section 3.01. Scope of Agency. The Company agrees to limit its activities as agent 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 January 31, 2019, 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 in Section 3.03(b) hereof 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 721-723, 727-729 South Crouse 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 acquisition of the Equipment is effected in accordance with the terms and conditions set forth in the Project Agreement dated as of August 1, 2017 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(e) 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 **\$29,000,000**, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed **\$217,500**.

(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: CAMPUS PLAZA PROJECT/SYRACUSE 727 LLC PROJECT, 721-723, 727-729 South Crouse Avenue, IDA Project No.: 31021708.

(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 1 and 2 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 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 the Sub-Agent Agreement until the expiration or termination of the general contractor's employment by the Company, 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. 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 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 continuing for a five (5) year period following completion of the Project (the "**Term**"):

(a) The total investment actually made with respect to the Project at the Project's completion date shall equal to or exceed \$34,442,000 (which represents the product of 85% multiplied by \$40,520,000, being the total project cost as stated in the Company's Application for Financial Assistance (the "**Investment Commitment**")).

(b) At least eighteen (18) 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 sixty (60) new FTEs (the "**New FTEs**") at the Project Facility within the first five (5) years following completion of the Project Facility. The Company covenants and agrees to create 85% of the New FTEs set forth in each of the first five (5) years following completion of the Project Facility as of and in the years set forth in the Application. 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, 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 "A"** 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.

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 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.

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, 7th Floor
Syracuse, New York 13202
Attn: Chairman

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

If to the Company: Syracuse 727 LLC
c/o Rosen Property Group LLC
270 Sylvan Avenue
Englewood Cliffs, New Jersey 07632
Attn: Brian Rosen

With a copy to: Robert Smith, Esq.
Costello, Cooney and Fearon, PLLC
500 Plum Street, Suite 300
Syracuse, New York 13204

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.

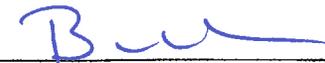
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IN WITNESS WHEREOF, the parties hereto have executed this Project Agreement as of the day and year first above written.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
William M. Ryan, Chairman

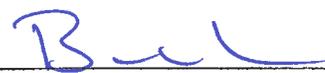
SYRACUSE 727 LLC

By: 
Brian Rosen, Authorized Representative

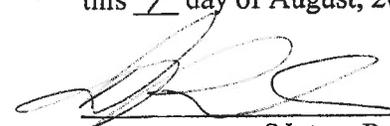
STATE OF NEW JERSEY)
COUNTY OF BERGEN) ss.:

BRIAN ROSEN, being first duly sworn, deposes and says:

1. That I am an Authorized Representative of Syracuse 727 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 7th day of August, 2017.


(Notary Public)

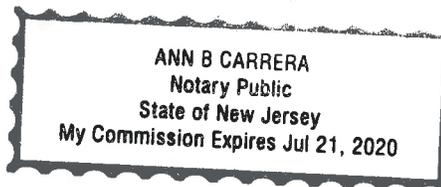


EXHIBIT A

FORM OF ANNUAL REPORTING QUESTIONNAIRE

SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
201 East Washington Street, 7th 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:

Full Time Equivalent (FTE) Jobs Created and Retained – [year]

- # of Current FTE Employees as of [closing date]
- # of FTE Jobs Created during [year]
- # of FTE Jobs Retained during [year]
- # of FTE Construction Jobs Created during [year]

Comments:

Signature

Print Name

Title

Date

2

SYRACUSE 727 LLC

AND

**CITY OF SYRACUSE
INDUSTRIAL DEVELOPMENT AGENCY**

COMPANY LEASE AGREEMENT

DATED AS OF AUGUST 1, 2017

COMPANY LEASE AGREEMENT

THIS COMPANY LEASE AGREEMENT (the “*Company Lease*”), made and entered into as of August 1, 2017, by and between **SYRACUSE 727 LLC** (the “*Company*”), a limited liability company organized under the laws of the State of New York with an office at 270 Sylvan Avenue, Englewood Cliffs, New Jersey 07632 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, 7th 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 February 28, 2017, agreed, at the request of the Company to undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the “*Existing Building*”) located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements,

including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 August 1, 2017, 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.

(g) 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).

(h) 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.

(i) 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.

(j) The Company acknowledges, restates and affirms the obligations, representations, warranties and covenants of the Agency Lease, including but not limited to those set forth in Sections 2.2 and 11.12 thereof.

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, 7th Floor
Syracuse, New York 13202
Attn: Chairman

With copies to:

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

(b) To the Company:

Syracuse 727 LLC
c/o Rosen Property Group LLC
270 Sylvan Avenue
Englewood Cliffs, New Jersey 07632
Attn: Brian Rosen

With a copy to:

Robert Smith, Esq.
Costello, Cooney and Fearon, PLLC
500 Plum Street, Suite 300
Syracuse, New York 13204

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.

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.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

SYRACUSE 727 LLC

By: 
Brian Rosen, Authorized Representative

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

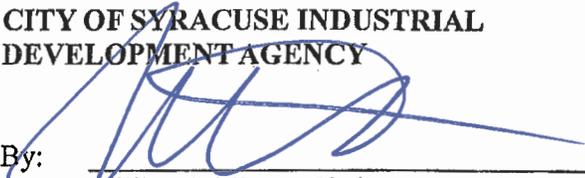
By: 
William M. Ryan, Chairman

EXHIBIT A
DESCRIPTION OF REAL PROPERTY

First American Title Insurance Company

Title Number: 835208(F-NY-CR-OF)

**SCHEDULE A
DESCRIPTION**

The land referred to in this Certificate of Title is described as follows:

AS TO PARCEL 1:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Lot No. 18 of Block No. 369 in said City, being more particularly described as follows:

BEGINNING at a point in the easterly boundary of South Crouse Avenue, said point being South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 132 feet from the intersection of the Southerly boundary of East Adams Street with said easterly boundary of South Crouse Avenue, said point also being the intersection of the division line between Lot No. 16 on the North and said Lot No. 18 on the South with the said easterly boundary of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 40.00 feet to its intersection with the division line between Lot No. 19 on the South and said Lot No. 18 on the North;

THENCE South 89 degrees 54' 00" East, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 18 and 19 a distance of 148.50 feet to a point therein;

THENCE North 00 degrees 29' 30" East, parallel with said easterly boundary of South Crouse Avenue a distance of 40.0 feet to a point in the division line between Lots Nos. 12, 13 and 16 on the North and said Lot No. 18 on the South;

THENCE North 89 degrees 54' 00" West, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 12, 13 and 16 and Lot No. 18, a distance of 148.50 feet to the point of BEGINNING.

AS TO PARCEL 2:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being a part of Block No. 369 of said City, being bounded and described as follows:

Commencing at a point in the easterly line of South Crouse Avenue that is 172 feet South from Adams Street as measured along the easterly line of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said easterly line of South Crouse Avenue a distance of 47.5 feet to a point;

THENCE South 89 degrees 54' 00" East, along the southerly line of premises conveyed to Hugh C. Gregg by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 239.99 feet to the easterly line of farm Lot 201;

THENCE continuing South 89 degrees 54' 00" East, a distance of 90.00 feet to the easterly line of premises conveyed to Hugh C. Gregg by Shattuck realty corporation by deed dated December 21, 1945, and recorded in the Onondaga County Clerk's Office December 27, 1945, in Book 1182 of deeds, Page 444 & C;

THENCE North 3 degrees 39' 20" West, along the easterly line of the premises described in said deed from Shattuck realty corporation, a distance of 42.52 feet to the Northeast corner of said parcel conveyed to Gregg

**SCHEDULE A
DESCRIPTION
(Continued)**

Title Number: 835208(F-NY-CR-OF)

by the aforesaid deed;

THENCE North 89 degrees 54' 00" West, along the northerly line of the premises conveyed by Shattuck realty corporation to Gregg, 4.83 feet to a point, which is the Southeast corner of premises conveyed to Hugh Carleton Gregg by Leona M. Barnes, by deed dated June 20, 1946 and recorded in the Onondaga County Clerk's Office June 21, 1946, in Book 1214 of deeds, Page 552 & C;

THENCE North 0 degrees 29' 30" East, along the easterly line of said parcel described in said deed from Leona M. Barnes to Gregg, 45.1 feet to the Northeast corner thereof;

THENCE South 89 degrees 54' 00" West, along the northerly line of said parcel conveyed by said Leona M. Barnes to said Gregg, a distance of 88.43 feet to the West line of farm Lot 200;

THENCE continuing South 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins, by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 85.14 feet to a point;

THENCE South 0 degrees 29' 30" West, a distance of 40 feet along the boundary of the premises described in the last mentioned deed to a point;

THENCE North 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins by deed dated October 20, 1950 and recorded in the Onondaga County Clerk's Office on that day in Book 1474 of deeds, Page 104, a distance of 148.5 feet to the point of BEGINNING.

OVERALL DESCRIPTION:

ALL that certain plot, piece or parcel of land, situate, lying and being in The City of Syracuse, County of Onondaga and State of New York being bounded and described as follows:

BEGINNING at a point on the easterly side of South Crouse Avenue distant 132 feet southerly from the intersection of the easterly side of South Crouse Avenue with the southerly side of Adams Street;

RUNNING THENCE South 00 degrees 29 minutes 30 seconds West, along the easterly side of South Crouse Avenue a distance of 87.5 feet;

THENCE South 89 degrees 54 minutes 00 seconds East a distance of 329.99 feet;

THENCE North 03 degrees 39 minutes 20 seconds West a distance of 42.52 feet;

THENCE North 89 degrees 52 minutes 00 seconds West a distance of 4.83 feet;

THENCE North 00 degrees 29 minutes 30 seconds East a distance of 45.1;

THENCE North 89 degrees 54 minutes 00 seconds West a distance of 322.08 feet to the easterly side of South Crouse Avenue at the point or place of BEGINNING.

3

Lisa Dell, County Clerk
401 Montgomery Street
Room 200
Syracuse, NY 13202
(315) 435-2226

Onondaga County Clerk Recording Cover Sheet

Received From :
KV SETTLEMENT LLC
39 W 37TH ST FL 7
NEW YORK, NY 10018

Return To :
KV SETTLEMENT LLC
39 W 37TH ST FL 7
NEW YORK, NY 10018

First PARTY 1

SYRACUSE 727 LLC

First PARTY 2

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Index Type : Land Records

Instr Number : 2017-00032699

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 No Tax District, in the County of Onondaga, New York

Real Estate Transfer Tax

RETT # : 1961

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) : 09/18/2017

At (Recorded Time) : 12:19:44 PM



Doc ID - 0251720400007

Lisa Dell
Lisa Dell, County Clerk



6

4635208

S:049

B:08

L:14.0,15.0

**MEMORANDUM OF
COMPANY LEASE AGREEMENT**

NAME AND ADDRESS OF LESSOR: Syracuse 727 LLC
270 Sylvan Avenue
Englewood Cliffs, New Jersey 07632

NAME AND ADDRESS OF LESSEE: City of Syracuse Industrial Development Agency
201 East Washington Street, 7th 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 August 1, 2017.

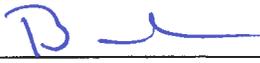
TERM OF COMPANY LEASE AGREEMENT:

The term of this Company Lease shall commence on the date hereof and continue in full force and effect until the earlier of: (1) January 31, 2019; or (2) sixty days after the issuance of a certificate of occupancy by the City of Syracuse, New York, unless earlier terminated as provided in that certain Agency Lease dated of even date herewith between the same parties hereto.

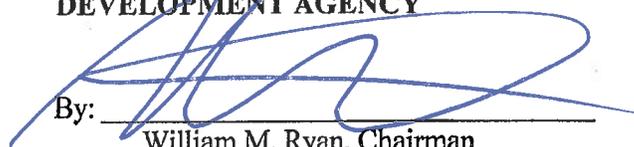
KV Settlement LLC
39 W 37th St FL7
New York NY 10018

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 1st day of August, 2017.

SYRACUSE 727 LLC

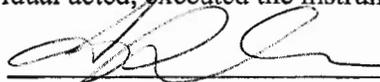
By: 
Brian Rosen, Authorized Representative

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
William M. Ryan, Chairman

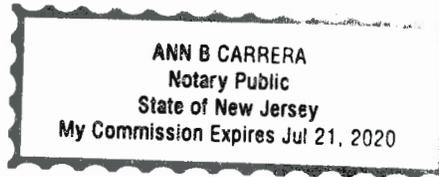
STATE OF NEW JERSEY)
) SS.:
COUNTY OF BERGEN)

On the *7th* day of August, 2017, before me, the undersigned, personally appeared **Brian Rosen**, 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 this *8th* day of August, 2017, before me, the undersigned, personally appeared **William M. Ryan**, 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
LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 *18*

EXHIBIT "A"

LEGAL DESCRIPTION OF THE LAND

First American Title Insurance Company

Title Number: 835208(F-NY-CR-OF)

**SCHEDULE A
DESCRIPTION**

The land referred to in this Certificate of Title is described as follows:

AS TO PARCEL 1:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Lot No. 18 of Block No. 369 in said City, being more particularly described as follows:

BEGINNING at a point in the easterly boundary of South Crouse Avenue, said point being South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 132 feet from the intersection of the Southerly boundary of East Adams Street with said easterly boundary of South Crouse Avenue, said point also being the intersection of the division line between Lot No. 16 on the North and said Lot No. 18 on the South with the said easterly boundary of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 40.00 feet to its intersection with the division line between Lot No. 19 on the South and said Lot No. 18 on the North;

THENCE South 89 degrees 54' 00" East, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 18 and 19 a distance of 148.50 feet to a point therein;

THENCE North 00 degrees 29' 30" East, parallel with said easterly boundary of South Crouse Avenue a distance of 40.0 feet to a point in the division line between Lots Nos. 12, 13 and 16 on the North and said Lot No. 18 on the South;

THENCE North 89 degrees 54' 00" West, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 12, 13 and 16 and Lot No. 18, a distance of 148.50 feet to the point of BEGINNING.

AS TO PARCEL 2:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being a part of Block No. 369 of said City, being bounded and described as follows:

Commencing at a point in the easterly line of South Crouse Avenue that is 172 feet South from Adams Street as measured along the easterly line of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said easterly line of South Crouse Avenue a distance of 47.5 feet to a point;

THENCE South 89 degrees 54' 00" East, along the southerly line of premises conveyed to Hugh C. Gregg by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 239.99 feet to the easterly line of farm Lot 201;

THENCE continuing South 89 degrees 54' 00" East, a distance of 90.00 feet to the easterly line of premises conveyed to Hugh C. Gregg by Shattuck realty corporation by deed dated December 21, 1945, and recorded in the Onondaga County Clerk's Office December 27, 1945, in Book 1182 of deeds, Page 444 & C;

THENCE North 3 degrees 39' 20" West, along the easterly line of the premises described in said deed from Shattuck realty corporation, a distance of 42.52 feet to the Northeast corner of said parcel conveyed to Gregg

**SCHEDULE A
DESCRIPTION
(Continued)**

Title Number: 835208(F-NY-CR-OF)

by the aforesaid deed;

THENCE North 89 degrees 54' 00" West, along the northerly line of the premises conveyed by Shattuck realty corporation to Gregg, 4.83 feet to a point, which is the Southeast corner of premises conveyed to Hugh Carleton Gregg by Leona M. Barnes, by deed dated June 20, 1946 and recorded in the Onondaga County Clerk's Office June 21, 1946, in Book 1214 of deeds, Page 552 & C;

THENCE North 0 degrees 29' 30" East, along the easterly line of said parcel described in said deed from Leona M. Barnes to Gregg, 45.1 feet to the Northeast corner thereof;

THENCE South 89 degrees 54' 00" West, along the northerly line of said parcel conveyed by said Leona M. Barnes to said Gregg, a distance of 88.43 feet to the West line of farm Lot 200;

THENCE continuing South 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins, by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 85.14 feet to a point;

THENCE South 0 degrees 29' 30" West, a distance of 40 feet along the boundary of the premises described in the last mentioned deed to a point;

THENCE North 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins by deed dated October 20, 1950 and recorded in the Onondaga County Clerk's Office on that day in Book 1474 of deeds, Page 104, a distance of 148.5 feet to the point of BEGINNING.

OVERALL DESCRIPTION:

ALL that certain plot, piece or parcel of land, situate, lying and being in The City of Syracuse, County of Onondaga and State of New York being bounded and described as follows:

BEGINNING at a point on the easterly side of South Crouse Avenue distant 132 feet southerly from the intersection of the easterly side of South Crouse Avenue with the southerly side of Adams Street;

RUNNING THENCE South 00 degrees 29 minutes 30 seconds West, along the easterly side of South Crouse Avenue a distance of 87.5 feet;

THENCE South 89 degrees 54 minutes 00 seconds East a distance of 329.99 feet;

THENCE North 03 degrees 39 minutes 20 seconds West a distance of 42.52 feet;

THENCE North 89 degrees 52 minutes 00 seconds West a distance of 4.83 feet;

THENCE North 00 degrees 29 minutes 30 seconds East a distance of 45.1;

THENCE North 89 degrees 54 minutes 00 seconds West a distance of 322.08 feet to the easterly side of South Crouse Avenue at the point or place 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	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantor) Syracuse 727 LLC	Social security number
<input type="checkbox"/> Individual	Mailing address	Social security number
<input type="checkbox"/> Corporation	270 Sylvan Avenue	
<input type="checkbox"/> Partnership	City State ZIP code	Federal EIN
<input type="checkbox"/> Estate/Trust	Englewood Cliffs NJ 07632	84-43459591
<input type="checkbox"/> Single member LLC	Single member's name if grantor is a single member LLC (see instructions)	Single member EIN or SSN
<input checked="" type="checkbox"/> Other		
Grantee/Transferee	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantee) City of Syracuse Industrial Development Agency	Social security number
<input type="checkbox"/> Individual	Mailing address	Social security number
<input type="checkbox"/> Corporation	201 East Washington Street, 7th Floor	
<input type="checkbox"/> Partnership	City State ZIP code	Federal EIN
<input type="checkbox"/> Estate/Trust	Syracuse NY 13202	52-1380308
<input type="checkbox"/> Single member LLC	Single member's name if grantee is a single member LLC (see instructions)	Single member EIN or SSN
<input checked="" type="checkbox"/> Other		

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
049-08-14.0 049-08-15.0	311500	721-723, 727-729 South Crouse Ave.	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: 30px;">08</td> <td style="width: 30px;">01</td> <td style="width: 30px;">2017</td> </tr> <tr> <td>month</td> <td>day</td> <td>year</td> </tr> </table>	08	01	2017	month	day	year	Percentage of real property conveyed which is residential real property _____ % (see instructions)
08	01	2017							
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 checked="" 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	Date received	Transaction number
	Schedule B., Part I \$ _____ Schedule B., Part II \$ _____		

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) <input checked="" type="checkbox"/> Exemption claimed	1.		0	00
2	Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)	2.		0	00
3	Taxable consideration (subtract line 2 from line 1)	3.		0	00
4	Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3	4.		0	00
5	Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)	5.		0	00
6	Total tax due* (subtract line 5 from line 4)	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)	1.		
2	Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A) ...	2.		
3	Total additional transfer tax due* (multiply line 2 by 1% (.01))	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.

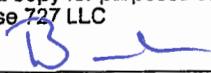
Other (attach detailed explanation).

- 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.

Syracuse 727 LLC

 _____ Brian Rosen Grantor signature	Authorized Representative _____ Title	 _____ William M. Ryan Grantee signature	City of Syracuse Industrial Development Agency Chairman _____ 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 _____ to _____ (see instructions).
Date Date
- 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

4

BILL OF SALE TO AGENCY

SYRACUSE 727 LLC, a limited liability company organized under the laws of the State of New York with an office to conduct business at 270 Sylvan Avenue, Englewood Cliffs, New Jersey 07632 (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, 7th 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 now owned or hereafter acquired by the Company in connection with the Project Facility located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York, as described in the Agency Lease entered between the Agency and the Company dated as of August 1, 2017 (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 August, 2017.

SYRACUSE 727 LLC

By:



Brian Rosen, Authorized Representative

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 **SYRACUSE 727 LLC** (the "*Company*") 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.

5

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

AND

SYRACUSE 727 LLC

AGENCY LEASE AGREEMENT

DATED AS OF AUGUST 1, 2017

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EXHIBIT “G”	RECAPTURE POLICY

AGENCY LEASE AGREEMENT

THIS AGENCY LEASE AGREEMENT, dated as of August 1, 2017 (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, 7th Floor, Syracuse, New York 13202 (the "**Agency**"), and **SYRACUSE 727 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 270 Sylvan Avenue, Englewood Cliffs, New Jersey 07632 (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 February 28, 2017, agreed, at the request of the Company to undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the "**Existing Building**") located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 August 1, 2017 (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 August 1, 2017 (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) The Project is not primarily used for making retail sales to customers who visit the Project Facility.

(e) 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.

(f) 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.

(g) 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).

(h) 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.

(i) 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.

(j) 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.

(k) 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.

(l) The acquisition, construction 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.

(m) 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, construction and equipping of the Project Facility.

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

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

(p) 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.

(q) 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.

(p) 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.

(q) 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.

(r) The amount of State and local sales and use tax benefits comprising the Financial Assistance approved by the Agency shall not exceed **\$1,496,000**. The Company shall not request, obtain nor claim State and local sales and use tax exemptions in excess of this amount.

(s) 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.

(t) No portion of the Project Facility shall be sold or transferred for private ownership but rather shall remain all rental or lease units.

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 any manner not otherwise prohibited by this Agency Lease, the Company Lease and other Company Documents, 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 and equip 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 construction 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. The Company further agrees to complete and supply the Agency, quarterly, starting the first quarter following the date hereof, the "Contract Status Report" the form of which is attached hereto at **Exhibit "D"**. Failure to comply with any portion of Article 4 may result in the loss of all benefits provided to or for the benefit of the Project in the Agency's sole discretion.

(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 construct, 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 construction, 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 construction, 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 construction, 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, construct, equip and complete the Project Facility. Completion of the acquisition, construction 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 construction, 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 construction, 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 construction and equipping of the Project Facility, provided that:

(a) No Event of Default under this Agency Lease, the Company Lease 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.

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) January 31, 2019; or (2) sixty days after the issuance of a certificate of occupancy by the City of Syracuse, New York, unless earlier terminated 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 following payments shall be made:

(1) **To the Agency:** an amount certified by the Agency as sufficient to pay all unpaid fees and expenses of the Agency incurred under this Agency Lease and the Company Lease (including, but not limited to those in connection with the early termination of this Agency Lease); and

(2) **To the Appropriate Person:** an amount sufficient to pay all other fees, expenses or charges, if any, then due and payable under this Agency Lease and the other Agency Documents.

(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 and the Company Lease 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 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 for the Project Facility consisting of: (i) to the Agency in an amount sufficient to pay any and all other amounts due hereunder; and (ii) to the Mortgagee, an amount equal to the debt service and amounts becoming due and payable under the Mortgage and the indebtedness secured thereby on the due date thereof.

(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 construction 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 pro-forma statements Company previously provided to the Agency.

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) All payments in lieu of taxes, if any, required to be made to the Agency under the terms of any agreement with respect thereto.

(b) Subject to the terms of any payment in lieu of taxes 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.

(c) Notwithstanding anything herein to the contrary, and notwithstanding the Agency's interest in the Project Facility, the Company shall pay taxes as if privately owned.

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.

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 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 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 payable under this Agency Lease, the Company Lease 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 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 and the other Agency Documents, shall be applied to payment of all amounts due to the Agency under this Agency Lease, the Company Lease and other Agency Documents. If the Net Proceeds of any Condemnation award are less than the amount necessary to pay any and all amounts 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 payable under this Agency Lease, the Company Lease and other Agency Documents to the Agency shall be paid in full. If all amounts due under this Agency Lease, the Company Lease, 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 "E"** 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. Notwithstanding anything in this Section 8.5 to the contrary, the Company shall provide the Contract Status Report in accordance with Section 4.1 hereof.

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 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

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.

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 "F"**, 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 “G”, 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.

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 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 this Agency Lease;
- 2) Terminate the Company Lease;

3) 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 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

4) 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 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 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, 7th Floor
Syracuse, New York 13202
Attn: Chairman

With a copy to:

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

(b) If to the Company:

Syracuse 727 LLC
c/o Rosen Property Group LLC
270 Sylvan Avenue
Englewood Cliffs, New Jersey 07632
Attn: Brian Rosen

With a copy to:
Robert Smith, Esq.
Costello, Cooney and Fearon, PLLC
500 Plum Street, Suite 300
Syracuse, New York 13204

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 Article 4 and Sections 2.2 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.

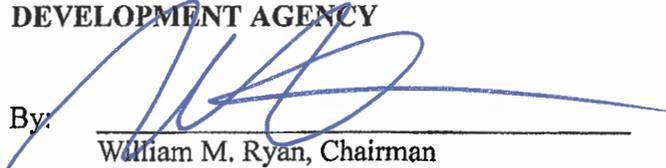
11.14 DISCLOSURE.

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.

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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: 

William M. Ryan, Chairman

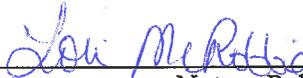
SYRACUSE 727 LLC

By: 

Brian Rosen, Authorized Representative

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

On the 8th day of August in the year 2017 before me, the undersigned, personally appeared **William M. Ryan**, 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

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MCS055591
Commission Expires on Feb. 12, 20 18

STATE OF NEW JERSEY)
) SS.:
COUNTY OF BERGEN)

On the 1st day of August in the year 2017 before me, the undersigned, personally appeared **Brian Rosen**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

ANN B CARRERA
Notary Public
State of New Jersey
My Commission Expires Jul 21, 2020

EXHIBIT "A"

REAL PROPERTY DESCRIPTION

First American Title Insurance Company

Title Number: 835208(F-NY-CR-OF)

**SCHEDULE A
DESCRIPTION**

The land referred to in this Certificate of Title is described as follows:

AS TO PARCEL 1:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Lot No. 18 of Block No. 369 in said City, being more particularly described as follows:

BEGINNING at a point in the easterly boundary of South Crouse Avenue, said point being South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 132 feet from the intersection of the Southerly boundary of East Adams Street with said easterly boundary of South Crouse Avenue, said point also being the intersection of the division line between Lot No. 16 on the North and said Lot No. 18 on the South with the said easterly boundary of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 40.00 feet to its intersection with the division line between Lot No. 19 on the South and said Lot No. 18 on the North;

THENCE South 89 degrees 54' 00" East, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 18 and 19 a distance of 148.50 feet to a point therein;

THENCE North 00 degrees 29' 30" East, parallel with said easterly boundary of South Crouse Avenue a distance of 40.0 feet to a point in the division line between Lots Nos. 12, 13 and 16 on the North and said Lot No. 18 on the South;

THENCE North 89 degrees 54' 00" West, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 12, 13 and 16 and Lot No. 18, a distance of 148.50 feet to the point of BEGINNING.

AS TO PARCEL 2:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being a part of Block No. 369 of said City, being bounded and described as follows:

Commencing at a point in the easterly line of South Crouse Avenue that is 172 feet South from Adams Street as measured along the easterly line of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said easterly line of South Crouse Avenue a distance of 47.5 feet to a point;

THENCE South 89 degrees 54' 00" East, along the southerly line of premises conveyed to Hugh C. Gregg by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 239.99 feet to the easterly line of farm Lot 201;

THENCE continuing South 89 degrees 54' 00" East, a distance of 90.00 feet to the easterly line of premises conveyed to Hugh C. Gregg by Shattuck realty corporation by deed dated December 21, 1945, and recorded in the Onondaga County Clerk's Office December 27, 1945, in Book 1182 of deeds, Page 444 & C;

THENCE North 3 degrees 39' 20" West, along the easterly line of the premises described in said deed from Shattuck realty corporation, a distance of 42.52 feet to the Northeast corner of said parcel conveyed to Gregg

**SCHEDULE A
DESCRIPTION
(Continued)**

Title Number: 835208(F-NY-CR-OF)

by the aforesaid deed;

THENCE North 89 degrees 54' 00" West, along the northerly line of the premises conveyed by Shattuck realty corporation to Gregg, 4.83 feet to a point, which is the Southeast corner of premises conveyed to Hugh Carleton Gregg by Leona M. Barnes, by deed dated June 20, 1946 and recorded in the Onondaga County Clerk's Office June 21, 1946, in Book 1214 of deeds, Page 552 & C;

THENCE North 0 degrees 29' 30" East, along the easterly line of said parcel described in said deed from Leona M. Barnes to Gregg, 45.1 feet to the Northeast corner thereof;

THENCE South 89 degrees 54' 00" West, along the northerly line of said parcel conveyed by said Leona M. Barnes to said Gregg, a distance of 88.43 feet to the West line of farm Lot 200;

THENCE continuing South 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins, by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 85.14 feet to a point;

THENCE South 0 degrees 29' 30" West, a distance of 40 feet along the boundary of the premises described in the last mentioned deed to a point;

THENCE North 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins by deed dated October 20, 1950 and recorded in the Onondaga County Clerk's Office on that day in Book 1474 of deeds, Page 104, a distance of 148.5 feet to the point of BEGINNING.

OVERALL DESCRIPTION:

ALL that certain plot, piece or parcel of land, situate, lying and being in The City of Syracuse, County of Onondaga and State of New York being bounded and described as follows:

BEGINNING at a point on the easterly side of South Crouse Avenue distant 132 feet southerly from the intersection of the easterly side of South Crouse Avenue with the southerly side of Adams Street;

RUNNING THENCE South 00 degrees 29 minutes 30 seconds West, along the easterly side of South Crouse Avenue a distance of 87.5 feet;

THENCE South 89 degrees 54 minutes 00 seconds East a distance of 329.99 feet;

THENCE North 03 degrees 39 minutes 20 seconds West a distance of 42.52 feet;

THENCE North 89 degrees 52 minutes 00 seconds West a distance of 4.83 feet;

THENCE North 00 degrees 29 minutes 30 seconds East a distance of 45.1;

THENCE North 89 degrees 54 minutes 00 seconds West a distance of 322.08 feet to the easterly side of South Crouse Avenue at the point or place 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 **SYRACUSE 727 LLC** (the "*Company*") 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, ranges, refrigerators, freezers, rugs, movable partitions, cleaning equipment, maintenance equipment, restaurant supplies and equipment, shelving, racks, flagpoles, signs, waste containers, outdoor benches, 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 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 August 1, 2017, 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 December 28, 2017, 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 Member or Managing Member or any officer designated in a certificate signed by an Authorized Representative of such 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 August 1, 2017 in connection with the Equipment.

City: means the City of Syracuse.

Closing Date: means August 10, 2017.

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

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

Company: means Syracuse 727 LLC, a limited liability company, organized and existing under the laws of the State of New York having an address at 270 Sylvan Avenue, Englewood Cliffs, New Jersey 07632, and its permitted successors and assigns.

Company Documents: means the Company Lease, the Agency Lease, the Project 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 August 1, 2017 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 August 1, 2017 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 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 721-723, 727-729 South Crouse Avenue in the City of Syracuse, County of Onondaga, State of 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.

Plans and Specifications: means the representations, plans and specifications, if any, and presented by the Company to the Agency in its application and any presentation relating to the construction 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 August 1, 2017 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 February 28, 2017 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 CONTRACT STATUS REPORT

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Appendix II – Contract Status Report

To be submitted with a request for an extension of the Tax Exempt Certificate

It is a goal of SIDA to promote the use of local labor, contractors and suppliers for projects that receive agency support in the form of tax exemptions and/or bond financing. As part of its request to extend the valid date of the Agency's tax-exempt certificate for the _____ project, _____ (the Company) certifies that the following information regarding the construction and purchase activities undertaken for the project as of _____ (date) is true and correct.

Item	Bid Awarded to: (Name and Address)	Date and Value of Contract	Number of Jobs	
			Total	Local*
1. Site work/Demolition				
2. Foundation and footings				
3. Building				
4. Masonry				
5. Metals				
6. Wood/casework				
7. Thermal and moisture proof				
8. Doors, windows, glazing				
9. Finishes				
10. Electrical				
11. HVAC				
12. Plumbing				
13. Specialties				
14. Machinery and Equipment				
15. Furniture and Fixtures				
16. Utilities				
17. Paving				
18. Landscaping				
19. Other (identify)				

*The number of local jobs means those jobs held by people who live in the five counties in Central New York. This number is subject to verification.

Signature: _____ Name (printed): _____

Title: _____ Date: _____

EXHIBIT "E"

FORM OF ANNUAL REPORTING REQUIREMENTS

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
201 East Washington Street, 7th 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 City 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:

Full Time Equivalent (FTE) Jobs Created and Retained – [year]

- # of Current FTE Employees as of [closing date]
- # of FTE Jobs Created during [year]
- # of FTE Jobs Retained during [year]
- # of FTE Construction Jobs Created during [year]

Comments:

Signature

Print Name

Title

Date

EXHIBIT "F"

FORM OF SUB-AGENT AGREEMENT

THIS SUB-AGENT APPOINTMENT AGREEMENT (the "*Agreement*"), dated as of _____, 20__, is by and between **SYRACUSE 727 LLC** (the "*Company*"), with a mailing address of 270 Sylvan Avenue, Englewood Cliffs, New Jersey 07632 (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 February 18, 2017 (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 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the "*Existing Building*") located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the "*Land*"); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 August 1, 2017 (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 an Agency Agreement dated as of February 28, 2017 (the “*Agency 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 **Schedule "B"**). 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: SYRACUSE 727, LLC/CAMPUS PLAZA PROJECT, 721-723, 727-729 South Crouse Avenue, Syracuse, New York 13202, IDA Project No.: 31021708.

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.

SYRACUSE 272 LLC

By: _____
Name:
Title:

[NAME OF SUB-AGENT]

By: _____
Name:
Title:

SCHEDULE "A"
To Sub-Agent Agreement

RECAPTURE POLICY

City of Syracuse
Industrial Development Agency
333 West Washington Street, Suite 130
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

SCHEDULE "B"
to Sub-Agent Agreement

FORM ST-123



New York State Department of Taxation and Finance
New York State Sales and Use Tax

ST-123
(7/14)

**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 DSO number)	
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 rendered 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 1838 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 1116(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)(16). 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).

- 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.
- 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.
- 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 TSB-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:	(518) 485-2889
	To order forms and publications:	(518) 457-5431
	Text Telephone (TTY) Hotline	
	(for persons with hearing and speech disabilities using a TTY):	(518) 485-5082

EXHIBIT "G"
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

6

Lisa Dell, County Clerk
401 Montgomery Street
Room 200
Syracuse, NY 13202
(315) 435-2226

Onondaga County Clerk Recording Cover Sheet

Received From :
KV SETTLEMENT LLC
39 W 37TH ST FL 7
NEW YORK, NY 10018

Return To :
KV SETTLEMENT LLC
39 W 37TH ST FL 7
NEW YORK, NY 10018

First PARTY 1

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

First PARTY 2

SYRACUSE 727 LLC

Index Type : Land Records

Instr Number : 2017-00032700

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 No Tax District, in the County of Onondaga, New York

Real Estate Transfer Tax

RETT # : 1962

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) : 09/18/2017

At (Recorded Time) : 12:22:06 PM



Doc ID - 0251720500007

Lisa Dell, County Clerk



435208

S:049
B:08
L:14.0, 15.0

**MEMORANDUM OF
AGENCY LEASE AGREEMENT**

NAME AND ADDRESS OF LESSOR: City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202

NAME AND ADDRESS OF LESSEE: Syracuse 727 LLC
270 Sylvan Avenue
Englewood Cliffs, New Jersey 07632

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 August 1, 2017

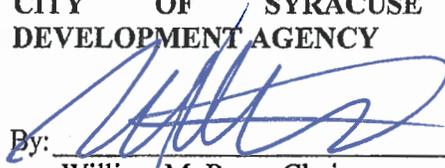
TERM OF AGENCY LEASE AGREEMENT:

The term of this Agency Lease shall commence on the date hereof and continue in full force and effect until the earlier of: (1) January 31, 2019; or (2) sixty days after the issuance of a certificate of occupancy by the City of Syracuse, New York, unless earlier terminated as provided herein.

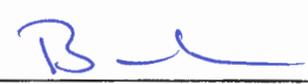
KV SETTLEMENT 44-0 97 W B'ITH OF FL1 NEW YORK NY 10018

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 1st day of August, 2017.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
William M. Ryan, Chairman

SYRACUSE 727 LLC

By: 
Brian Rosen, Authorized Representative

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

On this 8th day of August, 2017, before me, the undersigned, personally appeared, **William M. Ryan**, 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.

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, 2018

STATE OF NEW JERSEY)
) ss.:
COUNTY OF BERGEN)

On this 5th day of August, 2017, before me, the undersigned, personally appeared, **Brian Rosen**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Ann B. Carrera
Notary Public

ANN B CARRERA
Notary Public
State of New Jersey
My Commission Expires Jul 21, 2020

EXHIBIT "A"

LEGAL DESCRIPTION OF THE LAND

Title Number: 835208(F-NY-CR-OF)

**SCHEDULE A
DESCRIPTION**

The land referred to in this Certificate of Title is described as follows:

AS TO PARCEL 1:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Lot No. 18 of Block No. 369 in said City, being more particularly described as follows:

BEGINNING at a point in the easterly boundary of South Crouse Avenue, said point being South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 132 feet from the intersection of the Southerly boundary of East Adams Street with said easterly boundary of South Crouse Avenue, said point also being the intersection of the division line between Lot No. 16 on the North and said Lot No. 18 on the South with the said easterly boundary of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 40.00 feet to its intersection with the division line between Lot No. 19 on the South and said Lot No. 18 on the North;

THENCE South 89 degrees 54' 00" East, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 18 and 19 a distance of 148.50 feet to a point therein;

THENCE North 00 degrees 29' 30" East, parallel with said easterly boundary of South Crouse Avenue a distance of 40.0 feet to a point in the division line between Lots Nos. 12, 13 and 16 on the North and said Lot No. 18 on the South;

THENCE North 89 degrees 54' 00" West, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 12, 13 and 16 and Lot No. 18, a distance of 148.50 feet to the point of BEGINNING.

AS TO PARCEL 2:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being a part of Block No. 369 of said City, being bounded and described as follows:

Commencing at a point in the easterly line of South Crouse Avenue that is 172 feet South from Adams Street as measured along the easterly line of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said easterly line of South Crouse Avenue a distance of 47.5 feet to a point;

THENCE South 89 degrees 54' 00" East, along the southerly line of premises conveyed to Hugh C. Gregg by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 239.99 feet to the easterly line of farm Lot 201;

THENCE continuing South 89 degrees 54' 00" East, a distance of 90.00 feet to the easterly line of premises conveyed to Hugh C. Gregg by Shattuck realty corporation by deed dated December 21, 1945, and recorded in the Onondaga County Clerk's Office December 27, 1945, in Book 1182 of deeds, Page 444 & C;

THENCE North 3 degrees 39' 20" West, along the easterly line of the premises described in said deed from Shattuck realty corporation, a distance of 42.52 feet to the Northeast corner of said parcel conveyed to Gregg

**SCHEDULE A
DESCRIPTION
(Continued)**

Title Number: 835208(F-NY-CR-OF)

by the aforesaid deed;

THENCE North 89 degrees 54' 00" West, along the northerly line of the premises conveyed by Shattuck realty corporation to Gregg, 4.83 feet to a point, which is the Southeast corner of premises conveyed to Hugh Carleton Gregg by Leona M. Barnes, by deed dated June 20, 1946 and recorded in the Onondaga County Clerk's Office June 21, 1946, in Book 1214 of deeds, Page 552 & C;

THENCE North 0 degrees 29' 30" East, along the easterly line of said parcel described in said deed from Leona M. Barnes to Gregg, 45.1 feet to the Northeast corner thereof;

THENCE South 89 degrees 54' 00" West, along the northerly line of said parcel conveyed by said Leona M. Barnes to said Gregg, a distance of 88.43 feet to the West line of farm Lot 200;

THENCE continuing South 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins, by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 85.14 feet to a point;

THENCE South 0 degrees 29' 30" West, a distance of 40 feet along the boundary of the premises described in the last mentioned deed to a point;

THENCE North 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins by deed dated October 20, 1950 and recorded in the Onondaga County Clerk's Office on that day in Book 1474 of deeds, Page 104, a distance of 148.5 feet to the point of BEGINNING.

OVERALL DESCRIPTION:

ALL that certain plot, piece or parcel of land, situate, lying and being in The City of Syracuse, County of Onondaga and State of New York being bounded and described as follows:

BEGINNING at a point on the easterly side of South Crouse Avenue distant 132 feet southerly from the intersection of the easterly side of South Crouse Avenue with the southerly side of Adams Street;

RUNNING THENCE South 00 degrees 29 minutes 30 seconds West, along the easterly side of South Crouse Avenue a distance of 87.5 feet;

THENCE South 89 degrees 54 minutes 00 seconds East a distance of 329.99 feet;

THENCE North 03 degrees 39 minutes 20 seconds West a distance of 42.52 feet;

THENCE North 89 degrees 52 minutes 00 seconds West a distance of 4.83 feet;

THENCE North 00 degrees 29 minutes 30 seconds East a distance of 45.1;

THENCE North 89 degrees 54 minutes 00 seconds West a distance of 322.08 feet to the easterly side of South Crouse Avenue at the point or place 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	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantor)	Social security number
<input type="checkbox"/> Individual	City of Syracuse Industrial Development Agency	
<input type="checkbox"/> Corporation	Mailing address	Social security number
<input type="checkbox"/> Partnership	201 East Washington Street, 7th Floor	
<input type="checkbox"/> Estate/Trust	City State ZIP code	Federal EIN
<input type="checkbox"/> Single member LLC	Syracuse NY 13202	52-1380308
<input checked="" type="checkbox"/> Other	Single member's name if grantor is a single member LLC (see instructions)	Single member EIN or SSN
Grantee/Transferee	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantee)	Social security number
<input type="checkbox"/> Individual	Syracuse 727 LLC	
<input type="checkbox"/> Corporation	Mailing address	Social security number
<input type="checkbox"/> Partnership	270 Sylvan Avenue	
<input type="checkbox"/> Estate/Trust	City State ZIP code	Federal EIN
<input type="checkbox"/> Single member LLC	Englewood Cliffs NJ 07632	84-43459591
<input checked="" type="checkbox"/> Other	Single member's name if grantee is a single member LLC (see instructions)	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
049-08-14.0 049-08-15.0	311500	721-723, 727-729 South Crouse Ave.	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 style="border: 1px solid black; text-align: center; width: 100%;"> <tr> <td style="border: 1px solid black; width: 33%;">08</td> <td style="border: 1px solid black; width: 33%;">01</td> <td style="border: 1px solid black; width: 33%;">2017</td> </tr> <tr> <td style="font-size: small;">month</td> <td style="font-size: small;">day</td> <td style="font-size: small;">year</td> </tr> </table>	08	01	2017	month	day	year	Percentage of real property conveyed which is residential real property _____ 0% (see instructions)
08	01	2017							
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) _____ |
|--|--|---|

<i>For recording officer's use</i>	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) <input checked="" type="checkbox"/> Exemption claimed	1.	0	00
2	Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)	2.	0	00
3	Taxable consideration (subtract line 2 from line 1)	3.	0	00
4	Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3	4.	0	00
5	Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)	5.	0	00
6	Total tax due* (subtract line 5 from line 4)	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)	1.		
2	Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A)	2.		
3	Total additional transfer tax due* (multiply line 2 by 1% (.01))	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.

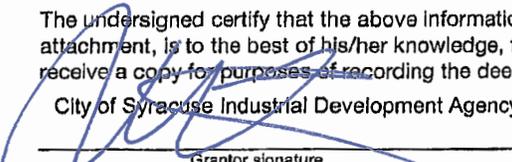
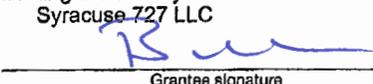
Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

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  _____ Grantor signature William M. Ryan	_____ Chairman Title	Syracuse 727 LLC  _____ Grantee signature Brian Rosen	_____ Authorized Representative 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.

7

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 August 1, 2017.

The undersigned, Brian Rosen, Authorized Representative and authorized signatory of Syracuse 727 LLC (the "*Company*"), does hereby certify and confirm:

(1) that the Company has reviewed and understands the Agency's Local Labor 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: August 7, 2017

SYRACUSE 727 LLC

By: 
Brian Rosen, Authorized Representative

8



EVIDENCE OF PROPERTY INSURANCE

UBWJPJUP

DATE (MM/DD/YYYY)
07/21/2017

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 MCGRIFF, SEIBELS & WILLIAMS OF TEXAS, INC. 5080 Spectrum Dr., Suite 900E Addison, TX 75001		PHONE (A/C, No, Ext): (469) 232-2100	COMPANY ACE American Insurance Company	
FAX (A/C, No):	E-MAIL ADDRESS:			
CODE:	SUB CODE:			
AGENCY CUSTOMER ID #:		LOAN NUMBER		POLICY NUMBER I08871991001
INSURED Syracuse 727 LLC c/o BLVD Equities 270 Sylvan Ave, Suite 164 Englewood Cliffs, NJ 07632		EFFECTIVE DATE 05/08/2017	EXPIRATION DATE 11/08/2018	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
THIS REPLACES PRIOR EVIDENCE DATED:				

PROPERTY INFORMATION

LOCATION/DESCRIPTION 727 - 729 South Crouse Avenue, Syracuse, New York, 13210
--

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
Builder's Risk Insured Project, Per Occurrence					30,950,000	

REMARKS (Including Special Conditions)
--

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 201 East Washington Street, 7th Floor Syracuse, NY 13202	ADDITIONAL INSURED	LENDER'S LOSS PAYABLE	<input type="checkbox"/> LOSS PAYEE
	MORTGAGEE		
LOAN #			
AUTHORIZED REPRESENTATIVE 			

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – STATE OR GOVERNMENTAL AGENCY OR SUBDIVISION OR POLITICAL SUBDIVISION – PERMITS OR AUTHORIZATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

State Or Governmental Agency Or Subdivision Or Political Subdivision:

Any agency or subdivision you have agreed in a written contract to add as an Additional Insured on your policy provided the Written Contract is executed prior to the "Bodily Injury", "Property Damage" or "Personal And Advertising Injury".

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. **Section II – Who Is An Insured** is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision shown in the Schedule, subject to the following provisions:

1. This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- b. 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.

2. This insurance does not apply to:

- a. "Bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or
- b. "Bodily injury" or "property damage" included within the "products-completed operations hazard."

B. 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 the 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.

State Filing NY
Plus Lines Tax \$1,242.00
Stamping Fee \$59.00

FIRST MERCURY INSURANCE COMPANY

(A STOCK COMPANY)

STATUTORY HOME OFFICE: 1209 ORANGE STREET, WILMINGTON, DE 19801

ADMINISTRATIVE OFFICE: 26600 TELEGRAPH RD., SOUTHFIELD, MI 48033

COMMERCIAL EXCESS LIABILITY POLICY

DECLARATIONS

Serviced By: CoverX Specialty

POLICY NUMBER NY-EX-0000072835-01

RENEWAL OF: NEW

ITEM 1. NAMED INSURED AND MAILING ADDRESS
Syracuse 727 LLC

BROKER NAME AND ADDRESS
Maximum Independent Brokerage LLC

c/o BLVD Equities 270 Sylvan, Suite 164
Englewood Cliffs, NJ 07632

222 South Riverside Plaza Suite 2340
Chicago, IL 60606

ITEM 2. POLICY PERIOD From: 05/08/2017 To: 11/08/2019
AT 12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE

ITEM 3. LIMIT OF INSURANCE:

- A. Each Occurrence Limit \$5,000,000
- B. General Aggregate Limit \$5,000,000
- C. Products-Completed Operations Aggregate Limit \$5,000,000

ITEM 4. PREMIUM COMPUTATION:

Premium \$34,500
Policy Minimum Premium \$8,625

Coverage for certified acts of terrorism has been rejected; exclusion attached.
(Per TRIA Disclosure Notice.)

DEPOSIT PREMIUM: \$34,500 , Flat Charge

ITEM 5. ENDORSEMENTS ATTACHED TO THIS POLICY: See Schedule of Forms and Endorsements

THE INSURER(S) NAMED HEREIN IS (ARE) NOT LICENSED BY THE STATE OF NEW YORK, NOT SUBJECT TO ITS SUPERVISION, AND IN THE EVENT OF THE INSOLVENCY OF THE INSURER(S), NOT PROTECTED BY THE NEW YORK STATE SECURITY FUNDS. THE POLICY MAY NOT BE SUBJECT TO ALL OF THE REGULATIONS OF THE DEPARTMENT OF FINANCIAL SERVICES PERTAINING TO POLICY FORMS.

IMPORTANT! Please carefully examine your policy as it may contain significant coverage modifications or exclusions. If this policy is a renewal, it may not contain the same precise terms and conditions as the prior policy.

Countersigned: 05/15/2017
Date

By: 
Authorized Representative

FIRST MERCURY INSURANCE COMPANY

(A STOCK COMPANY)

STATUTORY HOME OFFICE: 1209 ORANGE STREET, WILMINGTON, DE 19801

ADMINISTRATIVE OFFICE: 26600 TELEGRAPH RD., SOUTHFIELD, MI 48033

GENERAL LIABILITY POLICY DECLARATIONS

Serviced by: CoverX Specialty

POLICY NUMBER IL-CGL-0000072836-01

RENEWAL OF: NEW

NAMED INSURED AND MAILING ADDRESS

Syracuse 727 LLC

BROKER NAME AND ADDRESS

Maximum Independent Brokerage LLC

c/o BLVD Equities 270 Sylvan Avenue, Suite 164
Englewood Cliffs, NJ 07632

222 South Riverside Plaza Suite 2340
Chicago, IL 60606

POLICY PERIOD From: 5/8/2017 To: 11/8/2019

AT 12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

LIMITS OF INSURANCE: Defense Costs are outside the limits of Liability

Each Occurrence Limit: \$1,000,000
Personal & Advertising Injury Limit: \$1,000,000
General Aggregate Limit: \$2,000,000
Products-Completed Operations Aggregate Limit: \$2,000,000
Damage To Premises Rented To You: Excluded
Medical Payment Limit: Excluded

Employee Benefits Liability: Excluded
Employee Benefits Aggregate Limit: Excluded
Liquor Liability Limit: Excluded
Liquor Liability Aggregate: Excluded

RETAINED LIMIT: See form FMIC GL 2015 (01/14)

PREMIUM COMPUTATION: Premium: \$60,000

Processing Fee: \$150

Coverage for certified acts of terrorism has been rejected; exclusion attached. (Per TRIA Disclosure Notice.)

X

DEPOSIT PREMIUM: \$60,000

DESCRIPTION OF BUSINESS: Contrs-sub work-in connect w/cnstr, reconstr, repair or erection of bldg

FORM OF BUSINESS:

INDIVIDUAL PARTNERSHIP ORGANIZATION, INCLUDING A CORPORATION (BUT NOT INCLUDING A PARTNERSHIP, JOINT VENTURE OR LIMITED LIABILITY COMPANY)
JOINT VENTURE LIMITED PARTNERSHIP
LIMITED LIABILITY COMPANY

ENDORSEMENTS ATTACHED TO THIS POLICY: See Schedule FMIC-END - Schedule of Forms and Endorsements

THE INSURER(S) NAMED HEREIN IS (ARE) NOT LICENSED BY THE STATE OF NEW YORK, NOT SUBJECT TO ITS SUPERVISION, AND IN THE EVENT OF THE INSOLVENCY OF THE INSURER(S), NOT PROTECTED BY THE NEW YORK STATE SECURITY FUNDS. THE POLICY MAY NOT BE SUBJECT TO ALL OF THE REGULATIONS OF THE DEPARTMENT OF FINANCIAL SERVICES PERTAINING TO POLICY FORMS.

IMPORTANT! Please carefully examine your policy as it may contain significant coverage modifications or exclusions. If this policy is a renewal, it may not contain the same precise terms and conditions as the prior policy.

Date: 5/15/2017 Authorized Representative:

[Signature]

THESE DECLARATIONS, TOGETHER WITH THE COMMON POLICY CONDITIONS AND COVERAGE FORM(S) AND ANY ENDORSEMENT(S), COMPLETE THE ABOVE NUMBERED POLICY.

FMIC-GL-DS-0001 (12/10)

THE INSURER(S) NAMED HEREIN IS (ARE) NOT LICENSED BY THE STATE OF NEW YORK, NOT SUBJECT TO ITS SUPERVISION, AND IN THE EVENT OF THE INSOLVENCY OF THE INSURER(S), NOT PROTECTED BY THE NEW YORK STATE SECURITY FUNDS. THE POLICY MAY NOT BE SUBJECT TO ALL OF THE REGULATIONS OF THE DEPARTMENT OF FINANCIAL SERVICES PERTAINING TO POLICY FORMS.

State Filing NY
Surplus Lines Tax \$2,166.00
Stamping Fee \$103.00
Other Fees / Tax \$150.00

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION – DESIGNATED
PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to the additional insured(s) under this policy that is shown in the **Schedule** below, provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in writing in a contract or agreement prior to the injury or damage that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

However, the insurance provided under this endorsement will not apply beyond the extent required by such contract or agreement.

Schedule

Person(s) or organization(s):

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, NY 13202

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of the Policy.)

Endorsement effective

Policy No.

Endorsement No.

Named Insured

Countersigned by _____

FMIC-GL-1003(10/2015)

9

ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT

THIS ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT (the “*Agreement*”) is made as of the 1st day of August, 2017, between SYRACUSE 727 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 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the “*Existing Building*”) located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York, as more fully described on Schedule A annexed hereto (the “*Land*”); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 Schedule of Definitions attached to the Agency Lease as Exhibit “C.”

2. **Representations and Warranties.**

(a) Except as disclosed 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
333 West Washington Street, Suite 130
Syracuse, New York 13202
Attention: Chairman

With a copy to:

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

(b) To the Company:

Syracuse 727 LLC
c/o Rosen Property Group LLC
270 Sylvan Avenue
Englewood Cliffs, New Jersey 07632
Attn: Brian Rosen

With a copy to:

Robert Smith, Esq.
Costello, Cooney and Fearon, PLLC
500 Plum Street, Suite 300
Syracuse, New York 13204

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]

SCHEDULE "A"

LEGAL DESCRIPTION

First American Title Insurance Company

Title Number: 835208(F-NY-CR-OF)

**SCHEDULE A
DESCRIPTION**

The land referred to in this Certificate of Title is described as follows:

AS TO PARCEL 1:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Lot No. 18 of Block No. 369 in said City, being more particularly described as follows:

BEGINNING at a point in the easterly boundary of South Crouse Avenue, said point being South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 132 feet from the intersection of the Southerly boundary of East Adams Street with said easterly boundary of South Crouse Avenue, said point also being the intersection of the division line between Lot No. 16 on the North and said Lot No. 18 on the South with the said easterly boundary of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 40.00 feet to its intersection with the division line between Lot No. 19 on the South and said Lot No. 18 on the North;

THENCE South 89 degrees 54' 00" East, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 18 and 19 a distance of 148.50 feet to a point therein;

THENCE North 00 degrees 29' 30" East, parallel with said easterly boundary of South Crouse Avenue a distance of 40.0 feet to a point in the division line between Lots Nos. 12, 13 and 16 on the North and said Lot No. 18 on the South;

THENCE North 89 degrees 54' 00" West, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 12, 13 and 16 and Lot No. 18, a distance of 148.50 feet to the point of BEGINNING.

AS TO PARCEL 2:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being a part of Block No. 369 of said City, being bounded and described as follows:

Commencing at a point in the easterly line of South Crouse Avenue that is 172 feet South from Adams Street as measured along the easterly line of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said easterly line of South Crouse Avenue a distance of 47.5 feet to a point;

THENCE South 89 degrees 54' 00" East, along the southerly line of premises conveyed to Hugh C. Gregg by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 239.99 feet to the easterly line of farm Lot 201;

THENCE continuing South 89 degrees 54' 00" East, a distance of 90.00 feet to the easterly line of premises conveyed to Hugh C. Gregg by Shattuck realty corporation by deed dated December 21, 1945, and recorded in the Onondaga County Clerk's Office December 27, 1945, in Book 1182 of deeds, Page 444 & C;

THENCE North 3 degrees 39' 20" West, along the easterly line of the premises described in said deed from Shattuck realty corporation, a distance of 42.52 feet to the Northeast corner of said parcel conveyed to Gregg

**SCHEDULE A
DESCRIPTION
(Continued)**

Title Number: 835208(F-NY-CR-OF)

by the aforesaid deed;

THENCE North 89 degrees 54' 00" West, along the northerly line of the premises conveyed by Shattuck realty corporation to Gregg, 4.83 feet to a point, which is the Southeast corner of premises conveyed to Hugh Carleton Gregg by Leona M. Barnes, by deed dated June 20, 1946 and recorded in the Onondaga County Clerk's Office June 21, 1946, in Book 1214 of deeds, Page 552 & C;

THENCE North 0 degrees 29' 30" East, along the easterly line of said parcel described in said deed from Leona M. Barnes to Gregg, 45.1 feet to the Northeast corner thereof;

THENCE South 89 degrees 54' 00" West, along the northerly line of said parcel conveyed by said Leona M. Barnes to said Gregg, a distance of 88.43 feet to the West line of farm Lot 200;

THENCE continuing South 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins, by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 85.14 feet to a point;

THENCE South 0 degrees 29' 30" West, a distance of 40 feet along the boundary of the premises described in the last mentioned deed to a point;

THENCE North 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins by deed dated October 20, 1950 and recorded in the Onondaga County Clerk's Office on that day in Book 1474 of deeds, Page 104, a distance of 148.5 feet to the point of BEGINNING.

OVERALL DESCRIPTION:

ALL that certain plot, piece or parcel of land, situate, lying and being in The City of Syracuse, County of Onondaga and State of New York being bounded and described as follows:

BEGINNING at a point on the easterly side of South Crouse Avenue distant 132 feet southerly from the intersection of the easterly side of South Crouse Avenue with the southerly side of Adams Street;

RUNNING THENCE South 00 degrees 29 minutes 30 seconds West, along the easterly side of South Crouse Avenue a distance of 87.5 feet;

THENCE South 89 degrees 54 minutes 00 seconds East a distance of 329.99 feet;

THENCE North 03 degrees 39 minutes 20 seconds West a distance of 42.52 feet;

THENCE North 89 degrees 52 minutes 00 seconds West a distance of 4.83 feet;

THENCE North 00 degrees 29 minutes 30 seconds East a distance of 45.1;

THENCE North 89 degrees 54 minutes 00 seconds West a distance of 322.08 feet to the easterly side of South Crouse Avenue at the point or place of BEGINNING.

SCHEDULE "B"

EXCEPTIONS

Hazardous Substances, events and conditions set forth in that certain Phase I Environmental Site Assessment prepared by CHA Consulting, Inc., dated March 9, 2017, and related to the Project Facilities.

Hazardous Substances, events and conditions set forth in that certain Limited Subsurface Environmental Site Assessment prepared by CHA Consulting, Inc., dated May 4, 2017, and related to the Project Facilities.

Hazardous Substances, events and conditions set forth in that certain Memorandum regarding Additional Subsurface Environmental Sampling prepared by CHA Consulting, Inc., dated June 9, 2017, and related to the Project Facilities.

***Reports on file with the Agency.**

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CLOSING RECEIPT

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY LEASE/SUBLEASE TRANSACTION SYRACUSE 727 LLC

CLOSING RECEIPT executed August 1, 2017 by the City of Syracuse Industrial Development Agency (the “*Agency*”) and SYRACUSE 727 LLC (the “*Company*”) in connection with a certain project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the “*Existing Building*”) located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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: 
William M. Ryan, Chairman

SYRACUSE 727 LLC

By: 
Brian Rosen, Authorized Representative

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

August 1, 2017

Syracuse 727 LLC
c/o Rosen Property Group LLC
270 Sylvan Avenue
Englewood Cliffs, New Jersey 07632
Attn: Brian Rosen

Re: City of Syracuse Industrial Development Agency
Syracuse 727 LLC - Campus Plaza Project
Sales Tax Appointment Letter

Dear Mr. Rosen:

Pursuant to a resolution duly adopted on February 28, 2017, the City of Syracuse Industrial Development Agency (the "**Agency**") appointed Syracuse 727 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 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the "**Existing Building**") located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 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 **\$1,496,000**.

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 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 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 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. 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***"), 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*") in accordance with the Agency's Recapture Policy and the Project Agreement between the Agency and the Company, dated as of June 21, 2016.

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 ("*NYSDTF*") 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 NYSDTF.

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) **January 31, 2019**; unless the Agency Lease is terminated early in accordance with its terms in which case this appointment shall terminate at that time.

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: 

William M. Ryan, Chairman

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IDA Appointment of Project Operator or Agent For Sales Tax Purposes

ST-60

(4/13)

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

Name of IDA City of Syracuse Industrial Development Agency		IDA project number (use OSC numbering system for projects after 1998) 31021703	
Street address 201 East Washington Street, 7th Floor		Telephone number (315) 448-8127	
City Syracuse		State NY	ZIP code 13202
Name of IDA project operator or agent Syracuse 727 LLC		Mark an X in the box if directly appointed by the IDA: <input checked="" type="checkbox"/>	
Street address 270 Sylvan Avenue		Employer identification or social security number 84-43459591	
City Englewood Cliffs		State NJ	ZIP code 07632
Name of project Campus Plaza Project (Syracuse 727 LLC)		Purpose of project (see instructions) other - commercial	
Street address of project site 721-723, 727-729 South Crouse Avenue		State NY	
City Syracuse		ZIP code	
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 the Project Facility			

Date project operator or agent appointed (mm/dd/yy) 08/01/17	Date project operator or agent status ends (mm/dd/yy) 01/31/19	Mark an X in the box if this is an extension to an original project: <input type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax: \$18,700,000	Estimated value of New York State and local sales and use tax exemption provided: \$1,496,000	

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 William M. Ryan	Print title Chairman
Signature 	Date 8-8-17
	Telephone number (315) 448-8127

Instructions

Filing requirements

An IDA must file this form within 30 days of the date the IDA appoints any project operator or other person as agent of the IDA, for purposes of extending any sales and compensating use tax exemptions.

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA need not file this form if the IDA does not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, the IDA must, within 30 days of the change, file a new form with the new information.

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA must, within 30 days, send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. It should attach to the letter a copy of the form it originally filed. The IDA need not send a letter for a form that is not valid merely because the "Completion date of project" has passed.

Purpose of project

For Purpose of project, enter one of the following:

- Services
- Agriculture, forestry, fishing
- Finance, insurance, real estate
- Transportation, communication, electric, gas, sanitary services
- Construction
- Wholesale trade
- Retail trade
- Manufacturing
- Other (specify)

Mailing instructions

Mail completed form to:

**NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 897, 1098, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?

Internet access: www.tax.ny.gov
(for information, forms, and publications)

Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

BARCLAY DAMON^{LLP}

Susan R. Katzoff
Partner

August 11, 2017

VIA CERTIFIED MAIL
7016 1970 0000 3833 4143

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
Syracuse 727 LLC (Campus Plaza Project)
IDA Project No. 31021703

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 Syracuse 727 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,

COPY
Susan R. Katzoff

SRK:llm
Enclosure

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
<ul style="list-style-type: none"> ■ 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. 	<p>A. Signature</p> <p>X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>																
<p>1. Article Addressed to:</p> <p style="text-align: center;">New York State Tax Department IDA Unit Building 8, Room 738 W.A. Harriman Campus Albany, New York 12227</p>  <p style="text-align: center;">9590 9402 2491 6306 6670 46</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If yes, enter delivery address below: <input type="checkbox"/> No</p> <p style="text-align: center; font-size: 1.2em;">AUG 14 2017</p>																
<p>2. Article Number (Transfer from service label)</p> <p style="text-align: center;">7016 1970 0000 3833 4143</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input checked="" type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input checked="" type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Insured Mail		<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®																
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™																
<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery																
<input type="checkbox"/> Certified Mail Restricted Delivery	<input checked="" type="checkbox"/> Return Receipt for Merchandise																
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™																
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery																
<input type="checkbox"/> Insured Mail																	
<input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)																	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt</p>																	

7016 1970 0000 3833 4143

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

OFFICIAL USE

For delivery information, visit our website at www.usps.com

<p>Extra Services & Fees (check box, add fee as appropriate)</p> <p><input type="checkbox"/> Return Receipt (hardcopy) \$ _____</p> <p><input type="checkbox"/> Return Receipt (electronic) \$ _____</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery \$ _____</p> <p><input type="checkbox"/> Adult Signature Required \$ _____</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery \$ _____</p> <p>Postage \$ _____</p>	<p style="text-align: center;">Postmark Here</p>
<p>Total Postage and Fees \$ _____</p> <p>Sent To _____</p> <p>Street and Apt. No., or PO Box No. _____</p> <p>City, State, ZIP+4® _____</p> <p style="font-size: 0.7em;">PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions</p>	

13

Lisa Dell, County Clerk
401 Montgomery Street
Room 200
Syracuse, NY 13202
(315) 435-2226

Onondaga County Clerk Recording Cover Sheet

Received From :
KV SETTLEMENT LLC
39 W 37TH ST FL 7
NEW YORK, NY 10018

Return To :
KV SETTLEMENT LLC
39 W 37TH ST FL 7
NEW YORK, NY 10018

Method Returned : MAIL

First PARTY 1

SYRACUSE 727 LLC

First PARTY 2

BANK OF AMERICA N A

Index Type : Land Records

Instr Number : 2017-00032698

Book : Page :

Type of Instrument : Mortgage

Type of Transaction : Mtg Type A

Recording Fee: \$190.50

Recording Pages : 30

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

Mortgage Taxes

Property Located : Syracuse

Serial Number : D16899

Mortgage Amount : \$33,000,000.00

Basic Tax : \$0.00

Local Tax : \$0.00

Additional Tax : \$82,500.00

Transportation Auth Tax : \$0.00

SONYMA : \$0.00

County Tax : \$0.00

Total : \$82,500.00

Total Fees : \$82,690.50

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) : 09/18/2017

At (Recorded Time) : 12:16:03 PM



Doc ID - 0251720200030

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 : 09/18/2017 At : 12:28:09PM

29

835208

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Bank of America, N.A.
Doc Retention-GFS
NC1-001-05-13
One Independence Center
101 North Tryon St.
Charlotte, NC 28255-0001

ONONDAGA COUNTY	
BASIC TAX	\$
MTG. INS. FUND TAX	\$ 82,500 -
NET ADDITIONAL TAX	\$
TOTAL MTG. TAX PAID	\$ 82,500 -

S: 049.
B: 08
L: 15.0, 14.0

**BUILDING LOAN MORTGAGE, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

This Building Loan Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (as the same may be modified, supplemented, amended or amended and restated from time to time, the "Mortgage"), dated as of August 10, 2017, is given by SYRACUSE 727 LLC, as mortgagor ("Mortgagor" or "Obligor"), and CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation duly existing under the laws of the State of New York with offices located at 201 East Washington Street, 7th Floor, Syracuse, New York 13202 (together with any subsequent lessor under the Agency Leaseback Agreement, and their respective heirs, executors, legal representatives, successors and assigns, individually and collectively, the "Agency"), to BANK OF AMERICA, N.A., a national banking association, as mortgagee ("Mortgagee").

The Mortgagor is fee owner of the Property (as defined herein), such Property having been leased to the Agency, as tenant, pursuant to a certain Lease Agreement, dated as of July 1, 2017 (the "Agency Lease Agreement"), with such Property having been leased by the Agency back to the Mortgagor pursuant to a certain Leaseback Agreement, also dated as of July 1, 2017 (the "Agency Leaseback Agreement" and together with the Agency Lease Agreement, collectively, the "Agency Agreements"), such Agency Agreements having been entered into in furtherance of a certain Project (as defined within the Agency Leaseback Agreement) pursuant to which the Agency has and shall provide certain financial assistance to the Mortgagor, including, but not limited to, an exemption from mortgage recording taxes (the "Exemption").

1. GRANT.

1.1 The Property. For the purpose of securing payment and performance of the Secured Obligations defined in Section 2 below, each of Mortgagor and Agency do hereby irrevocably and unconditionally grant, bargain, sell, alien, demise, convey, assign, transfer, mortgage, grant a security interest in, hypothecate, pledge and set over to Mortgagee, with power of sale, all right, title and interest which Mortgagor and/or Agency now have or may later acquire in the following property (all or any part of such property, or any interest in all or any part of it, together with the Personality (as hereinafter defined), excepting therefrom the Agency's Unassigned Rights (as defined in the Agency Leaseback Agreement) being hereinafter collectively referred to as the "Property"):

(a) All that certain plot, piece or parcel of land located in the County of Onondaga, State of New York, as described in Exhibit A hereto (the "Land");

(b) All buildings, structures, improvements, fixtures and appurtenances now or hereafter placed on the Land, and all apparatus and equipment now or hereafter attached in any manner to the Land or any building on the Land, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment (collectively, the "Improvements");

(c) All easements, rights of way, servitudes, privileges, interests, tenements, hereditaments, and appurtenances relating or appurtenant to the Land; all crops growing or to be

grown on the Land (including all such crops following severance from the Land); all standing timber upon the Land (including all such timber following severance from the Land); all development rights or credits and air rights; all sewer, water and water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant to the Land) and shares of stock pertaining to such water or water rights, ownership of which affect the Land; all minerals, oil, gas, and other hydrocarbon substances and rights thereto in, on, under, or upon the Land;

(d) All existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions relating to the use and enjoyment of all or any part of the Land or the Improvements (but excluding the Agency Lease Agreement and the Agency Leaseback Agreement), and any and all guaranties and other agreements relating to or made in connection with any of the foregoing;

(e) All proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, Improvements, or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies, whether or not such policies are required by Mortgagee, and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any breach of warranty, misrepresentation, damage or injury to, or defect in, the Land, Improvements, or the other property described above or any part of them; and

(f) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

TO HAVE AND TO HOLD the above-described Property unto Mortgagee, its successors and assigns, in fee simple, forever, and to warrant and defend the title thereto.

1.2 Fixture Filing. This Mortgage constitutes a financing statement filed as a fixture filing under the New York Uniform Commercial Code, as amended or recodified from time to time, covering any Property which now is or later may become a fixture attached to the Land or any building located thereon.

2. THE SECURED OBLIGATIONS.

2.1 Purpose of Securing. Each of Mortgagor and Agency makes the grant, conveyance, transfer and assignment set forth in Section 1, makes the irrevocable and absolute assignment set forth in Section 3, and grants the security interest set forth in Section 4, all for the purpose of securing the following obligations (the "Secured Obligations") in any order of priority that Mortgagee may choose:

(a) Payment of all obligations of Obligor to Mortgagee arising under the following instrument(s) or agreement(s) (collectively, the "Debt Instrument"):

(i) A promissory note dated as of August 10, 2017, payable by Obligor as maker in the stated principal amount of up to Thirty-Three Million Dollars (\$33,000,000.00) to the order of Mortgagee.

(ii) A certain Building Loan Agreement, dated as of August 10, 2017 (the "Loan Agreement"), between Obligor and Mortgagee which provides for extensions of credit in a principal amount not exceeding Thirty-Three Million Dollars (\$33,000,000.00).

This Mortgage also secures payment of all obligations of Obligor under the Debt Instrument which arise after the Debt Instrument is extended, renewed, modified or amended pursuant to any written agreement between Obligor and Mortgagee, and all obligations of Obligor under any successor agreement or instrument which amends and restates or otherwise supersedes the Debt Instrument in its entirety;

(b) Payment and performance of all obligations of Mortgagor under this Mortgage;

(c) Payment and performance of all obligations of Obligor under any Swap Contract with respect to which there is a writing evidencing the parties' agreement that said Swap Contract shall be secured by this Mortgage. "Swap Contract" means any document, instrument or agreement with Mortgagee, now existing or entered into in the future, relating to an interest rate swap transaction, forward rate transaction, interest rate cap, floor or collar transaction, any similar transaction, any option to enter into any of the foregoing, and any combination of the foregoing, which agreement may be oral or in writing, including, without limitation, any master agreement relating to or governing any or all of the foregoing and any related schedule or confirmation, each as amended from time to time; and

(d) Payment and performance of all future advances and other obligations under the Debt Instrument.

This Mortgage does not secure any obligation which expressly states that it is unsecured, whether contained in the foregoing Debt Instrument or in any other document, agreement or instrument.

Notwithstanding any provision to the contrary, "Secured Obligations" secured hereby shall not include obligations arising under any Swap Contract to the extent that the grant of a lien hereunder to secure such Swap Contract would violate the Commodity Exchange Act by virtue of the Mortgagor's failure to constitute an "eligible contract participant" as defined in the Commodity Exchange Act at the time such grant of such lien becomes effective with respect to such Swap Contract. "Commodity Exchange Act" means 7 U.S.C. Section 1 *et seq.*, as amended from time to time, any successor statute, and any rules, regulations and orders applicable thereto.

2.2 Terms of Secured Obligations. All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Debt Instrument described in Paragraph 2.1(a) and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. These terms include any provisions in the Debt Instrument which permit borrowing, repayment and reborrowing, or which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

2.3 Maximum Principal Amount. NOTWITHSTANDING ANY PROVISION SET FORTH HEREIN OR IN THE DEBT INSTRUMENT AND ALL OTHER DOCUMENTS RELATING TO, GUARANTEEING OR OTHERWISE GIVEN IN CONNECTION WITH THE SECURED OBLIGATIONS (THE "LOAN DOCUMENTS") TO THE CONTRARY, THE MAXIMUM AMOUNT OF PRINCIPAL INDEBTEDNESS SECURED BY THIS MORTGAGE AT EXECUTION, OR WHICH UNDER ANY CONTINGENCY MAY BECOME SECURED HEREBY AT ANY TIME HEREAFTER, IS THIRTY-THREE MILLION DOLLARS (\$33,000,000.00) PLUS ALL INTEREST PAYABLE UNDER THE DEBT INSTRUMENT AND ALL AMOUNTS EXPENDED BY MORTGAGEE AFTER DEFAULT BY OBLIGOR (A) FOR THE PAYMENT OF TAXES, CHARGES OR ASSESSMENTS WHICH MAY BE IMPOSED BY LEGAL REQUIREMENTS UPON THE PROPERTY; (B) TO MAINTAIN THE INSURANCE REQUIRED UNDER THIS MORTGAGE; (C) FOR ANY EXPENSES INCURRED IN MAINTAINING THE PROPERTY AND UPHOLDING THE LIEN OF THIS MORTGAGE, INCLUDING, BUT NOT LIMITED TO, THE EXPENSE OF ANY LITIGATION TO PROSECUTE OR DEFEND THE RIGHTS AND LIEN CREATED BY THIS MORTGAGE, AND (D) FOR ANY AMOUNT, COST OR CHARGE TO WHICH MORTGAGEE BECOMES SUBROGATED, UPON PAYMENT, WHETHER UNDER RECOGNIZED PRINCIPLES OF LAW OR EQUITY, OR UNDER EXPRESS STATUTORY AUTHORITY.

2.4 Future Advances. This Mortgage permits and secures any and all current and future advances to Mortgagor evidenced by or made pursuant to the Debt Instrument described in Paragraph 2.1(a).

3. ASSIGNMENT OF RENTS.

3.1 Assignment. Each of Mortgagor and Agency hereby irrevocably, absolutely, presently and unconditionally assigns to Mortgagee all rents, royalties, issues, profits, revenue, income and proceeds of the Property, whether now due, past due or to become due, including all prepaid rents and security deposits, except with respect to the Agency Agreements (collectively, the "Rents"), and confers upon Mortgagee the right to collect such Rents with or without taking possession of the Property. In the event that anyone establishes and exercises any right to develop, bore for or mine for any water, gas, oil or mineral on or under the surface of the Property, any sums that may become due and payable to Mortgagor as bonus or royalty payments, and any damages or other compensation payable to Mortgagor in connection with the exercise of any such rights, shall also be considered Rents assigned under this Paragraph.

3.2 Grant of License. Notwithstanding the provisions of Paragraph 3.1, Mortgagee hereby confers upon Mortgagor a license ("License") to collect and retain the Rents as they become due and payable, so long as no Event of Default, as defined in Paragraph 6.2, shall exist and be continuing. If an Event of Default has occurred and is continuing, Mortgagee shall have the right, which it may choose to exercise in its sole discretion, to terminate this License without notice to or demand upon Mortgagor, and without regard to the adequacy of the security for the Secured Obligations.

4. SECURITY INTEREST IN RELATED PERSONALTY.

4.1 Grant of Security Interest. This Mortgage is intended to be a security agreement pursuant to the New York Uniform Commercial Code for all items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the New York Uniform Commercial Code. Mortgagor grants to Mortgagee a security interest in, and pledges and assigns to Mortgagee, all of Mortgagor's right, title and interest, whether presently existing or hereafter acquired in and to all of the following property (collectively, the "Personalty"):

(a) All materials, supplies, goods, tools, furniture, fixtures, equipment, and machinery which in all cases is affixed or attached, or to be affixed or attached, in any manner on the Land or the Improvements;

(b) All crops growing or to be grown on the Land (and after severance from the Land); all standing timber upon the Land (and after severance from the Land); all sewer, water and water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant to the Land) and all evidence of ownership rights pertaining to such water or water rights, ownership of which affect the Land; and all architectural and engineering plans, specifications and drawings which arise from or relate to the Land or the Improvements;

(c) All permits, licenses and claims to or demands for the voluntary or involuntary conversion of any of the Land, Improvements, or other Property into cash or liquidated claims, proceeds of all present and future fire, hazard or casualty insurance policies relating to the Land and the Improvements, whether or not such policies are required by Mortgagee, and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any breach of warranty, misrepresentation, damage or injury to, or defect in, the Land, Improvements, or other Property or any part of them;

(d) All substitutions, replacements, additions, and accessions to any of the above property, and all books, records and files relating to any of the above property, including, without limitation, all general intangibles related to any of the above property and all proceeds of the above property.

5. RIGHTS AND DUTIES OF THE PARTIES.

5.1 Representations and Warranties. Mortgagor represents and warrants that Mortgagor lawfully possesses and holds good and marketable fee simple title to all of the Land and the Improvements.

5.2 Taxes, Assessments, Liens and Encumbrances. Mortgagor shall pay or cause to be paid prior to the due date therefor all taxes, payments in lieu of taxes, levies, charges and assessments, now or hereafter levied, including assessments on appurtenant water stock, imposed by any public or quasi-public authority or utility company which are (or if not paid, may become) a lien on all or part of the Property or any interest in it, or which may cause any decrease in the value of the Property or any part of it. Mortgagor shall promptly discharge any lien on the Property which Mortgagee has not consented to in writing, and shall also pay when due each obligation secured by or reducible to a lien, charge or encumbrance which now or hereafter encumbers or appears to encumber all or part of the Property, whether the lien, charge or encumbrance is or would be senior or subordinate to this Mortgage.

5.3 Damages and Insurance and Condemnation Proceeds.

(a) Mortgagor hereby absolutely and irrevocably assigns to Mortgagee, and authorizes the payor to pay to Mortgagee, the following claims, causes of action, awards, payments and rights to payment (collectively, the "Claims"):

(i) all awards of damages and all other compensation payable directly or indirectly because of a condemnation, proposed condemnation or taking for public or private use which affects all or part of the Property or any interest in it;

(ii) all other awards, claims and causes of action, arising out of any breach of warranty or misrepresentation affecting all or any part of the Property, or for damage or injury to, or defect in, or decrease in value of all or part of the Property or any interest in it;

(iii) all proceeds of any insurance policies payable because of loss sustained to all or part of the Property, whether or not such insurance policies are required by Mortgagee; and

(iv) all interest which may accrue on any of the foregoing.

(b) Mortgagor shall promptly notify Mortgagee in writing if:

(i) any damage occurs or any injury or loss is sustained to all or part of the Property, or any action or proceeding relating to any such damage, injury or loss is commenced; or

(ii) any offer is made, or any action or proceeding is commenced, which relates to any actual or proposed condemnation or taking of all or part of the Property.

If Mortgagee chooses to do so, it may in its own name appear in or prosecute any action or proceeding to enforce any cause of action based on breach of warranty or misrepresentation, or for damage or injury to, defect in, or decrease in value of all or part of the Property, and it may make any compromise or settlement of the action or proceeding. Mortgagee, if it so chooses, may participate in any action or proceeding relating to condemnation or taking of all or part of the Property, and may join Mortgagor in adjusting any loss covered by insurance. Notwithstanding the foregoing, but only so long as no Event of Default shall have occurred and be continuing, Mortgagor shall have the exclusive right to prosecute any actions or claims for less than One Million Dollars (\$1,000,000.00) in the aggregate during the term of this Mortgage, so long as any funds recovered are held in trust by the Mortgagor for the sole purpose of restoring the Property, with any excess funds being delivered to the Mortgagee for application against the outstanding

amount owing under the Loan Agreement.

(c) Subject to clause (d) below, all proceeds of the Claims assigned to Mortgagee under this Paragraph shall be paid to Mortgagee. In each instance, Mortgagee shall apply those proceeds first toward reimbursement of all of Mortgagee's costs and expenses of recovering the proceeds, including attorneys' fees. Mortgagor further authorizes Mortgagee, at Mortgagee's option and in Mortgagee's sole discretion, and regardless of whether there is any impairment of the Property, (i) to apply the balance of such proceeds, or any portion of them, to pay or prepay some or all of the Secured Obligations in such order or proportion as Mortgagee may determine, or (ii) to hold the balance of such proceeds, or any portion of them, in an interest-bearing account to be used for the cost of reconstruction, repair or alteration of the Property, or (iii) to release the balance of such proceeds, or any portion of them, to Mortgagor. If any proceeds are released to Mortgagor, Mortgagee shall not be obligated to see to, approve or supervise the proper application of such proceeds. If the proceeds are held by Mortgagee to be used to reimburse Mortgagor for the costs of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition, or such other condition as Mortgagee may approve in writing. Mortgagee may, at Mortgagee's option, condition disbursement of the proceeds on Mortgagee's approval of such plans and specifications prepared by an architect satisfactory to Mortgagee, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen, and such other evidence of costs, percentage of completion of construction, application of payments, and satisfaction of liens as Mortgagee may reasonably require.

(d) Proceeds from any Claim of less than Two Million Dollars (\$2,000,000.00) in the aggregate for such Claim may be applied by the Mortgagor, in its discretion, to the restoration of the Property, without the consent of the Mortgagee.

5.4 Insurance. Mortgagor shall provide and maintain in force at all times all risk property damage insurance (including without limitation windstorm coverage, and hurricane coverage as applicable) on the Property and such other type of insurance on the Property as may be required by Mortgagee in its reasonable judgment. At Mortgagee's request, Mortgagor shall provide Mortgagee with a counterpart original of any policy, together with a certificate of insurance setting forth the coverage, the limits of liability, the carrier, the policy number and the expiration date. Each such policy of insurance shall be in an amount, for a term, and in form and content reasonably satisfactory to Mortgagee, and shall be written only by companies reasonably approved by Mortgagee. In addition, each policy of hazard insurance shall include a Form 438BFU or equivalent loss payable endorsement and a standard "non-contributory mortgagee" endorsement, each in favor of Mortgagee.

5.5 Maintenance and Preservation of Property.

(a) Mortgagor shall keep the Property in good condition and repair and shall not commit or allow waste of the Property. Following substantial completion of the construction of the Property, Mortgagor shall not remove or demolish the Property or any part of it, or alter, restore or add to the Property, or initiate or allow any change in any zoning or other land use classification which affects the Property or any part of it, except with Mortgagee's express prior written consent in each instance.

(b) If all or part of the Property becomes damaged or destroyed, Mortgagor shall promptly and completely repair and/or restore the Property in a good and workmanlike manner in accordance with sound building practices, regardless of whether or not Mortgagee agrees to disburse insurance proceeds or other sums to pay costs of the work of repair or reconstruction under Paragraph 5.3 (unless, and to the extent, Mortgagee is obligated by the terms of this Agreement to do so, but has yet to do so).

(c) Mortgagor shall not commit or allow any act upon or use of the Property which would violate any material applicable law or order of any governmental authority, whether

now existing or later to be enacted and whether foreseen or unforeseen, or any public or private covenant, condition, restriction or equitable servitude affecting the Property. Mortgagor shall not bring or keep any article on the Property or cause or allow any condition to exist on it, if that could invalidate or would be prohibited by any insurance coverage required to be maintained by Mortgagor on the Property or any part of it under this Mortgage.

(d) If the Property is agricultural, Mortgagor shall farm the Property in a good and husbandlike manner. Mortgagor shall keep all trees, vines and crops on the Property properly cultivated, irrigated, fertilized, sprayed and fumigated, and shall replace all dead or unproductive trees or vines with new ones. Mortgagor shall prepare for harvest, harvest, remove and sell any crops growing on the Property. Mortgagor shall keep all buildings, fences, ditches, canals, wells and other farming improvements on the Property in first class condition, order and repair.

(e) Mortgagor shall perform all other acts which from the character or use of the Property may be reasonably necessary to maintain and preserve its value.

5.6 Releases, Extensions, Modifications and Additional Security. Without affecting the personal liability of any person, including Mortgagor (or Obligor, if different from Mortgagor), for the payment of the Secured Obligations or the lien of this Mortgage on the remainder of the Property for the unpaid amount of the Secured Obligations, Mortgagee may from time to time and without notice:

- (a) release any person liable for payment of any Secured Obligation;
- (b) extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation;
- (c) accept additional real or personal property of any kind as security for any Secured Obligation, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security;
- (d) alter, substitute or release any property securing the Secured Obligations;
- (e) consent to the making of any plat or map of the Property or any part of it;
- (f) join in granting any easement or creating any restriction affecting the Property;
- (g) join in any subordination or other agreement affecting this Mortgage or the lien of it; or
- (h) release the Property or any part of it from the lien of this Mortgage.

5.7 Satisfaction of Mortgage. Upon Mortgagee's determination in its sole good faith discretion that all sums secured hereby have been indefeasibly paid in full and no further commitment to extend credit continues, Mortgagee shall execute and deliver a satisfaction of the Mortgage to Mortgagor or, upon Mortgagor's written request, an assignment of Mortgage in recordable form to a party designated by Mortgagor, which assignment shall be made without any representation or warranty by Mortgagee. Mortgagor shall pay Mortgagee's reasonable attorneys' fees incurred in connection with such assignment of this Mortgage.

5.8 Compensation and Reimbursement of Costs and Expenses.

- (a) [Reserved].
- (b) Mortgagor further agrees to pay or reimburse Mortgagee for all actual out-of-

pocket costs, expenses and other advances which may be incurred or made by Mortgagee to protect or preserve the Property or to enforce any terms of this Mortgage, including the exercise of any rights or remedies afforded to Mortgagee under Paragraph 6.3, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Mortgage, including reasonable attorneys' fees and other legal costs and disbursements, costs of any sale of the Property and any cost of any appraisal and evidence of title.

(c) Mortgagor shall pay all obligations arising under this Paragraph immediately upon demand by Mortgagee. Each such obligation shall be added to, and considered to be part of, the principal of the Secured Obligations, and shall bear interest from the date the obligation arises at the rate provided in any instrument or agreement evidencing the Secured Obligations. If more than one rate of interest is applicable to the Secured Obligations, the highest rate shall be used for purposes hereof.

5.9 Exculpation and Indemnification.

(a) Mortgagee shall not be directly or indirectly liable to Mortgagor or any other person as a consequence of any of the following:

(i) Mortgagee's exercise of or failure to exercise any rights, remedies or powers granted to it in this Mortgage;

(ii) Mortgagee's failure or refusal to perform or discharge any obligation or liability of Mortgagor under any agreement related to the Property or under this Mortgage;

(iii) Mortgagee's failure to produce Rents from the Property or to perform any of the obligations of the lessor under any lease covering the Property;

(iv) any waste committed by lessees of the Property or any other parties, or any dangerous or defective condition of the Property; or

(v) any loss sustained by Mortgagor or any third party resulting from any act or omission of Mortgagee in operating or managing the Property upon exercise of the rights or remedies afforded Mortgagee under Paragraph 6.3, unless the loss is caused by the willful misconduct, gross negligence or bad faith of Mortgagee.

Mortgagor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Mortgagee.

(b) Mortgagor agrees to indemnify Mortgagee against and hold Mortgagee harmless from all losses, damages, liabilities, claims, causes of action, judgments, court costs, reasonable attorneys' fees and other legal expenses, cost of evidence of title, cost of any appraisal or other evidence of value, and other costs and expenses which Mortgagee may suffer or incur in performing any act required or permitted by this Mortgage or by law or because of any failure of Mortgagor to perform any of its obligations. This agreement by Mortgagor to indemnify Mortgagee shall survive the release and cancellation of any or all of the Secured Obligations and the satisfaction or partial release of this Mortgage.

5.10 Defense and Notice of Claims and Actions. At Mortgagor's sole expense, Mortgagor shall protect, preserve and defend the Property and title to and right of possession of the Property, and the security of this Mortgage and the rights and powers of Mortgagee created under it, against all adverse claims. Mortgagor shall give Mortgagee prompt notice in writing if any claim is asserted which does or could affect any of these matters, or if any action or proceeding is commenced which alleges or relates to any such claim.

5.11 Representation and Warranty Regarding Hazardous Substances. Before signing this Mortgage, Mortgagor performed an environmental site assessment of, and researched and inquired into the previous uses and ownership of the Property. Based on that due diligence and except as set forth therein, Mortgagor represents and warrants that to the best of its knowledge, no hazardous substance has been disposed of or released or otherwise exists in, on, under or onto the Property, except as Mortgagor has disclosed to Mortgagee in writing. Mortgagor further represents and warrants that Mortgagor has complied, and will comply and utilize commercially reasonable efforts to cause all occupants of the Property to comply, with all current and future laws, regulations and ordinances or other requirements of any governmental authority relating to or imposing liability or standards of conduct concerning protection of health or the environment or hazardous substances ("Environmental Laws"). Mortgagor shall promptly, at Mortgagor's sole cost and expense, take all reasonable actions with respect to any hazardous substances or other environmental condition at, on, or under the Property necessary to (i) comply with all applicable Environmental Laws; (ii) allow continued use, occupation or operation of the Property; or (iii) maintain the fair market value of the Property. Mortgagor acknowledges that hazardous substances may permanently and materially impair the value and use of the Property. "Hazardous substance" means any substance, material or waste that is or becomes designated or regulated as "toxic," "hazardous," "pollutant," or "contaminant" or a similar designation or regulation under any applicable current or future federal, state or local law (whether under common law, statute, regulation or otherwise) or judicial or administrative interpretation of such, including without limitation petroleum or natural gas.

5.12 Site Visits, Observation and Testing. Mortgagee and its agents and representatives shall have the right at any reasonable time, after giving reasonable notice to Mortgagor, to, in a commercially reasonable manner, enter and visit the Property for the purposes of performing appraisals, observing the Property, taking and removing environmental samples, and conducting tests on any part of the Property. Mortgagor shall reimburse Mortgagee on demand for the costs of any such environmental investigation and testing to the extent more particularly set forth in the Loan Agreement and Environmental Indemnity executed and delivered by Mortgagor to Mortgagee in connection herewith. Mortgagee will make reasonable efforts during any site visit, observation or testing conducted pursuant this Paragraph to avoid interfering with Mortgagor's use of the Property. Mortgagee is under no duty, however, to visit or observe the Property or to conduct tests, and any such acts by Mortgagee will be solely for the purposes of protecting Mortgagee's security and preserving Mortgagee's rights under this Mortgage. No site visit, observation or testing or any report or findings made as a result thereof ("Environmental Report") (i) will result in a waiver of any default of Mortgagor; (ii) impose any liability on Mortgagee; or (iii) be a representation or warranty of any kind regarding the Property (including its condition or value or compliance with any laws) or the Environmental Report (including its accuracy or completeness). In the event Mortgagee has a duty or obligation under applicable laws, regulations or other requirements to disclose an Environmental Report to Mortgagor or any other party, Mortgagor authorizes Mortgagee to make such a disclosure. Mortgagee may also disclose an Environmental Report to any regulatory authority, and to any other parties as necessary or appropriate in Mortgagee's judgment. Mortgagor further understands and agrees that any Environmental Report or other information regarding a site visit, observation or testing that is disclosed to Mortgagor by Mortgagee or its agents and representatives is to be evaluated (including any reporting or other disclosure obligations of Mortgagor) by Mortgagor without advice or assistance from Mortgagee.

5.13 Additional Provisions Relating to Condominiums. If the Property is subject to a condominium declaration of conditions, covenants and restrictions recorded in the official records of the county in which the Property is located (the "Declaration"), the following provisions shall apply.

(a) The provisions contained in this Mortgage are obligations of Mortgagor in addition to Mortgagor's obligations under the Declaration with respect to similar matters, and shall not restrict or limit Mortgagor's duties and obligations to keep and perform promptly all of its obligations as unit owner under the Declaration.

(b) Mortgagor shall at all times fully perform and comply with all the agreements, covenants, terms and conditions imposed upon unit owners under the Declaration, and if

Mortgagor fails to do so, Mortgagee may (but shall not be obligated to) take any action Mortgagee deems necessary or desirable to prevent or cure any default thereunder. Mortgagee may also take such action as it deems necessary or desirable to cure a default under the Declaration by Mortgagor or any other party occupying the unit(s) (a "Unit Occupant") encumbered by this Mortgage, upon receipt by Mortgagee from the condominium association under the Declaration (the "Association") of written notice of such default, even though the existence of such default or the nature thereof may be questioned or denied by Mortgagor or by any party on behalf of Mortgagor. Mortgagee may pay and expend such sums of money as Mortgagee in its sole discretion deems necessary to prevent or cure any default by Mortgagor or a Unit Occupant, and Mortgagor hereby agrees to pay to Mortgagee, immediately and without demand, all such sums so paid and expended by Mortgagee, together with interest thereon from the date of each such payment at the rate (the "Demand Rate") of two percent (2%) in excess of the then current rate of interest under the Debt Instrument. All sums so paid and expended by Mortgagee, and the interest thereon, shall be added to and be secured by the lien of this Mortgage. At Mortgagee's request, Mortgagor will submit satisfactory evidence of payment of all of its monetary obligations under the Declaration (including but not limited to rents, taxes, assessments, insurance premiums and operating expenses).

(c) At Mortgagee's request, Mortgagor will submit satisfactory evidence of payment of all of its monetary obligations under the Declaration (including but not limited to rents, taxes, assessments, insurance premiums and operating expenses).

(d) Mortgagor shall advise Mortgagee in writing of the giving of any notice to Mortgagor by the Association under the Declaration of any default by Mortgagor as unit owner or by a Unit Occupant thereunder in the performance or observance of any of the terms, conditions and covenants to be performed or observed by Mortgagor or such Unit Occupant thereunder, and Mortgagor shall deliver to Mortgagee a true copy of each such notice.

(e) If any action, proceeding, motion or notice shall be commenced or filed in respect of the Association in connection with any case (including a case commenced or filed under the Bankruptcy Code), Mortgagee shall have the option, to the exclusion of Mortgagor, exercisable upon notice from Mortgagee to Mortgagor, to conduct and control any such litigation with counsel of Mortgagee's choice. Mortgagee may proceed in its own name or in the name of Mortgagor in connection with any such litigation, and Mortgagor agrees to execute any and all powers, authorizations, consents or other documents required by Mortgagee in connection therewith. Mortgagor shall, upon demand, pay to Mortgagee all costs and expenses (including reasonable attorneys' fees) paid or incurred by Mortgagee in connection with the prosecution or conduct of any such proceedings. Any such costs or expenses not paid by Mortgagor as aforesaid shall be secured by the lien of this Mortgage and shall be added to the principal amount of the indebtedness secured hereby. Mortgagor shall not commence any action, suit, proceeding or case, or file any application or make any motion, in respect of the Declaration in any such case without the prior written consent of Mortgagee.

(f) Mortgagor will use its commercially reasonable efforts to obtain and deliver to Mortgagee within twenty (20) days after written request by Mortgagee, an estoppel certificate from the Association setting forth (i) the name of the unit owner, (ii) that the Declaration has not been modified or, if it has been modified, the date of each modification (together with copies of each such modification), (iii) the amount of common expenses and other assessments payable by Mortgagor as unit owner under the Declaration, (iv) the date to which all common expenses and other assessments have been paid by Mortgagor as unit owner under the Declaration, (v) whether there are any alleged defaults by Mortgagor or a Unit Occupant under the Declaration and, if so, setting forth the nature thereof in reasonable detail, and (vi) as to such other matters as Mortgagee may reasonably request.

(g) Mortgagor represents and warrants to Mortgagee that as of the date hereof, no default under the Declaration has occurred and is continuing.

(h) Mortgagor shall take such actions as may be reasonable to insure that the Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Mortgagee.

(i) Mortgagor shall not, except after notice to Mortgagee and with Mortgagee's prior written consent, either partition or subdivide the Property or consent to:

(i) the abandonment or termination of the condominium(s) encumbered by this Mortgage, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(ii) any amendment to any provision of the Declaration, the Association's bylaws or articles or any rules and regulations promulgated by the Association;

(iii) termination of professional management and assumption of self-management of the Association; or

(iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Association unacceptable to Mortgagee.

6. ACCELERATING TRANSFERS, DEFAULT AND REMEDIES.

6.1 Accelerating Transfers

(a) "Accelerating Transfer" means any sale, contract to sell, conveyance, encumbrance, or other transfer, whether voluntary, involuntary, by operation of law or otherwise, of all or any material part of the Property or any interest in it, including any transfer or exercise of any right to drill for or to extract any water (other than for Mortgagor's own use), oil, gas or other hydrocarbon substances or any mineral of any kind on or under the surface of the Property. "Accelerating Transfer" also means withdrawal or removal of any managing member, termination of the limited liability company or any transfer or transfers of, in the aggregate, more than fifty percent (50%) of the voting power to a non-Obligor or in the aggregate more than fifty percent (50%) of the direct or indirect ownership of the economic interest in the Mortgagor to a non-Obligor.

(b) Mortgagor agrees that Mortgagor shall not make any Accelerating Transfer, unless the transfer is preceded by Mortgagee's express written consent to the particular transaction and transferee. Mortgagee may withhold such consent in its sole discretion. If any Accelerating Transfer occurs, Mortgagee in its sole discretion may declare all of the Secured Obligations to be immediately due and payable, and Mortgagee may invoke any rights and remedies provided by Paragraph 6.3 of this Mortgage.

(c) Notwithstanding the foregoing, a transfer of an equity interest that would otherwise be an "Accelerating Transfer" hereunder shall be permitted if (i) such transfer is made for the purposes of estate planning, (ii) the transferee is acceptable to the Bank in its sole and absolute discretion, and (iii) the transferee guaranties the obligations of the Mortgagee under the Loan Agreement.

6.2 Events of Default. The occurrence of any one or more of the following events, at the option of Mortgagee, shall constitute an event of default ("Event of Default") under this Mortgage:

(a) Obligor fails to make any payment, when due, under the Debt Instrument (after giving effect to any applicable grace period), or any other default occurs under and as

defined in the Debt Instrument or in any other instrument or agreement evidencing any of the Secured Obligations and such default continues beyond any applicable cure period;

(b) Mortgagor (i) fails to make any payment within three (3) days of when due (without duplication of any grace period contained in any other document executed in connection herewith) or (ii) perform any obligation which arises under this Mortgage, and with respect to any such default that by its nature can be cured, such default shall continue for a period of thirty (30) days from its occurrence;

(c) Mortgagor makes or permits the occurrence of an Accelerating Transfer in violation of Paragraph 6.1;

(d) Any representation or warranty made in connection with this Mortgage, the Secured Obligations, or in any Debt Instrument proves to have been false or misleading in any material respect when made;

(e) Any default occurs under any other mortgage on all or any part of the Property, or under any obligation secured by such mortgage, whether such mortgage is prior to or subordinate to this Mortgage; or

(f) An event occurs which gives Mortgagee the right or option to terminate any Swap Contract secured by this Mortgage.

6.3 Remedies. At any time after the occurrence of an Event of Default, Mortgagee shall be entitled to invoke any and all of the rights and remedies described below, as well as any other rights and remedies authorized by law. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Mortgagee may declare any or all of the Secured Obligations to be due and payable immediately, and/or may terminate any Swap Contract secured by this Mortgage in accordance with its terms.

(b) Mortgagee may apply to any court of competent jurisdiction for, and obtain appointment of, a receiver for all or any portion of the Property.

(c) Mortgagee, in person, by agent or by court-appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and in its own name or in the name of Mortgagor sue for or otherwise collect any and all Rents, including those that are past due, and may also do any and all other things in connection with those actions that Mortgagee may in its sole discretion consider necessary and appropriate to protect the security or lien of this Mortgage. Such other things may include: entering into, enforcing, modifying, or canceling leases on such terms and conditions as Mortgagee may consider proper; obtaining and evicting tenants; fixing or modifying Rents; completing any unfinished construction; contracting for and making repairs and alterations; performing such acts of cultivation or irrigation as necessary to conserve the value of the Property; and preparing for harvest, harvesting and selling any crops that may be growing on the property. Upon the occurrence of an Event of Default, Mortgagor hereby irrevocably constitutes and appoints Mortgagee as its attorney-in-fact to perform such acts and execute such documents as Mortgagee in its sole discretion may consider to be appropriate in connection with taking these measures, including endorsement of Mortgagor's name on any instruments. Mortgagor agrees to deliver to Mortgagee all books and records pertaining to the Property, including computer-readable memory and any computer hardware or software necessary to access or process such memory, as may reasonably be requested by Mortgagee in order to enable Mortgagee to exercise its rights under this Paragraph.

(d) Mortgagee may cure any breach or default of Mortgagor (without waiving such breach or default), and if it chooses to do so in connection with any such cure, Mortgagee

may also enter the Property and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Mortgage. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Mortgagee under, this Mortgage; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Mortgagee's sole judgment is or may be senior in priority to this Mortgage, such judgment of Mortgagee to be conclusive as among the parties to this Mortgage; obtaining insurance and/or paying any premiums or charges for insurance required to be carried under this Mortgage; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Mortgagee. Mortgagee may take any of the actions permitted hereunder either with or without giving notice to any person.

(e) Mortgagee may bring an action in any court of competent jurisdiction to foreclose this instrument or to obtain specific enforcement of any of the covenants or agreements of this Mortgage.

(f) Mortgagee may exercise the remedies contained in any Debt Instrument or in any other instrument or agreement evidencing any of the Secured Obligations.

(g) Mortgagee may proceed under the Uniform Commercial Code as to all or any part of the Personalty, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial Code. When all time periods then legally mandated have expired, and after such notice of sale as may then be legally required has been given, Mortgagee may sell the Personalty at a public sale to be held at the time and place specified in the notice of sale. It shall be deemed commercially reasonable for the Mortgagee to dispose of the Personalty without giving any warranties as to the Personalty and specifically disclaiming all disposition warranties.

(h) Mortgagee may foreclose on this Mortgage non-judicially pursuant to the provisions of Article 14 of the Real Property Actions and Proceedings Law of New York, as such provisions may be extended, renewed, modified or replaced from time to time.

6.4 Application of Sale Proceeds and Rents.

(a) Mortgagee shall apply the proceeds of any sale of the Property in the following manner: first, to pay the portion of the Secured Obligations attributable to the costs, fees and expenses of the sale, including costs of evidence of title in connection with the sale; and, second, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose. The remainder, if any, shall be remitted to the person or persons entitled thereto.

(b) Mortgagee shall apply any and all Rents collected by it, and any and all sums other than proceeds of any sale of the Property which Mortgagee may receive or collect under Paragraph 6.3, in the following manner: first, to pay the portion of the Secured Obligations attributable to the costs and expenses of operation and collection that may be incurred by Mortgagee or any receiver; and, second, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose. The remainder, if any, shall be remitted to the person or persons entitled thereto. Mortgagee shall have no liability for any funds which it does not actually receive.

7. MISCELLANEOUS PROVISIONS

7.1 No Waiver or Cure.

(a) Each waiver by Mortgagee must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by

Mortgagee to take action on account of any default of Mortgagor. Consent by Mortgagee to any act or omission by Mortgagor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for Mortgagee's consent to be obtained in any future or other instance.

(b) If any of the events described below occurs, that event alone shall not cure or waive any breach, Event of Default or notice of default under this Mortgage or invalidate any act performed pursuant to any such default or notice; or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed); or impair the security of this Mortgage; or prejudice Mortgagee or any receiver in the exercise of any right or remedy afforded any of them under this Mortgage; or be construed as an affirmation by Mortgagee of any tenancy, lease or option, or a subordination of the lien of this Mortgage:

(i) Mortgagee, its agent or a receiver takes possession of all or any part of the Property;

(ii) Mortgagee collects and applies Rents, either with or without taking possession of all or any part of the Property;

(iii) Mortgagee receives and applies to any Secured Obligation proceeds of any Property, including any proceeds of insurance policies, condemnation awards, or other claims, property or rights assigned to Mortgagee under this Mortgage;

(iv) Mortgagee makes a site visit, observes the Property and/or conducts tests thereon;

(v) Mortgagee receives any sums under this Mortgage or any proceeds of any collateral held for any of the Secured Obligations, and applies them to one or more Secured Obligations;

(vi) Mortgagee or any receiver performs any act which it is empowered or authorized to perform under this Mortgage or invokes any right or remedy provided under this Mortgage.

7.2 Powers of Mortgagee. Mortgagee may take any of the actions permitted under Paragraphs 6.3(b) and/or 6.3(c) regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Mortgage.

7.3 Nonborrower Mortgagor.

(a) If any Mortgagor ("Nonborrower Mortgagor") is not the Obligor under the Debt Instrument described in Paragraph 2.1(a), such Nonborrower Mortgagor authorizes Mortgagee to perform any of the following acts at any time, all without notice to Nonborrower Mortgagor and without affecting Mortgagee's rights or Nonborrower Mortgagor's obligations under this Mortgage:

(i) Mortgagee may alter any terms of the Debt Instrument or any part of it, including renewing, compromising, extending or accelerating, or otherwise changing the time for payment of, or increasing or decreasing the rate of interest on, the Debt Instrument or any part of it;

(ii) Mortgagee may take and hold security for the Debt Instrument, accept additional or substituted security for the Debt Instrument, and subordinate, exchange, enforce, waive, release, compromise, fail to perfect, sell or otherwise dispose of any such security;

(iii) Mortgagee may apply any security now or later held for the Debt Instrument in any order that Mortgagee in its sole discretion may choose, and may direct the order and manner of any sale of all or any part of it and bid at any such sale;

(iv) Mortgagee may release Obligor of its liability for the Debt Instrument or any part of it;

(v) Mortgagee may substitute, add or release any one or more guarantors or endorsers of the Debt Instrument; and

(vi) Mortgagee may extend other credit to Obligor, and may take and hold security for the credit so extended, whether or not such security also secures the Debt Instrument.

(b) Nonborrower Mortgagor waives:

(i) Any right it may have to require Mortgagee to proceed against Obligor, proceed against or exhaust any security held from Obligor, or pursue any other remedy in Mortgagee's power to pursue;

(ii) Any defense based on any legal disability of Obligor, any discharge or limitation of the liability of Obligor to Mortgagee, whether consensual or arising by operation of law or any bankruptcy, reorganization, receivership, insolvency, or debtor-relief proceeding, or from any other cause, or any claim that Nonborrower Mortgagor's obligations exceed or are more burdensome than those of Obligor;

(iii) All presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, notices of acceptance of this Mortgage and of the existence, creation, or incurring of new or additional indebtedness of Obligor, and demands and notices of every kind;

(iv) Any defense based on or arising out of any defense that Obligor may have to the payment or performance of the Debt Instrument or any part of it; and

(v) Until the Secured Obligations have been paid and performed in full, all rights of subrogation, reimbursement, indemnification and contribution (contractual, statutory or otherwise), including any claim or right of subrogation under the Bankruptcy Code (Title 11 of the U.S. Code) or any successor statute, all rights to enforce any remedy that the Mortgagee may have against Obligor, and all rights to participate in any security now or later to be held by Mortgagee for the Debt Instrument.

(c) Nonborrower Mortgagor, other than the Agency, assumes full responsibility for keeping informed of Obligor's financial condition and business operations and all other circumstances affecting Obligor's ability to pay and perform its obligations to Mortgagee, and agrees that Mortgagee shall have no duty to disclose to Nonborrower Mortgagor any information which Mortgagee may receive about Obligor's financial condition, business operations, or any other circumstances bearing on its ability to perform.

(d) No provision or waiver in this Mortgage shall be construed as limiting the generality of any other provision or waiver contained in this Mortgage.

(e) For purposes of this Paragraph 7.3, all references to the Debt Instrument shall also include any instrument or agreement executed by Obligor subsequent to the date of this Mortgage which is secured by this Mortgage in accordance with the provisions of Paragraphs 2.1(c) and 2.1(d).

7.4 Merger. No merger shall occur as a result of Mortgagee's acquiring any other estate in or any other lien on the Property unless Mortgagee consents to a merger in writing.

7.5 Joint and Several Liability. If Mortgagor consists of more than one person, each shall be jointly and severally liable for the faithful performance of all of Mortgagor's obligations under this Mortgage.

7.6 Applicable Law. This Mortgage shall be governed by the laws of the State of New York.

7.7 Successors in Interest. The terms, covenants and conditions of this Mortgage shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. However, this Paragraph does not waive the provisions of Paragraph 6.1.

7.8 Waiver of Jury Trial. EACH PARTY HERETO (AND MORTGAGEE BY VIRTUE OF ITS ACCEPTANCE HEREOF) HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS MORTGAGE OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION HERewith OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (AND MORTGAGEE BY VIRTUE OF ITS ACCEPTANCE HEREOF, BUT ONLY TO THE EXTENT OF THE KNOWLEDGE OF THOSE OFFICERS OF THE MORTGAGEE DIRECTLY INVOLVED IN THE NEGOTIATIONS OF THIS MORTGAGE) (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS MORTGAGE AND THE OTHER DOCUMENTS CONTEMPLATED HEREBY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION AND (c) CERTIFIES THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE.

7.9 Waiver of Class Actions. The terms "Claim" or "Claims" refer to any disputes, controversies, claims, counterclaims, allegations of liability, theories of damage, or defenses between Bank of America, N.A., its subsidiaries and affiliates, on the one hand, and the other parties to this Mortgage, on the other hand (all of the foregoing each being referred to as a "Party" and collectively as the "Parties"). Whether in state court, federal court, or any other venue, jurisdiction, or before any tribunal, the Parties agree that all aspects of litigation and trial of any Claim will take place without resort to any form of class or representative action. Thus the Parties may only bring Claims against each other in an individual capacity and waive any right they may have to do so as a class representative or a class member in a class or representative action. **THIS CLASS ACTION WAIVER PRECLUDES ANY PARTY FROM PARTICIPATING IN OR BEING REPRESENTED IN ANY CLASS OR REPRESENTATIVE ACTION REGARDING A CLAIM.**

7.10 Agency Notices. The Mortgagor shall provide the Mortgagee with copies of all notices delivered to the Mortgagor pursuant to the Agency Agreements. Additionally, the Agency shall use reasonable efforts to send copies of any and all such notices that it sends to the Mortgagor pursuant to the Agency Agreements, also to the Mortgagee. Failure by the Agency to provide such notice shall not constitute a default hereunder.

7.11 Agency Agreements. Mortgagor shall (a) diligently perform and observe all of the terms, covenants and conditions of the Agency Agreements, and (b) promptly notify the Mortgagee of the giving of any notice under the Agency Agreements to the Mortgagor of any default by the Mortgagor, and deliver to the Mortgagee a true copy of each such notice. Mortgagor shall not, without the prior written consent of the Mortgagee, terminate or cancel the Agency Agreements or modify, change, supplement, alter or amend the Agency Agreements, in any respect, either orally or in writing. If the Mortgagor shall

default in the performance or observance of any term, covenant or condition of the Agency Agreements on the part of Mortgagor, to be performed or observed, then, without limiting the generality of the other provisions of this Mortgage, and without waiving or releasing the Mortgagor from any of its obligations hereunder, the Mortgagee shall have the right, but shall be under no obligation, to pay any sums and to perform any act or take any action as may be appropriate to cause all of the terms, covenants and conditions of the Agency Agreements on the part of the Mortgagor to be performed or observed or to be promptly performed or observed on behalf of the Mortgagor, to the end that the rights of the Mortgagor in, to and under the Agency Agreements shall be kept unimpaired and free from default. If the Mortgagee shall make any payment or perform any act or take action in accordance with the preceding sentence, the Mortgagee will notify the Mortgagor and Agency of the making of any such payment, the performance of any such act, or the taking of any such action. In any such event, subject to the rights of lessees, sublessees and other occupants under any leases of space on the Property (excluding the Agency Agreements), the Mortgagee and any person designated by the Mortgagee shall have, and are hereby granted, the right to enter upon the Property at any time and from time to time for the purpose of taking any such action. If the Mortgagor shall deliver to the Mortgagee a copy of any notice of default to Mortgagor, such notice shall constitute full protection to the Mortgagee for any action taken or omitted to be taken by the Mortgagee, in good faith, in reliance thereon.

The Mortgagor and the Agency acknowledge and agree that if, upon a foreclosure by the Mortgagee on the Property under this Mortgage, the Mortgagee desires to take an assignment of the Mortgagor's rights and obligations under the Agency Agreements, all of the Mortgagor's right, title and interest shall automatically be mortgaged and pledged to Mortgagee upon Mortgagee's notice that it intends to exercise such foreclosure rights (or immediately prior to any bankruptcy of the Mortgagor) and such mortgage and pledge shall automatically spread to and encumber all of Mortgagee's right, title and interest in, to and under the Agency Agreements, and in such instance, such spreading shall be deemed to have occurred as of the date of this Mortgage; provided, however, that in order for Mortgagee to assume Mortgagor's rights under the Agency Agreements at such time, Mortgagee acknowledges and agrees that such assignment must be brought for consideration before, and approved by, the entire Agency board at such time and in its sole discretion.

The Mortgagor and the Agency further acknowledge and agree that, upon a foreclosure by the Mortgagee on the Property under this Mortgage, and unless the Mortgagee requests and the Agency approves the assignment of the Agency Agreements as set forth above, all of the Agency Agreements shall immediately be terminated and be of no further force or effect (other than with respect to obligations of the Mortgagor that expressly survive termination pursuant to the terms of the Agency Agreements).

The Mortgagor and the Agency further acknowledge and agree that the Agency Agreements shall be subject and subordinate in all respects to this Mortgage and the lien created hereby.

7.12 No Merger of Fee and Leasehold Estates; Releases. So long as any portion of the Secured Obligations shall remain unpaid, unless Mortgagee shall otherwise consent, the fee title to the Property and the leasehold and subleasehold estates therein created pursuant to the provisions of the Agency Agreements shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in the Agency, the Mortgagor or in any other person by purchase, operation of law or otherwise.

7.13 Bankruptcy Events Concerning the Agency Agreements. The Mortgagor shall not surrender its subleasehold estate and its interest created under the Agency Leaseback Agreement, nor terminate or cancel the Agency Agreement. Any attempted surrender, termination or cancellation by the Mortgagor shall be null and void and of no force or effect. Notwithstanding the foregoing, the Agency reserves all Unassigned Rights (as defined in the Agency Leaseback Agreement), including the right to terminate the Agency Agreements in accordance with the terms thereof if there remains an uncured event of default after all applicable cure periods. If there shall be filed by or against the Mortgagor a petition under the Bankruptcy Code, the Mortgagor, as lessee under the Agency Leaseback Agreement, or any trustee appointed by the Bankruptcy Court in such proceedings, shall immediately (but in no event more

than one (1) day after the filing of such petition) notify the Mortgagee in writing of the Mortgagor's or the trustee's intent, as the case may be, to assume or reject the Agency Leaseback Agreement pursuant to Section 365(a) of the Bankruptcy Code.

7.14 Agency Agreements - Defaults; Termination. If there shall occur any uncured event of default under the Agency Agreements and the Agency Agreements are terminated by the Agency for any reason whatsoever, the Mortgagor and the Mortgagee shall execute such documents and agreements satisfactory to the Mortgagee in its sole and absolute discretion to reflect the fact that the Agency no longer holds a leasehold interest in the Property.

7.15 City of Syracuse Industrial Development Agency Special Obligations. Notwithstanding any other term or condition contained in this Mortgage:

(a) This Mortgage is executed by the Agency solely for the purpose of subjecting its leasehold interest in the Property to the lien of this Mortgage to provide the Exemption and for no other purpose. All representations, covenants and warranties of "the Mortgagor" herein are hereby deemed to have been made by Mortgagor (hereinafter for purposes of this Section, the "Company") and not by the Agency. It is hereby agreed and understood that the Agency has not granted an interest in the Unassigned Rights nor has the Agency or the Mortgagor assigned the Agency Agreements.

(b) The obligations and agreements of the Agency contained herein or therein 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. All obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Property, and neither the members of the Agency nor any person executing this Mortgage on its behalf shall be liable personally under this Mortgage. No recourse shall be had for the payment of the principal of, or interest on the indebtedness which this Mortgage secures, or for any claim based hereon, or otherwise in respect hereof, or based upon or in respect of this Mortgage, or any mortgage supplemental hereto, against any past, present, or future member, officer, agent, servant, or employee, as such, of the Agency or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officers, agents (except for the Company), servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Mortgage and the instruments evidencing the indebtedness it secures. Any judgment or decree shall be enforceable against the Agency only to the extent of its interest in the Property and any such judgment shall not be subject to execution on or by a lien on assets of the Agency other than its interest in the Property.

(c) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless 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. 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 may, at its option, place in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses whereupon the Agency shall agree to comply with such request. 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, directors, servants, agents or employees shall be subject to potential liability, the party seeking such order or decree may, at its option, (1) agree to protect, defend, indemnify and hold harmless the Agency and its members, officers, directors,

servants, agents (other than the Company) 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 reasonably satisfactory security to protect the Agency and its members, officers, directors, servants, agents (other than the Company) and employees against all liability reasonably expected to be incurred as a result of compliance with such request whereupon the Agency shall agree to comply with such request. The agreement on the part of the Mortgagee shall not be construed in any way so as to effect or impair the lien of this Mortgage or the Mortgagee's right to foreclose hereunder as provided by law or construed in any way so as to limit or restrict any of the rights or remedies of the Mortgagee in any foreclosure proceedings.

(d) The Mortgagor agrees that this Mortgage shall be recorded in the office of the Onondaga County Clerk and Mortgagor shall 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, Onondaga County, New York, the City of Syracuse, New York, or other governmental authority upon this Mortgage. The Agency agrees and directs that this Mortgage shall be recorded in accordance with this Section 7.15 and shall deliver to Mortgagee a mortgage recording tax exemption affidavit to facilitate the transactions contemplated herein.

7.16 Agency Executing at the Direction of Obligor. The Obligor 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 Instrument, including but not limited to reasonable attorney's fees.

7.17 Hold Harmless. The Obligor acknowledges and reiterates the provisions and obligations of the Obligor pursuant to Sections 8.2 and 11.11 of the Agency Leaseback Agreement as if fully set forth herein and hereby agrees that such provisions shall be applicable to this Instrument.

7.18 Interpretation. Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Mortgage are for convenience only and do not define or limit any terms or provisions. The word "include(s)" means "include(s), without limitation," and the word "including" means "including, but not limited to." The word "obligations" is used in its broadest and most comprehensive sense, and includes all primary, secondary, direct, indirect, fixed and contingent obligations. It further includes all principal, interest, prepayment charges, late charges, loan fees and any other fees and charges accruing or assessed at any time, as well as all obligations to perform acts or satisfy conditions. No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Mortgage. The Exhibits to this Mortgage are hereby incorporated in this Mortgage.

7.19 In-House Counsel Fees. Whenever Mortgagor is obligated to pay or reimburse Mortgagee for any attorneys' fees, those fees shall include the allocated costs for services of in-house counsel to the extent permitted by applicable law.

7.20 Waiver of Marshaling. Mortgagor waives all rights, legal and equitable, it may now or hereafter have to require marshaling of assets or to direct the order in which any of the Property will be sold in the event of any sale under this Mortgage. Each successor and assign of Mortgagor, including any holder of a lien subordinate to this Mortgage, by acceptance of its interest or lien agrees that it shall be bound by the above waiver, as if it had given the waiver itself.

7.21 Severability. If any provision of this Mortgage should be held unenforceable or void, that provision shall be deemed severable from the remaining provisions and in no way affect the validity of this Mortgage except that if such provision relates to the payment of any monetary sum, then Mortgagee may, at its option, declare all Secured Obligations immediately due and payable.

7.22 Notices. Mortgagor hereby requests that any notice of default or notice of sale be

delivered to it at the address set forth below in the manner described in the Loan Agreement. That address is also the mailing address of Mortgagor as debtor under the Uniform Commercial Code. Mortgagee's address given below is the address for Mortgagee as secured party under the Uniform Commercial Code.

Addresses for Notices to Mortgagor:

Syracuse 727 LLC
270 Sylvan Ave., Suite 164
Englewood Cliffs, NJ 07632-2523
Attn: Brian Rosen and Jared Hutter

With a copy to:

Westerman Ball Ederer Miller Zucker & Sharfstein, LLP
1201 RXR Plaza
Uniondale, New York 11556
Attn: Jay H. Levinton

Address for Notices to Mortgagee:

Bank of America, N.A.
Doc Retention-GFS
NC1-001-05-13
One Independence Center
101 North Tryon St.
Charlotte, NC 28255-0001

8. NEW YORK STATE SPECIFIC PROVISIONS

8.1 Inconsistencies. In the event of any inconsistencies between the terms and conditions of this Section 8 and the other provisions of this Mortgage, the terms and conditions of this Section 8 shall control.

8.2 Trust Fund. In compliance with Section 13 of the New York Lien Law, as the same may be amended from time to time (the "Lien Law"), Obligor shall receive the advances secured hereby, and shall 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, and shall apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. Obligor shall comply strictly with Section 13-f of the Lien Law.

8.3 Real Property Law Section 291-f. The provisions of this Mortgage and/or the Loan Documents restrict (in accordance with their terms) the right or power of the Mortgagor, as against the holder of this Mortgage, without such holder's consent, to cancel, abridge, or otherwise modify tenancies, subtenancies, leases or subleases in existence on the date hereof (the "Existing Leases"), and the tenants or subtenants thereunder, (the "Existing Tenants"), or to accept prepayments of installments of rent to become due under the Existing Leases. Mortgagee shall have all of the rights as against the Existing Tenants as set forth in Section 291-f of the Real Property Law of the State of New York. Mortgagor covenants and agrees to send to each Existing Tenant on the date hereof, either by recognized overnight courier or by certified or registered mail, return receipt requested (and to provide promptly to Mortgagee copies of such letters and receipts) notice of the existence of this Mortgage, together with a copy of this Paragraph 8.3. Any cancellation, abridgment, modification or prepayment made by any Existing Tenant of an Existing Lease in violation of the provisions of this Paragraph 8.3, after the written notice provided for herein, without the consent of Mortgagee shall be voidable by the holder of the Mortgage, as such holder may elect.

8.4 Type of Property. Mortgagor represents and warrants that this Mortgage does not cover real property principally improved by one or more structures containing in the aggregate not more than six residential units, each bearing its own cooking facilities.

8.5 Section 254 of the RPL. In the event of any conflict, inconsistency or ambiguity between the provisions of the Loan Documents and the provisions of subsection 4 of Section 254 of the Real Property Law of New York, the provisions of the Loan Documents shall control.

8.6 Transfer Taxes.

(a) For as long as this Mortgage remains outstanding, Mortgagor covenants and agrees that, in the event of a sale of the Property or other Accelerating Transfer, it will duly complete, execute and deliver to Mortgagee contemporaneously with the submission to the applicable taxing authority or recording officer, all forms and supporting documentation required by such taxing authority or recording officer to estimate and fix any and all applicable state and local real estate Accelerating Transfer taxes, including, without limitation, any real estate transfer taxes payable under Article 31 of the New York State Tax Law or under Title 11, Chapter 21 of the Administrative Code of the City of New York, if applicable, or any successor provisions thereto (collectively, "Transfer Taxes") by reason of such sale or other Accelerating Transfer or recording of the deed evidencing such sale or other Accelerating Transfer.

(b) Mortgagor shall pay all Transfer Taxes that may hereafter become due and payable with respect to any Accelerating Transfer, and in default thereof Mortgagee may (but shall have no obligation to) pay the same and the amount of such payment shall be added to the Debt and, unless incurred in connection with a foreclosure of this Mortgage, be secured by this Mortgage. The provisions of this Paragraph 8.6(b) shall survive any Accelerating Transfer and the delivery of the deed in connection with any Accelerating Transfer.

8.7 Covenants in Addition to RPL. All covenants hereof shall be construed as affording to Mortgagee rights in addition to and not exclusive of the rights conferred under the provisions of Sections 254, 271, 272 and 291-f of the Real Property Law of the State of New York or any other applicable legal requirement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, this Mortgage has been entered into by Mortgagor on the day and year above written.

MORTGAGOR:

SYRACUSE 727 LLC

By: Aptitude 727 LLC, its Managing Member

By: B - L (Seal)
Name: Brian Rosen
Title: Manager

By: [Signature] (Seal)
Name: Jared Huter
Title: Manager

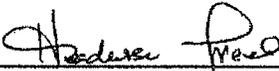
CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By: _____ (Seal)
Name: William M. Ryan
Title: Chairman

[Acknowledgements Appear on Following Page]

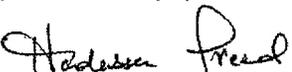
NEW JERSEY
State of New York)
County of BERGEN) ss.:

On the 2 day of August, in the year 2017 before me, the undersigned, personally appeared Brian Rosen, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person, or entity upon behalf of which the individual acted, executed the instrument.


(Signature and office of individual taking acknowledgment)

NEW JERSEY
State of New York)
County of BERGEN) ss.:

On the 2 day of August, in the year 2017 before me, the undersigned, personally appeared Jared Hutter, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person, or entity upon behalf of which the individual acted, executed the instrument.


(Signature and office of individual taking acknowledgment)

Hadassa Freed
2313998
New Jersey
comm expires May 9, 2008

State of New York)
County of _____) ss.:

On the _____ day of _____, in the year 2017 before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person, or entity upon behalf of which the individual acted, executed the instrument.

(Signature and office of individual taking acknowledgment)

IN WITNESS WHEREOF, this Mortgage has been entered into by Mortgagor on the day and year above written.

MORTGAGOR:

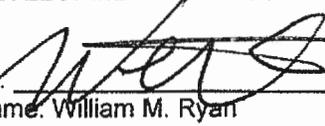
SYRACUSE 727 LLC

By: Aptitude 727 LLC, its Managing Member

By: _____ (Seal)
Name: Brian Rosen
Title: Manager

By: _____ (Seal)
Name: Jared Hutter
Title: Manager

CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By:  _____ (Seal)
Name: William M. Ryan
Title: Chairman

[Acknowledgements Appear on Following Page]

Signature Page to Mortgage

State of New York)
) ss.:
County of _____)

On the _____ day of _____, in the year 2017 before me, the undersigned, personally appeared Brian Rosen, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person, or entity upon behalf of which the individual acted, executed the instrument.

(Signature and office of individual taking acknowledgment)

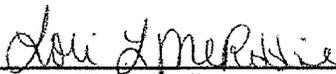
State of New York)
) ss.:
County of _____)

On the _____ day of _____, in the year 2017 before me, the undersigned, personally appeared Jared Hutter, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person, or entity upon behalf of which the individual acted, executed the instrument.

(Signature and office of individual taking acknowledgment)

State of New York)
) ss.:
County of Onondaga)

On the 8th day of August, in the year 2017 before me, the undersigned, personally appeared William Ryan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person, or entity upon behalf of which the individual acted, executed the instrument.



(Signature and office of individual taking acknowledgment)

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2018

Signature Page to Mortgage

Federal law requires Bank of America, N.A. (the "Bank") to provide the following two notices. The notices are not part of the foregoing agreement or instrument and may not be altered. Please read the notices carefully.

These notices apply only to individual Borrowers or Guarantors and individuals who are pledging collateral, granting a lien on real property or are otherwise obligated to the Bank ("Obligors"):

(1) AFFILIATE SHARING NOTICE

From time to time the Bank may share information about the Obligor's experience with Bank of America Corporation (or any successor company) and its subsidiaries and affiliated companies (the "Affiliates"), including, but not limited to, the Bank of America Companies listed in notice #2 below. The Bank may also share with the Affiliates credit-related information contained in any applications, from credit reports and information it may obtain about the Obligor from outside sources.

If the Obligor is an individual, the Obligor may instruct the Bank not to share this information with the Affiliates. The Obligor can make this election by (1) visiting the Bank online at bankofamerica.com/privacy or (2) calling the Bank toll-free at 888.341.5000. To help the Bank complete the Obligor's request, the Obligor should include the Obligor's name, address, phone number, account number(s) and social security number.

If the Obligor makes this election, certain products or services may not be made available to the Obligor. This request will apply to information from applications, consumer reports and other outside sources only. Through the normal course of doing business, including servicing the Obligor's accounts and better serving the Obligor's financial needs, the Bank will continue to share transaction and account experience information, as well as other general information among the Affiliates.

(2) AFFILIATE MARKETING NOTICE – YOUR CHOICE TO LIMIT MARKETING

- The Bank of America companies listed below are providing this notice #2.
- Federal law gives you the right to limit some but not all marketing from all the Bank of America affiliated companies. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from all the Bank of America affiliated companies.
- You may limit all the Bank of America affiliated companies, such as the banking, loan, credit card, insurance and securities companies, from marketing their products or services to you based upon your personal information that they receive from other Bank of America companies. This information includes your income, your account history, and your credit score.
- Your choice to limit marketing offers from all the Bank of America affiliated companies will apply for at least 5 years from when you tell us your choice. Before your choice to limit marketing expires, you will receive a renewal notice that will allow you to continue to limit marketing offers from all the Bank of America affiliated companies for at least another 5 years.
- You may tell us your choice to limit marketing offers and you may tell us the choices for other customers who are joint account holders with you.
- This limitation will not apply in certain circumstances, such as when you have an account or service relationship with the Bank of America company that is marketing to you.
- For individuals with business purpose accounts, this limitation will only apply to marketing to individuals and not marketing to a business.

To limit marketing offers, contact us at 888.341.5000

Bank of America Companies:

This notice applies to all Bank of America entities that utilize the names:

Bank of America
Banc of America
U.S. Trust
Merrill Lynch

These entities include banks and trust companies; credit card companies; brokerage and investment companies; insurance and annuities companies; and real estate companies. In addition, this notice applies to the following Bank of America companies:

Managed Account Advisors LLC
General Fidelity Life Insurance Company
NationsCredit Financial Services Corporation
BAL Corporate Aviation, LLC
BAL Energy Holding, LLC
BAL Energy Management II, LLC
BAL Investment & Advisory, Inc.

EXHIBIT A TO MORTGAGE

Exhibit A to MORTGAGE dated as of August 10, 2017, given by Syracuse 727 LLC as "Mortgagor" to Bank of America, N.A., a national banking association, as "Mortgagee."

Description of Property

AS TO PARCEL 1:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Lot No. 18 of Block No. 369 in said City, being more particularly described as follows:

BEGINNING at a point in the easterly boundary of South Crouse Avenue, said point being South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 132 feet from the intersection of the Southerly boundary of East Adams Street with said easterly boundary of South Crouse Avenue, said point also being the intersection of the division line between Lot No. 16 on the North and said Lot No. 18 on the South with the said easterly boundary of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 40.00 feet to its intersection with the division line between Lot No. 19 on the South and said Lot No. 18 on the North;

THENCE South 89 degrees 54' 00" East, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 18 and 19 a distance of 148.50 feet to a point therein;

THENCE North 00 degrees 29' 30" East, parallel with said easterly boundary of South Crouse Avenue a distance of 40.0 feet to a point in the division line between Lots Nos. 12, 13 and 16 on the North and said Lot No. 18 on the South;

THENCE North 89 degrees 54' 00" West, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 12, 13 and 16 and Lot No. 18, a distance of 148.50 feet to the point of BEGINNING.

AS TO PARCEL 2:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being a part of Block No. 369 of said City, being bounded and described as follows:

Commencing at a point in the easterly line of South Crouse Avenue that is 172 feet South from Adams Street as measured along the easterly line of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said easterly line of South Crouse Avenue a distance of 47.5 feet to a point;

THENCE South 89 degrees 54' 00" East, along the southerly line of premises conveyed to Hugh C. Gregg by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 239.99 feet to the easterly line of farm Lot 201;

THENCE continuing South 89 degrees 54' 00" East, a distance of 90.00 feet to the easterly line of premises conveyed to Hugh C. Gregg by Shattuck realty corporation by deed dated December 21, 1945, and recorded in the Onondaga County Clerk's Office December 27, 1945, in Book 1182 of deeds, Page 444 & C;

THENCE North 3 degrees 39' 20" West, along the easterly line of the premises described in said deed

from Shattuck realty corporation, a distance of 42.52 feet to the Northeast corner of said parcel conveyed to Gregg by the aforesaid deed;

THENCE North 89 degrees 54' 00" West, along the northerly line of the premises conveyed by Shattuck realty corporation to Gregg, 4.83 feet to a point, which is the Southeast corner of premises conveyed to Hugh Carleton Gregg by Leona M. Barnes, by deed dated June 20, 1946 and recorded in the Onondaga County Clerk's Office June 21, 1946, in Book 1214 of deeds, Page 552 & C;

THENCE North 0 degrees 29' 30" East, along the easterly line of said parcel described in said deed from Leona M. Barnes to Gregg, 45.1 feet to the Northeast corner thereof;

THENCE South 89 degrees 54' 00" West, along the northerly line of said parcel conveyed by said Leona M. Barnes to said Gregg, a distance of 88.43 feet to the West line of farm Lot 200;

THENCE continuing South 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins, by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 85.14 feet to a point;

THENCE South 0 degrees 29' 30" West, a distance of 40 feet along the boundary of the premises described in the last mentioned deed to a point;

THENCE North 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins by deed dated October 20, 1950 and recorded in the Onondaga County Clerk's Office on that day in Book 1474 of deeds, Page 104, a distance of 148.5 feet to the point of BEGINNING.

OVERALL DESCRIPTION:

ALL that certain plot, piece or parcel of land, situate, lying and being in The City of Syracuse, County of Onondaga and State of New York being bounded and described as follows:

BEGINNING at a point on the easterly side of South Crouse Avenue distant 132 feet southerly from the intersection of the easterly side of South Crouse Avenue with the southerly side of Adams Street;

RUNNING THENCE South 00 degrees 29 minutes 30 seconds West, along the easterly side of South Crouse Avenue a distance of 87.5 feet;

THENCE South 89 degrees 54 minutes 00 seconds East a distance of 329.99 feet;

THENCE North 03 degrees 39 minutes 20 seconds West a distance of 42.52 feet;

THENCE North 89 degrees 52 minutes 00 seconds West a distance of 4.83 feet;

THENCE North 00 degrees 29 minutes 30 seconds East a distance of 45.1;

THENCE North 89 degrees 54 minutes 00 seconds West a distance of 322.08 feet to the easterly side of South Crouse Avenue at the point or place of BEGINNING.

Street Address of Property

727 S. Crouse Avenue, Syracuse, NY 13210

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Lisa Dell, County Clerk
401 Montgomery Street
Room 200
Syracuse, NY 13202
(315) 435-2226

Onondaga County Clerk Recording Cover Sheet

Received From :
KV SETTLEMENT LLC
39 W 37TH ST FL 7
NEW YORK, NY 10018

Return To :
KV SETTLEMENT LLC
39 W 37TH ST FL 7
NEW YORK, NY 10018

Method Returned : FILE CABINET

First DEBTOR

SYRACUSE 727 LLC

First SECURED PARTY

BANK OF AMERICA N A

Index Type : Ucc
File Num : 2017-00000604

Type of Instrument :
Type of Transaction : Ucc Liens
Recording Fee: \$40.00

Recording Pages : 7

Recorded Information

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) : 09/18/2017
At (Recorded Time) : 12:30:50 PM



Doc ID - 0251721100007

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: 09/18/2017 At: 3:18:01PM

835206

48

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)
D. Katsuda

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

**Loeb & Loeb LLP
 10100 Santa Monica Boulevard
 Suite 2200
 Los Angeles, CA 90067**

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
Syracuse 727 LLC

OR
 1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
270 Sylvan Avenue, Suite 164 Englewood Cliffs NJ 07632-2523 USA

1d. SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 1e. TYPE OF ORGANIZATION 1f. JURISDICTION OF ORGANIZATION 1g. ORGANIZATIONAL ID #, if any
 Not Applicable 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

OR
 2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

2d. SEE INSTRUCTIONS ADD'L INFO RE ORGANIZATION DEBTOR 2e. TYPE OF ORGANIZATION 2f. JURISDICTION OF ORGANIZATION 2g. ORGANIZATIONAL ID #, if any
 Not Applicable 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
Bank of America, N.A.

OR
 3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY
101 North Tyron St, (Doc. Retention, NCS-001-05-13) Charlotte NC 28255-0001 USA

4. This FINANCING STATEMENT covers the following collateral:

See attached Addendum (2 pages)

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) All Debtors Debtor 1 Debtor 2

8. OPTIONAL FILER REFERENCE DATA
 File in the County of Onondaga, NY (211958-10087)

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 Syracuse 727 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. <u>SEE INSTRUCTIONS</u>	ADD'L INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID #, if any
Not Applicable				<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:
Please see attached Exhibit A

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

16. Additional collateral description:

Please see attached Addendum (2 pages)

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

ADDENDUM

ADDENDUM TO UCC-1 FINANCING STATEMENT

DEBTOR: Syracuse 727, LLC

SECURED PARTY: Bank of America, N.A.

For the purpose of securing payment and performance of the Secured Obligations defined in Section 2 below, each of Debtor and Agency do hereby irrevocably and unconditionally grant, bargain, sell, alien, demise, convey, assign, transfer, mortgage, grant a security interest in, hypothecate, pledge and set over to Secured Party, with power of sale, all right, title and interest which Debtor and/or Agency now have or may later acquire in the following property (all or any part of such property, or any interest in all or any part of it, together with the Personalty (as hereinafter defined), excepting therefrom the Agency's Unassigned Rights (as defined in the Agency Leaseback Agreement) being hereinafter collectively referred to as the "Property"):

(a) All that certain plot, piece or parcel of land located in the County of Onondaga, State of New York, as described in **Exhibit A** hereto (the "Land");

(b) All buildings, structures, improvements, fixtures and appurtenances now or hereafter placed on the Land, and all apparatus and equipment now or hereafter attached in any manner to the Land or any building on the Land, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment (collectively, the "Improvements");

(c) All easements, rights of way, servitudes, privileges, interests, tenements, hereditaments, and appurtenances relating or appurtenant to the Land; all crops growing or to be grown on the Land (including all such crops following severance from the Land); all standing timber upon the Land (including all such timber following severance from the Land); all development rights or credits and air rights; all sewer, water and water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant to the Land) and shares of stock pertaining to such water or water rights, ownership of which affect the Land; all minerals, oil, gas, and other hydrocarbon substances and rights thereto in, on, under, or upon the Land;

(d) All existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions relating to the use and enjoyment of all or any part of the Land or the Improvements (but excluding the Agency Lease Agreement and the Agency Leaseback Agreement), and any and all guaranties and other agreements relating to or made in connection with any of the foregoing;

(e) All proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, Improvements, or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies, whether or not such policies are required by Secured Party, and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent

domain proceeding, and all causes of action and their proceeds for any breach of warranty, misrepresentation, damage or injury to, or defect in, the Land, Improvements, or the other property described above or any part of them; and

(f) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

TO HAVE AND TO HOLD the above-described Property unto Secured Party, its successors and assigns, in fee simple, forever, and to warrant and defend the title thereto.

EXHIBIT A
Legal Description

AS TO PARCEL 1:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Lot No. 18 of Block No. 369 in said City, being more particularly described as follows:

BEGINNING at a point in the easterly boundary of South Crouse Avenue, said point being South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 132 feet from the intersection of the Southerly boundary of East Adams Street with said easterly boundary of South Crouse Avenue, said point also being the intersection of the division line between Lot No. 16 on the North and said Lot No. 18 on the South with the said easterly boundary of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 40.00 feet to its intersection with the division line between Lot No. 19 on the South and said Lot No. 18 on the North;

THENCE South 89 degrees 54' 00" East, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 18 and 19 a distance of 148.50 feet to a point therein;

THENCE North 00 degrees 29' 30" East, parallel with said easterly boundary of South Crouse Avenue a distance of 40.0 feet to a point in the division line between Lots Nos. 12, 13 and 16 on the North and said Lot No. 18 on the South;

THENCE North 89 degrees 54' 00" West, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 12, 13 and 16 and Lot No. 18, a distance of 148.50 feet to the point of BEGINNING.

AS TO PARCEL 2:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being a part of Block No. 369 of said City, being bounded and described as follows:

Commencing at a point in the easterly line of South Crouse Avenue that is 172 feet South from Adams Street as measured along the easterly line of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said easterly line of South Crouse Avenue a distance of 47.5 feet to a point;

THENCE South 89 degrees 54' 00" East, along the southerly line of premises conveyed to Hugh C. Gregg by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 239.99 feet to the easterly line of farm Lot 201;

THENCE continuing South 89 degrees 54' 00" East, a distance of 90.00 feet to the easterly line of premises conveyed to Hugh C. Gregg by Shattuck realty corporation by deed dated December 21, 1945, and recorded in the Onondaga County Clerk's Office December 27, 1945, in Book 1182 of deeds, Page 444 & C;

THENCE North 3 degrees 39' 20" West, along the easterly line of the premises described in said deed from Shattuck realty corporation, a distance of 42.52 feet to the Northeast corner of said parcel conveyed to Gregg by the aforesaid deed;

THENCE North 89 degrees 54' 00" West, along the northerly line of the premises conveyed by Shattuck realty

EXHIBIT A

Continued

corporation to Gregg, 4.83 feet to a point, which is the Southeast corner of premises conveyed to Hugh Carleton Gregg by Leona M. Barnes, by deed dated June 20, 1946 and recorded in the Onondaga County Clerk's Office June 21, 1946, in Book 1214 of deeds, Page 552 & C;

THENCE North 0 degrees 29' 30" East, along the easterly line of said parcel described in said deed from Leona M. Barnes to Gregg, 45.1 feet to the Northeast corner thereof;

THENCE South 89 degrees 54' 00" West, along the northerly line of said parcel conveyed by said Leona M. Barnes to said Gregg, a distance of 88.43 feet to the West line of farm Lot 200;

THENCE continuing South 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins, by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 85.14 feet to a point;

THENCE South 0 degrees 29' 30" West, a distance of 40 feet along the boundary of the premises described in the last mentioned deed to a point;

THENCE North 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins by deed dated October 20, 1950 and recorded in the Onondaga County Clerk's Office on that day in Book 1474 of deeds, Page 104, a distance of 148.5 feet to the point of BEGINNING.

OVERALL DESCRIPTION:

ALL that certain plot, piece or parcel of land, situate, lying and being in The City of Syracuse, County of Onondaga and State of New York being bounded and described as follows:

BEGINNING at a point on the easterly side of South Crouse Avenue distant 132 feet southerly from the intersection of the easterly side of South Crouse Avenue with the southerly side of Adams Street;

RUNNING THENCE South 00 degrees 29 minutes 30 seconds West, along the easterly side of South Crouse Avenue a distance of 87.5 feet;

THENCE South 89 degrees 54 minutes 00 seconds East a distance of 329.99 feet;

THENCE North 03 degrees 39 minutes 20 seconds West a distance of 42.52 feet;

THENCE North 89 degrees 52 minutes 00 seconds West a distance of 4.83 feet;

THENCE North 00 degrees 29 minutes 30 seconds East a distance of 45.1;

THENCE North 89 degrees 54 minutes 00 seconds West a distance of 322.08 feet to the easterly side of South Crouse Avenue at the point or place of BEGINNING.

COMMONLY KNOWN AS:

727 South Crouse Avenue, Syracuse NY

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**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 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 Syracuse 727 LLC (the "**Company**") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the "**Existing Building**") located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 August 1, 2017 (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 Chairman 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:

William M. Ryan	Chairman
M. Catherine Richardson	Vice Chairman
Steven Thompson	Secretary
Donald Schoenwald	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, construction and equipping 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 January 24, 2017 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 February 28, 2017, 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 February 13, 2017.

9. 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 February 28, 2017 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 “F.”**

10. That a resolution approving the undertaking of the acquisition, construction, equipping and completion of a mixed-use commercial facility, appointing the Company as agent of the Agency for the purpose of the acquisition, construction, 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 February 28, 2017 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 “G.”**

11. 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 February 28, 2017 (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 “I.”**

12. 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.

13. 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.

14. 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.

15. 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.

16. August 10, 2017 has been duly designated as the date for the Closing.

17. 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.

18. In accordance with the Act, the Agency has determined:

(a) to assist the Company's acquisition, construction, 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, construction, equipping and completion of the Project Facility and to authorize the Company to appoint additional agents; and

(d) 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.

19. That I did officially cause all certificates necessary for the financing 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 (Vice) Chairman of the Agency.

20. 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 William M. Ryan, Chairman 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;

(b) an Agency Lease from the Agency to the Company pursuant to which the Agency agrees to sublease the Project Facility to the Company; and

(c) the Mortgage pursuant to which the Mortgagee has been granted a security interest in the Project Facility.

21. 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 Developer.

WITNESS, as of the day of August, 2017.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

William M. Ryan, Chairman

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**

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.

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

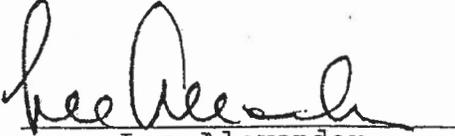
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Carl P. Peterson

Governor of State

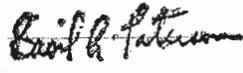
The Syracuse Industrial Development Agency, in combination with, and utilizing these and other resources, will greatly enhance the City's ability to compete for, and successfully attract, the commercial and industrial enterprises necessary for continued economic health and growth.

July 20, 1979


Lee Alexander
Mayor

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED JUL 20 1979


Secretary of State

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CITY OF SYRACUSE
DEPARTMENT OF LAW
OFFICE OF THE MAYOR

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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 and officer of the City of Syracuse Industrial Development Agency:

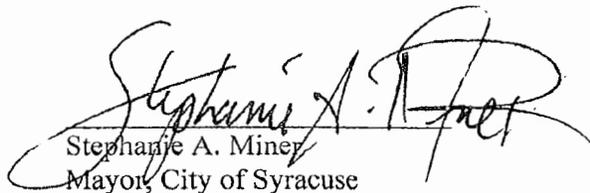
Mr. William Ryan - Member/Chairman

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. Irwin Davis -Member/Chairman

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 15, 2010.


Stephanie A. Miner
Mayor, City of Syracuse



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DEPARTMENT OF STATE

OFFICE OF THE MAYOR

Stephanie A. Miner

CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

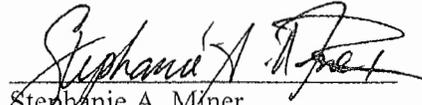
Pursuant to Article 18-A of the General Municipal Law of the State of New York,
Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of
the following person as a ~~Member~~ ^{AN OFFICER} of the City of Syracuse Industrial Development
Agency:

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 February 12, 2010.


Stephanie A. Miner
Mayor, City of Syracuse



OFFICE OF THE MAYOR

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. Donald Schoenwald

- Member

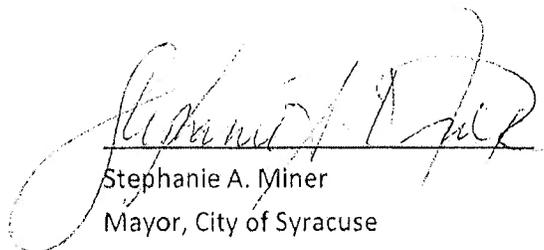
The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Mr. Kenneth Mokrzycki

- 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 March 1, 2011.



Stephanie A. Miner
Mayor, City of Syracuse



OFFICE OF THE MAYOR

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. Steve Thompson

- Member/Secretary

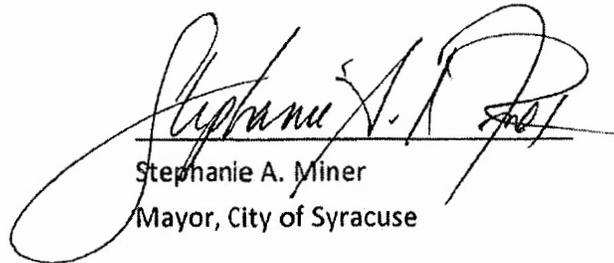
The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Mr. John Gamage

- 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 6, 2014.


Stephanie A. Miner
Mayor, City of Syracuse



OFFICE OF THE MAYOR

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

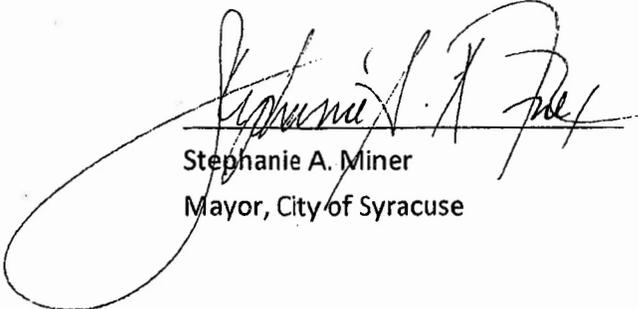
The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

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 (l) (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 January 24, 2017, 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: William Ryan, M. Catherine Richardson, Esq., Steven Thompson, Donald Schoenwald, Esq., Kenneth Kinsey

The following persons were **ALSO PRESENT:** Staff Present: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Debra Ramsey-Burns; Others: Timothy Lynn, Esq., Barry Lentz, Aggie Lane, James Trasher, Paul Curtin, Esq., Carol Zenzel, Esq., Peter King, Lisa Sparks, Neil Patel; Media Present: Rick Moriarty.

The following resolution was offered by M. Catherine Richardson and seconded by Donald Schoenwald:

RESOLUTION DETERMINING THAT THE ACQUISITION, CONSTRUCTION, EQUIPPING AND COMPLETION OF A MIXED-USE 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 December 28, 2016 (the "**Application**"), Syracuse

727 LLC, 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 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the “**Existing Building**”) located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 Project will not be used primarily for retail; 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; and

(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.

(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>
William M. Ryan	X	
M. Catherine Richardson	X	
Steven Thompson	X	
Donald Schoenwald	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

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

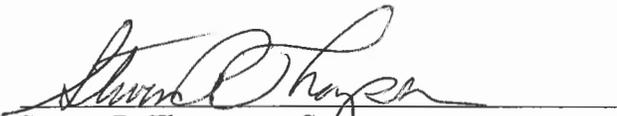
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “**Agency**”) held on January 24, 2017, with the original thereof 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 28th day of February, 2017.

City of Syracuse Industrial Development Agency


Steven P. Thompson, 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#: 0008049394

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LAUREN A PISTELL
125 E JEFFERSON ST
SYRACUSE, NY 13202

LAUREN A PISTELL

Name: BARCLAY DAMON LLP

Sales Rep: Pamela Gallagher

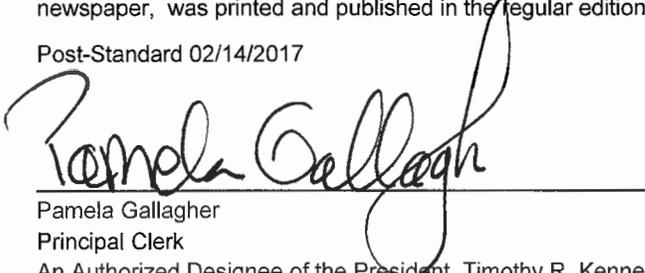
Account Number: 1056027

INV#: 0008049394

Date	Position	Description	P.O. Number	Ad Size
02/14/2017	Other Legals NY	NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that	matter #3085004	1 x 141.00 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 02/14/2017



Pamela Gallagher

Principal Clerk

An Authorized Designee of the President, Timothy R. Kennedy

Subscribed and sworn to before me, this 14th day of February 2017



NOTARY PUBLIC

FOR QUESTIONS CONCERNING THIS AFFIDAVIT,
PLEASE CONTACT PAMELA GALLAGHER AT
(315) 470-2051 OR Legals@Syracuse.com

KAREN M. MILLER BIALCZAK
Notary Public- State of New York
No. 01M16334505

Qualified in Onondaga County
My Commission Expires:

12/21/19

Date	Position	Description	P.O. Number	Ad Size
02/14/2017	Other Legals NY	NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that a	matter #3085004	1 x 141.00 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 28th day of February, 2017, at 8:30 o'clock a.m., local time, at 233 East Washington Street, Common Council Chambers, City Hall, Syracuse, New York, in connection with the following matter: Syracuse 727 LLC, or an entity to be formed (the "Company"), has requested the Agency undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the "Existing Building") located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the "Land"); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, the "Facility"); (iii) the

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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 shall be 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, is available for public inspection during business hours at the office of the Agency located at 201 East Wash-

ington Street, 7th Floor, Syracuse, New York. Dated: February 13, 2017 CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

BARCLAY DAMON^{LLP}

Susan R. Katzoff
Partner

February 13, 2017

VIA CERTIFIED MAIL
7016 1970 0000 3833 4013

Honorable Stephanie A. Miner
Mayor, City of Syracuse
City Hall
233 East Washington Street
Syracuse, New York 13202

VIA CERTIFIED MAIL
7016 1970 0000 3833 4020

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**")
Syracuse 727, LLC (the "**Company**")
Syracuse 727, LLC Project (a/k/a Campus Plaza)

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 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the "**Existing Building**") located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited

February 13, 2017
Page 2

by 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, 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 **February 28, 2017** at 8:30 a.m. in the Common Council Chambers at City Hall.

Very truly yours,



Susan R. Katzoff

SRK/llm
Enclosure

cc: Meghan Ryan, Esq., City of Syracuse, via email (w/Enclosure)
Honora Spillane, City of Syracuse Industrial Development Agency, via email (w/Enclosure)
Judy DeLaney, City of Syracuse Industrial Development Agency, via email (w/Enclosure)

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 28th day of February, 2017, at 8:30 o'clock a.m., local time, at 233 East Washington Street, Common Council Chambers, City Hall, Syracuse, New York, in connection with the following matter:

Syracuse 727 LLC, or an entity to be formed (the "Company"), has requested the Agency undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the "Existing Building") located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the "Land"); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 shall be 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, is available for public inspection during business hours at the office of the Agency located at 201 East Washington Street, 7th Floor, Syracuse, New York.

Dated: February 13, 2017

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

USPS TRACKING#



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Postal Service

* Sender: Please print your name, address, and ZIP+4® in this box*

BARCLAY DAMON, LLP
Barclay Damon Tower
125 East Jefferson Street
Syracuse, NY 13202

Attw: Lori McRobbie



308 5004

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> 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. 	<p>A. Signature <input checked="" type="checkbox"/> X  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery <u>FEB 14 2017</u></p>
<p>Honorable Joanne M. Mahoney County Executive, Onondaga County John Mulroy Civic Center, 14th Floor 421 Montgomery Street Syracuse, New York 13202</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p> 9590 9402 2129 6132 4534 13</p>	<p>3. Service Type</p> <ul style="list-style-type: none"> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
<p>2. Article Number (Transfer from service label) 7016 1970 0000 3633 4020</p>	

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

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<input type="checkbox"/> Adult Signature Required	\$ _____
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____
Postage	\$ _____
Total Postage and Fees	\$ _____
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Street and Apt. No., or PO Box No.	_____
City, State, ZIP+4®	_____

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PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

EXHIBIT "F"

SEQRA RESOLUTION

SEQRA RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on February 28, 2017, 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: William Ryan, Steven Thompson, Kenneth Kinsey

EXCUSED: M. Catherine Richardson, Donald Schoenwald

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Meghan Ryan, Esq.; Others: James Trasher, Brian Rosen, Leann West, Aggie Lane, Barry Lentz, Lauryn LaBorde, Patrick Parker, Alex Marion, Jared Hutter; Media: Rick Moriarty, Syracuse Newspapers, Mary Koelar, CNY Central, Mike Burke, Daily Orange

The following resolution was offered by Steven Thompson and seconded by Kenneth Kinsey:

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, by application dated December 28, 2016 (the "**Application**"), Syracuse 727 LLC, 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 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the **“Existing Building”**) located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the **“Land”**); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 §617.7(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 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 of the Agency is hereby authorized and directed to distribute copies of this Resolution and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

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>
William Ryan	X	
Steven Thompson	X	
Kenneth Kinsey	X	

The foregoing resolution was thereupon declared duly adopted.

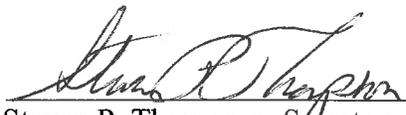
STATE OF NEW YORK)
) SS.:
COUNTY OF ONONDAGA)

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 February 28, 2017, 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 18 day of April, 2017.

City of Syracuse Industrial Development Agency


Steven P. Thompson, Secretary

(SEAL)

EXHIBIT "A"

Short Environmental Assessment Form

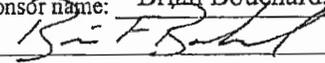
Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: Campus Plaza Development			
Project Location (describe, and attach a location map): 727 S. Crouse Ave			
Brief Description of Proposed Action: Project includes demolition of the existing structures. Proposed construction includes an 8-story mixed use building with retail / lobby areas on the first floor, residential apartments on the upper floors, and amenity/ storage space in the partial basement. Site improvements include a new pedestrian corridor, site utilities, and streetscape.			
Name of Applicant or Sponsor: CHA Consulting, Inc (c/o Brian Bouchard - Project Engineer)		Telephone: 315-471-3920 E-Mail: bbouchard@chacompanies.com	
Address: 441 S. Salina Street			
City/PO: Syracuse		State: NY	Zip Code: 13202
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO X YES
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO X YES
3.a. Total acreage of the site of the proposed action? <u>0.66</u> acres			
b. Total acreage to be physically disturbed? <u>0.75</u> acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? <u>0.66</u> acres			
4. Check all land uses that occur on, adjoining and near the proposed action. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Parkland			

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____	NO	YES
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____	NO	YES
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____	NO	YES
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Brian Bouchard, P.E. (CHA Consulting Inc)</u> Date: <u>10-27-16</u>		
Signature: <u></u>		

Agency Use Only [If applicable]

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:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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"/>

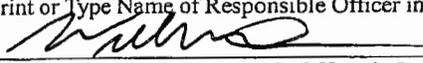
PRINT FORM

Agency Use Only [If applicable]

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.

<input type="checkbox"/>	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.
<input checked="" type="checkbox"/>	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	2-28-17
Name of Lead Agency	Date
William Ryan	Chairman
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
	
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT FORM

EXHIBIT "G"

INDUCEMENT RESOLUTION

INDUCEMENT RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on February 28, 2017 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: William Ryan, Steven Thompson, Kenneth Kinsey

EXCUSED: M. Catherine Richardson, Donald Schoenwald

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Meghan Ryan, Esq.; Others: James Trasher, Brian Rosen, Leann West, Aggie Lane, Barry Lentz, Lauryn LaBorde, Patrick Parker, Alex Marion, Jared Hutter; Media: Rick Moriarty, Syracuse Newspapers, Mary Koelar, CNY Central, Mike Burke, Daily Orange

The following resolution was offered by Steven Thompson and seconded by Kenneth Kinsey:

**RESOLUTION AUTHORIZING THE UNDERTAKING,
ACQUISITION, CONSTRUCTION, EQUIPPING AND
COMPLETION OF A MIXED-USE COMMERCIAL
FACILITY; APPOINTING THE COMPANY AS AGENT
OF THE AGENCY FOR THE PURPOSE OF THE
ACQUISITION, CONSTRUCTION, 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, Syracuse 727 LLC, a New York limited liability company, or an entity to be formed (the “**Company**”), by application dated December 28, 2016 (the “**Application**”), requested the Agency undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the “**Existing Building**”) located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 January 24, 2017, 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 February 28, 2017 pursuant to Section 859-a of the Act, notice of which was originally published on February 14, 2017, 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 February 13, 2017; 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 February 28, 2017 (the “*SEQRA Resolution*”), the Agency determined that the Project will not have a significant effect on the environment; 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 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, 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;

(D) 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; and

(E) The Project is not primarily used as a retail facility as set forth in the Act.

Section 3. As a 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 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 4. Subject to the terms of this Resolution and the conditions set forth in the 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, the Bill of Sale and the Project Agreement (as defined below) collectively the "**Lease Documents**") to be entered into between the Agency and the Company; (iii) execute the Project Agreement (as defined below); (iv) grant the approved Financial Assistance; and (v) 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 5. 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**"). Subject to the due execution and delivery by the Company of the Agreement, 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 construction, 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 **\$1,496,000**.

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 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 construction, 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 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. 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>
William Ryan	X	
Steven Thompson	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 February 28, 2017, 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 18 day of April, 2017.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)

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, 7th Floor, Syracuse, New York 13202 and **SYRACUSE 727 LLC**, with a mailing address of 270 Sylvan Ave., Englewood Cliffs, New Jersey, 07632 (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 December 28, 2016 (the "**Application**"), requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the "**Existing Building**") located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 Financial Assistance between the Agency and the Company, including but not limited to, a project agreement, a company lease, an agency lease, 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 construction, 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 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 construction 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 February 28, 2017, 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, construction 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 **\$1,496,000**.

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 construction and equipping the Project Facility, entering into contracts and doing all things requisite and proper for construction 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 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 construction 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 construction 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 construction 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 construction 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 construction 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, construction 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, construction 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 Contractor Status Report 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 construction, 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, construction 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, construction, 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 construction 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; (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; (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 **February 28, 2018**, 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, construction and equipping of the Project Facility;

(b) The Company shall assume and be responsible for any contracts for the construction 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 _____ day _____, 2017.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
William M. Ryan, Chairman

SYRACUSE 727 LLC

By: _____

Name: _____

Title: _____

EXHIBIT "H"
FINAL APPROVING RESOLUTION

FINAL APPROVING RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on February 28, 2017 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: William Ryan, Steven Thompson, Kenneth Kinsey

EXCUSED: M. Catherine Richardson, Donald Schoenwald

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Meghan Ryan, Esq.; Others: James Trasher, Brian Rosen, Leann West, Aggie Lane, Barry Lentz, Lauryn LaBorde, Patrick Parker, Alex Marion, Jared Hutter; Media: Rick Moriarty, Syracuse Newspapers, Mary Koelar, CNY Central, Mike Burke, Daily Orange

The following resolution was offered by Steven Thompson and seconded by Kenneth Kinsey:

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, Syracuse 727 LLC, a New York limited liability company, or an entity to be formed (the "**Company**"), by application dated December 28, 2016 (the "**Application**"), requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the "**Existing Building**") located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground

floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 February 28, 2017 pursuant to Section 859-a of the Act, notice of which was originally published on February 14, 2017, 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 February 13, 2017; 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 February 28, 2017 (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 February 28, 2017 (the “**Inducement Resolution**”) entitled:

RESOLUTION AUTHORIZING THE UNDERTAKING, ACQUISITION, CONSTRUCTION, EQUIPPING AND

COMPLETION OF A MIXED-USE COMMERCIAL FACILITY; APPOINTING THE COMPANY AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, 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

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 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 Financial Assistance 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 Financial Assistance to the Company will enable and induce the Company to acquire, construct, equip and complete the Project Facility.

(d) The acquisition, construction, 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.

(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, 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 the Land and Facility from the Company pursuant to a lease 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 the Project Facility to the Company pursuant to a sublease 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. 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>
William Ryan	X	
Steven Thompson	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

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

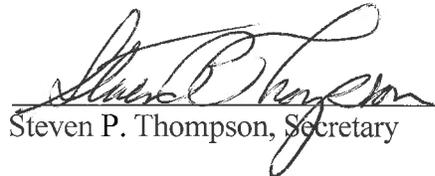
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “**Agency**”) held on February 28, 2017, with the original thereof 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 18 day of April, 2017.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(SEAL)

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AFFIDAVIT RE: MORTGAGE TAX EXEMPTION

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

WILLIAM M. RYAN, being duly sworn, deposes and says:

He is Chairman 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 February 28, 2017 the Agency adopted a resolution at the request of Syracuse 727 LLC (the “**Applicant**” and/or “**Company**”) agreeing to undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the “**Existing Building**”) located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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: Bank of America, N.A. (the “**Mortgagee**”), pursuant to a certain Building Loan Mortgage, Assignment of Rents, Security Agreement and Fixture Filing dated August 10, 2017 in the amount of \$33,000,000 (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.

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**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By:



William M. Ryan, Chairman

Subscribed and sworn to before me
this 8th day of August, 2017.



Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2018

EXHIBIT "A"
LEGAL DESCRIPTION

Title Number: 835208(F-NY-CR-OF)

**SCHEDULE A
DESCRIPTION**

The land referred to in this Certificate of Title is described as follows:

AS TO PARCEL 1:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Lot No. 18 of Block No. 369 in said City, being more particularly described as follows:

BEGINNING at a point in the easterly boundary of South Crouse Avenue, said point being South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 132 feet from the intersection of the Southerly boundary of East Adams Street with said easterly boundary of South Crouse Avenue, said point also being the intersection of the division line between Lot No. 16 on the North and said Lot No. 18 on the South with the said easterly boundary of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said Easterly boundary of South Crouse Avenue, a distance of 40.00 feet to its intersection with the division line between Lot No. 19 on the South and said Lot No. 18 on the North;

THENCE South 89 degrees 54' 00" East, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 18 and 19 a distance of 148.50 feet to a point therein;

THENCE North 00 degrees 29' 30" East, parallel with said easterly boundary of South Crouse Avenue a distance of 40.0 feet to a point in the division line between Lots Nos. 12, 13 and 16 on the North and said Lot No. 18 on the South;

THENCE North 89 degrees 54' 00" West, parallel with said Southerly boundary of East Adams Street and along said division line between Lots No. 12, 13 and 16 and Lot No. 18, a distance of 148.50 feet to the point of BEGINNING.

AS TO PARCEL 2:

ALL that tract or parcel of land, situate in the City of Syracuse, County of Onondaga and State of New York, being a part of Block No. 369 of said City, being bounded and described as follows:

Commencing at a point in the easterly line of South Crouse Avenue that is 172 feet South from Adams Street as measured along the easterly line of South Crouse Avenue;

RUNNING THENCE South 00 degrees 29' 30" West, along said easterly line of South Crouse Avenue a distance of 47.5 feet to a point;

THENCE South 89 degrees 54' 00" East, along the southerly line of premises conveyed to Hugh C. Gregg by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 239.99 feet to the easterly line of farm Lot 201;

THENCE continuing South 89 degrees 54' 00" East, a distance of 90.00 feet to the easterly line of premises conveyed to Hugh C. Gregg by Shattuck realty corporation by deed dated December 21, 1945, and recorded in the Onondaga County Clerk's Office December 27, 1945, in Book 1182 of deeds, Page 444 & C;

THENCE North 3 degrees 39' 20" West, along the easterly line of the premises described in said deed from Shattuck realty corporation, a distance of 42.52 feet to the Northeast corner of said parcel conveyed to Gregg

**SCHEDULE A
DESCRIPTION
(Continued)**

Title Number: 835208(F-NY-CR-OF)

by the aforesaid deed;

THENCE North 89 degrees 54' 00" West, along the northerly line of the premises conveyed by Shattuck realty corporation to Gregg, 4.83 feet to a point, which is the Southeast corner of premises conveyed to Hugh Carleton Gregg by Leona M. Barnes, by deed dated June 20, 1946 and recorded in the Onondaga County Clerk's Office June 21, 1946, in Book 1214 of deeds, Page 552 & C;

THENCE North 0 degrees 29' 30" East, along the easterly line of said parcel described in said deed from Leona M. Barnes to Gregg, 45.1 feet to the Northeast corner thereof;

THENCE South 89 degrees 54' 00" West, along the northerly line of said parcel conveyed by said Leona M. Barnes to said Gregg, a distance of 88.43 feet to the West line of farm Lot 200;

THENCE continuing South 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins, by deed dated July 1, 1953 and recorded on that day in the Onondaga County Clerk's Office in Book 1635 of deeds, Page 218 & C, a distance of 85.14 feet to a point;

THENCE South 0 degrees 29' 30" West, a distance of 40 feet along the boundary of the premises described in the last mentioned deed to a point;

THENCE North 89 degrees 54' 00" West, along the northerly line of premises conveyed to Hugh C. Gregg by Burton H. Brookins by deed dated October 20, 1950 and recorded in the Onondaga County Clerk's Office on that day in Book 1474 of deeds, Page 104, a distance of 148.5 feet to the point of BEGINNING.

OVERALL DESCRIPTION:

ALL that certain plot, piece or parcel of land, situate, lying and being in The City of Syracuse, County of Onondaga and State of New York being bounded and described as follows:

BEGINNING at a point on the easterly side of South Crouse Avenue distant 132 feet southerly from the intersection of the easterly side of South Crouse Avenue with the southerly side of Adams Street;

RUNNING THENCE South 00 degrees 29 minutes 30 seconds West, along the easterly side of South Crouse Avenue a distance of 87.5 feet;

THENCE South 89 degrees 54 minutes 00 seconds East a distance of 329.99 feet;

THENCE North 03 degrees 39 minutes 20 seconds West a distance of 42.52 feet;

THENCE North 89 degrees 52 minutes 00 seconds West a distance of 4.83 feet;

THENCE North 00 degrees 29 minutes 30 seconds East a distance of 45.1;

THENCE North 89 degrees 54 minutes 00 seconds West a distance of 322.08 feet to the easterly side of South Crouse Avenue at the point or place of BEGINNING.

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GENERAL CERTIFICATE OF
SYRACUSE 727 LLC

This certificate is made in connection with the execution by Syracuse 727 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 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the “*Existing Building*”) located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 August 1, 2017 (the “*Company Lease*”) and transfer its interest in the Equipment to the Agency pursuant to a bill of sale dated as of August 1, 2017 (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 August 1, 2017 (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 Limited Liability Company Agreement, and any amendments thereto, and such Limited Liability Company Agreement, as may have been amended, is in full force and effect on the date hereof.

3. The Company 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 State. Attached hereto as **Exhibit "C"** is a true and correct copy of a Certificate of Good Standing of the Company issued by the New York State Secretary of State.

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 an Authorized Representative on behalf of the Company and are in full force and effect as of the date hereof. Attached hereto as **Exhibit "D"** is a true, correct and complete copy of the authorizing resolution 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 "E"**.

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 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 Company Lease, the Agency Lease, the Mortgage, 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>Brian Rosen</u>		<u>Authorized Representative</u>

18. The Company represents and warrants that it has no employees and therefore is not now required to carry worker's compensation insurance. The Company represents and acknowledges that in the event it hires any employees in the future, it has an obligation pursuant to the Agency Lease, dated as of August 1, 2017 by and between the Company and the Agency, to obtain worker's compensation insurance and provide proof of same to the Agency.

EXHIBIT "A"
ARTICLES OF ORGANIZATION

FILING RECEIPT

ENTITY NAME: SYRACUSE 727 LLC

DOCUMENT TYPE: ARTICLES OF ORGANIZATION (DOM LLC)

COUNTY: NASS

FILED:10/28/2016 DURATION:***** CASH#:161028000565 FILM #:161028000549
DOS ID:5030332

FILER:

EXIST DATE

WESTERMAN BALL EDERER MILLER ZUCKER
& SHARFSTEIN, LLP
1201 RXR PLAZA
UNIONDALE, NY 11556

10/28/2016

ADDRESS FOR PROCESS:

C/O WESTERMAN BALL EDERER MILLER ZUCKER & SHARFSTEIN, LLP
ATTN: JAY LEVINTON
UNIONDALE, NY 11556

1201 RXR PLAZA

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: DELANEY CORPORATE SERVICES LTD. - 30 SERVICE CODE: 30 *

FEEs	235.00	PAYMENTS	235.00
FILING	200.00	CASH	0.00
TAX	0.00	CHECK	0.00
CERT	0.00	CHARGE	0.00
COPIES	10.00	DRAWDOWN	235.00
HANDLING	25.00	OPAL	0.00
		REFUND	0.00

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ARTICLES OF ORGANIZATION
OF
SYRACUSE 727 LLC

Under Section 203 of the Limited
Liability Company Law

THE UNDERSIGNED, desiring to form a Limited Liability Company under and pursuant to the laws of the State of New York, does hereby certify:

FIRST: The name of the Limited Liability Company is Syracuse 727 LLC (the "Company").

SECOND: The office of the Company shall be in the County of Nassau within the State of New York.

THIRD: The Company shall continue to exist until dissolved or terminated as provided in the Operating Agreement of the Company.

FOURTH: The Secretary of State of the State of New York is designated as the agent of the Company upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any such process served upon him is to the Company, c/o Westerman Ball Ederer Miller Zucker & Sharfstein, LLP, 1201 RXR Plaza, Uniondale, New York 11556, Attn: Jay Levinton.

FIFTH: The purpose of the business shall be to pursue any lawful business purpose or purposes, except to do any business for which another statute of the State of New York or any other applicable jurisdiction specifically requires some other business entity or natural person to be formed or used for such business.

IN WITNESS WHEREOF, the undersigned has hereunto executed these Articles of Organization for the Limited Liability Company on the 28th day of October, 2016 and affirms that the statements herein are true under the penalties of perjury.

/s/ Suzanne Napoli-Zingalis
Suzanne Napoli-Zingalis
Organizer

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ARTICLES OF ORGANIZATION
OF
SYRACUSE 727 LLC

Under Section 203 of the Limited
Liability Company Law

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STATE OF NEW YORK
DEPARTMENT OF STATE
FILED OCT 28 2016
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FILED BY:
WESTERMAN BALL EDERER MILLER ZUCKER & SHARFSTEIN, LLP
1201 RXR PLAZA
UNIONDALE, NY 11556

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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 October 31, 2016.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan W. Fitzgerald
Executive Deputy Secretary of State

EXHIBIT "B"
LIMITED LIABILITY COMPANY AGREEMENT

THE MEMBERSHIP INTERESTS EVIDENCED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR UNDER ANY OTHER FEDERAL SECURITIES LAWS OR SECURITIES LAWS OF ANY STATE AND MAY NOT BE SOLD OR TRANSFERRED WITHOUT COMPLIANCE WITH APPLICABLE FEDERAL OR STATE SECURITIES LAWS PURSUANT TO A REGISTRATION STATEMENT OR EXEMPTION THEREFROM. IN ADDITION, TRANSFER OR OTHER DISPOSITION OF THE MEMBERSHIP INTERESTS IS RESTRICTED AS PROVIDED IN THIS AGREEMENT. MEMBERS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

**LIMITED LIABILITY COMPANY AGREEMENT OF
SYRACUSE 727 LLC**

Dated as of December 13, 2016

**LIMITED LIABILITY COMPANY AGREEMENT
OF
SYRACUSE 727 LLC**

This **OPERATING AGREEMENT** of **SYRACUSE 727 LLC**, with an address located at c/o Rosen Property Group, LLC, 270 Sylvan Avenue, Suite 164, Englewood Cliffs, New Jersey 07632 (the "**Company**") is entered into as of this 13th day of December, 2016, by and among, **APTITUDE 727 LLC**, with an address located at c/o Rosen Property Group, LLC, 270 Sylvan Avenue, Suite 164, Englewood Cliffs, New Jersey 07632 (the "**Managing Member**") and the other members listed on Schedule A hereto, as may be amended from time to time (collectively the "**Members**" and individually a "**Member**") and, as the context requires, any other Persons that shall hereafter become parties hereto as hereinafter provided.

EXPLANATORY STATEMENT

WHEREAS, the Members desire to form and operate a limited liability company under the New York Limited Liability Company Act, as amended from time to time (the "**Act**"), pursuant to the terms and conditions set forth in this Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE 1 - DEFINITIONS

1.1 **Definitions.** Each of the following capitalized terms shall have the meaning specified in this Section 1. Other terms are defined in the text of this Agreement and those terms shall have the meanings respectively ascribed to them throughout this Agreement.

(a) "**Act**" has the meaning set forth in the preamble to this Agreement.

(b) "**Affiliate**" means any person or entity which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with a specified person or entity. For purposes hereof, the terms "control", "controlled", or "controlling" with respect to a specified person or entity shall include, without limitation, (i) the ownership, control or power to vote ten percent (10%) or more of (x) the outstanding shares of any class of voting securities or (y) beneficial interests, of any such person or entity, as the case may be, directly or indirectly, or acting through one or more persons or entities, (ii) the control in any manner over the managing member(s) or the election of more than one director or trustee (or persons exercising similar functions) of such person or entity, or (iii) the power to exercise, directly or indirectly, control over the management or policies of such person or entity.

(c) **“Agreement”** means this Limited Liability Company Agreement, and the Exhibits and Schedules annexed hereto, all as amended from time to time in accordance with the provisions hereof.

(d) **“Approvals”** means all necessary unappealable land use approvals, governmental approvals and unappealable permits, necessary to develop, construct and operate the Project at the Property.

(e) **“Capital Account”** means the account to be maintained by the Company for each Member as described in Section 5.2.

(f) **“Capital Contribution”** means the total amount of cash and the fair market value of any other asset 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, as determined by the Managing Member.

(g) **“Cause”** means the commission by the Managing Member of any of the following (but only if related to the Company): fraud or willful misconduct (including theft, willful misapplication or willful misappropriation of funds), as determined by a final judgment of a court of competent jurisdiction or other final adjudication.

(h) **“Code”** means the Internal Revenue Code of 1986, as amended from time to time, or any corresponding provision or provisions of any succeeding law.

(i) **“Company”** has the meaning set forth in the preamble to this Agreement.

(j) **“Distributable Cash”** has the meaning set forth in Section 7.1(a).

(k) **“Distribution”** means any cash and other property paid to a Member by the Company from the operations of the Company, including the sale of the Property.

(l) **“Fiscal Year”** means the fiscal year of the Company, which shall be the year ending December 31.

(m) **“Members”** has the meaning set forth in the preamble to this Agreement.

(n) **“Managing Member”** shall mean the Managing Member.

(o) **“Member”** has the meaning set forth in the preamble to this Agreement.

(p) **“Membership Interests”** means all of the rights of a Member in the Company, including such Member’s: (i) right to share in the profits and losses of the Company; (ii) right to inspect the Company’s books and records; (iii) the right to participate in the management of and vote on matters coming before the Members, to the extent provided in this Agreement, and (iv) to the extent permitted under this Agreement, the right to act as an agent of the Company.

(q) “**Person**” means any individual, corporation, governmental authority, limited liability company, partnership, trust, unincorporated association or other entity.

(r) “**Project**” means a retail, residential (including, but not limited to, a 300 bed student housing facility), office and other uses to be constructed on the Property.

(s) “**Property**” means, collectively, that certain property located at 721-723 South Crouse Avenue and 727-729 South Crouse Avenue in Syracuse, New York and any other property (real or personal), rights or interests appurtenant or relating thereto, which is to be acquired by the Company.

(t) “**Register**” has the meaning set forth in Section 3.1.

(u) “**Subscription Agreement**” shall mean the Subscription Agreement among the Managing Member, a Member and the Company, pursuant to which such Member has subscribed for Membership Interests in the Company.

(v) “**Subscription Amount**” means the dollar amount set forth on an Member’s Signature Page of the Subscription Agreement.

(w) “**Treasury Regulations**” means the treasury regulations, including any temporary regulations, promulgated under the Code from time to time, as the same may be amended from time to time.

ARTICLE 2 - ORGANIZATION

2.1 **Formation.** The Company was formed upon the filing of the Articles of Organization with the New York Secretary of State pursuant to the Act.

2.2 **Name.** The name of the Company is SYRACUSE 727 LLC. The Managing Member is authorized to make any variations in the name of the Company and may otherwise conduct the business of the Company under any other name, upon compliance with all applicable laws, which in either case the Managing Member may deem necessary or advisable. In the case of a change of name of the Company pursuant to this Section 2.2, specific references herein to the name of the Company shall be deemed to have been amended to the name as so changed.

2.3 **Principal Place of Business.** The principal place of business of the Company shall be at with an address located at c/o Rosen Property Group, LLC, 270 Sylvan Avenue, Suite 164, Englewood Cliffs, New Jersey 07632. Notwithstanding the foregoing, the Company may at any time change the location of Company's offices and may establish additional offices as the Managing Member may from time to time deem advisable. Notice of any such change shall be given to the Members.

2.4 **Registered Office and Registered Agent.** The Company's initial registered offices shall be at c/o United States Corporation Agents, Inc., 7014 13th Avenue, Suite 202, Brooklyn, New York 11228. The registered office and registered agent may be changed from time to time by filing the address of the new registered office and/or the name of the new registered agent with the Secretary of State pursuant to the Act.

2.5 **Term.** The term of the Company commenced upon the filing of its Articles of Organization with the Secretary of State of New York and shall continue indefinitely, such that the Company shall have perpetual existence, unless sooner dissolved in accordance with the provisions of this Agreement or the Act.

2.6 **Purposes.**

(a) The Company is formed for any lawful business purpose or purposes.

(b) The specific purpose for which the Company has been formed is to (i) acquire and own the Property, (ii) to enter into and perform to the fullest extent permitted by law, this Agreement, (iii) to acquire, own, hold, lease, sell, transfer, exchange, operate, finance and manage or otherwise deal with the Property, publicly or privately, together with such activities as may be necessary or advisable in connection therewith; (iv) to cause the Company to acquire, own, hold, lease, sell, transfer, exchange, operate, finance and manage or otherwise deal with the Property, publicly or privately, together with such activities as may be necessary or advisable in connection therewith; (v) engage in such other activities as are necessary, advisable or incidental to the foregoing; and (vi) engage in any other lawful acts or activities consistent with the foregoing for which companies may be formed under the Act.

(c) Legal title to all property of the Company shall be held, vested and conveyed in the name of the Company and no real or other property of the Company shall be deemed to be owned by the Members individually. The Membership Interests of each Member shall constitute personal property.

ARTICLE 3 - MEMBERS

3.1 **Names and Addresses.** The names, addresses and Capital Contributions by the Members shall be maintained in a register maintained by the Managing Member and held in the principal office of the Company or at such other office as the Managing Member may designate (the "**Register**"). A Person shall be deemed admitted as a Member of the Company at the time (a) such Person has executed this Agreement (or a counterpart signature page to this Agreement) and the Subscription Agreement, and (b) the Managing Member countersigns such Subscription Agreement. Unless admitted to the Company as a Member, as provided in this Agreement, no Person shall be considered a Member.

3.2 **Additional Members.** A Person may be admitted as a Member after the date of this Agreement only upon the consent of the Managing Member. Any new Membership Interests in the Company shall be issued to a new Member for such consideration and on such terms and conditions as the Managing Member shall determine in its sole and absolute discretion. Upon the issuance of Membership Interests to new Member(s), the Membership Interests of the then existing Members shall be adjusted by the Managing Member to reflect the changes thereto, if any, resulting from the admission of such additional Member(s).

3.3 **Books and Records.** The Company shall keep books and records of accounts and minutes of all meetings of the Members, if any, which shall be kept by the Managing Member at the principal place of business of the Company, or at such other office as the Managing Member may designate. The Members will have a right to review the books and records during ordinary business hours.

3.4 **Information.** Each Member may inspect during ordinary business hours and at the principal place of business of the Company, or at such other office as the Managing Member may designate, this Agreement, the minutes of any meeting of the Members and any tax returns of the Company for the immediately preceding three Fiscal Years.

3.5 **Limitation of Liability.**

(a) Each Member's liability shall be limited as set forth in this Agreement, the Act and other applicable law. A Member shall not be personally liable for any indebtedness, liability or obligation of the Company, except that such Member shall remain personally liable for the payment of the Capital Contribution of such Member and as otherwise set forth in this Agreement, the Act and any other applicable law.

(b) If, notwithstanding the terms of this Agreement, it is determined under applicable law that any Member has received a distribution which is required to be returned to or for the account of the Company or the Company's creditors, then the obligation under applicable law of any Member to return all or any part of a distribution made to such Member shall be the obligation of such Member and not of any other Member.

3.6 **Priority and Return of Capital.** Except as provided in Article 6 and Article 7, no Member shall have the right or be entitled to demand, withdraw or receive any return of such Member's Capital Contribution. Except as provided in Article 6 and Article 7, no Member shall have priority over any other Member, whether for the return of a Capital Contribution or for Profits, Losses or a Distribution; provided, however, that this Section shall not apply to loans or other indebtedness (as distinguished from a Capital Contribution) made by a Member to the Company.

3.7 **Liability of a Member to the Company.** A Member who or which rightfully receives the return of any portion of a Capital Contribution is liable to the Company only to the extent now or hereafter provided by the Act. A Member who or which receives a Distribution made by the Company in violation of this Agreement or made when the Company's liabilities exceed its assets (after giving effect to such Distribution) shall be liable to the Company for the amount of such Distribution.

3.8 **Financial Adjustments.** No Members admitted after the date of this Agreement shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company. The Members may, in their discretion, at the time a new Member is admitted, close the books and records of the Company (as though the Fiscal Year had ended) or make pro rata allocations of loss, income and expense deductions to such Member for that portion of the Fiscal Year in which such Member was admitted in accordance with the provisions of the Code.

3.9 **Anti-Money Laundering Provisions.**

(a) Upon the Managing Member's request, each Member shall provide the Managing Member with such information as may be required by the Managing Member to enable the Company, the Managing Member and their respective Affiliates to comply with applicable law, including applicable anti-money laundering or anti-terrorism financing measures and to make any filing, statement, report or disclosure required under U.S. and other applicable securities laws. Each Member hereby acknowledges and agrees that the Managing Member may disclose any such information to any governmental authority.

(b) Each Member hereby agrees to ensure that none of the funds that such Member contributes to the Company shall be derived from, or related to, any activity that can reasonably be deemed to be criminal under applicable law and undertakes that it will comply with all applicable anti-money laundering laws.

(c) Each Member shall promptly notify the Managing Member if, to the knowledge of such Member, there has been any violation of this Section 3.9. If the Managing Member has reasonable grounds (based on the advice of counsel) to believe that a Member is in breach of Section 3.9(a) such Member shall provide the Managing Member, promptly upon receipt of the Managing Member's written request therefore, with any additional information regarding such Member or its beneficial owner(s) that the Managing Member deems necessary or advisable in order to ensure compliance with all applicable laws, regulations and administrative pronouncements concerning money laundering and other criminal activities.

(d) Each Member understands and agrees that if, at any time, the requirements of this Section 3.9 are not satisfied, or if otherwise required by any applicable law, regulation or administrative pronouncement related to money laundering or other criminal activities, the Managing Member may take those actions that the Managing Member determines are necessary to ensure that the Company and the Managing Member is in compliance with such applicable laws, regulations and pronouncements; provided however, that, in taking such actions, the Managing Member shall use reasonable efforts to minimize, to the maximum extent consistent with such applicable laws, regulations and pronouncements, the adverse impact on the affected Member and shall be indemnified by the Company with respect to the taking of such action or omission of such action

3.10 **Use of Capital Contributions.** Subject to the second sentence of this Section 3.10, each Member acknowledges and agrees that the Managing Member shall invest the Capital Contributions in the Company. The Members hereby acknowledge and agree that Capital Contributions may be used by the Company to invest in the Company and the Property and to pay the organizational expenses and other operational expenses of the Company subject to the Company's purposes.

ARTICLE 4 - MANAGEMENT

4.1 **Management.**

(a) **General Authority of Managing Member.** Except as may be expressly provided in this Agreement, the business and affairs of the Company shall be managed and controlled by, or under the direction of, the Managing Member, and the Managing Member shall have the exclusive authority to act for and bind the Company in all matters. The Managing Member shall have the right and authority to make all decisions affecting the business and affairs of the Company, and to take all actions the Managing Member may deem necessary, useful or appropriate to carry out the purpose of the Company. The Managing Member may exercise all of the powers of the Company under the Act and take all other actions and do any and all other things not contrary to law or this Agreement which, in the Managing Member's reasonable judgment, are necessary or desirable to carry out the purpose of the Company. The Managing Member may delegate all or any of the powers and authority granted to said Managing Member under the Act or this Agreement to any other Person including, without limitation, the power to execute and deliver documents on behalf of the Company, and any action taken by such Person pursuant to such delegation shall be deemed to be the act of said Managing Member. The Managing Member shall have the exclusive right to direct the development, management and leasing of the Property and management of the Company. The Managing Member may retain, on behalf of the Company, such development services providers, property managers and leasing agents as the Managing Member shall determine in its sole discretion, whether or not such entity is affiliated with the Managing Member.

(b) **Resignation.** The Managing Member of the Company may resign at any time by giving written notice to the Members. The resignation of a Managing Member shall take effect upon receipt of notice thereof by the Members or at such later date specified in such notice. Notwithstanding any resignation, but subject to the terms of Section 6.1(d), the Company shall at all times have at least one party serving as the Managing Member and shall be designated by the Managing Member, as long as Jared Hutter or Brian Rosen, or an affiliate of either, owns any interest in the Company or the new Managing Member. The resignation of a Member as a Managing Member shall not affect such Member's rights or status as a Member.

(c) **Compensation.** The Managing Member shall not receive a salary or other compensation for services rendered in its capacity as a Managing Member, except that the Company shall pay the amounts set forth in Section 4.7 hereof. In addition, the Company shall reimburse the Managing Member for all reasonable out-of-pocket expenses the Managing Member incurs on behalf of the Company or that are associated with its duties as the Managing Member. Nothing mentioned in this Section shall preclude the Managing Member from serving the Company in any other capacity and receiving compensation therefor, provided such service and compensation is approved in advance by the Managing Member.

(d) **Business and Affairs of the Company.** The business and affairs of the Company shall be carried on and managed by the Managing Member who may be, but is not required to be, a Member, and that except as otherwise expressly provided herein or by law, the Managing Member is hereby vested with the full, exclusive and complete right, power and discretion to operate, manage and control the affairs of the Company and to make all decisions affecting the Company affairs, as deemed proper, convenient or advisable by the Managing Member in pursuit of the business of the Company as described in Section 2.6.

(e) **Actions by the Managing Member.** Notwithstanding anything to the contrary contained in this Agreement, the Managing Member shall notify the Members of the following actions:

(i) If the Company acquires (directly or indirectly) of any real or personal property other than the Property.

(ii) If the Company makes any loan, extends credit or acts as a guarantor or surety to, for or on behalf of any other Person (including any Affiliate).

(iii) If the Company borrows any money or otherwise incurs any indebtedness (whether on a secured or unsecured basis), other than (i) trade payables incurred in the ordinary course of business, (ii) causing the Company to enter into or amend, modify or extend (including by exercising any extension right) any loan documents with respect to any financing (including loan agreements and guarantees, indemnities, and security documents relating thereto), (iii) pursuant to Article 5 or (iv) pursuant to Section 4.6.

(iv) If the Company sells the Property or any portion thereof, except as otherwise permitted pursuant to the terms of this Agreement.

- (v) If the Managing Member amends this Agreement.
 - (vi) If any material change in the nature or character of the business of the Company occurs.
 - (vii) Pursuant to Section 10.1, the Company dissolves, winds up or liquidates the Company.
 - (viii) If the Company conducts any sale, reorganization or recapitalization of the Company, whether directly or pursuant to a merger, consolidation, share exchange, or otherwise (including the sale of all or substantially all of the Company's assets), other than in the ordinary course of business.
- (f) No Member other than the Managing Member shall have any authority to bind the Company to any third party with respect to any matter, except pursuant to a resolution expressly authorizing such action which resolution is duly adopted by the Managing Member.
- (g) The Managing Member shall be responsible for policy setting, approving the overall direction of the Company and making all decisions affecting the business and affairs of the Company. The Members are passive investors and therefore acknowledge that the Managing Member will conduct all daily operations.
- (h) The Managing Member shall have the exclusive authority to cause the Company to issue new membership interests and to admit new members, so long as the membership interest of the Members other than the Managing Member are not diluted.
- (i) The Managing Member may amend this Agreement, as determined by the Managing Member, if the Managing Member determines, in its reasonable discretion, that such amendment is necessary or desirable for the Company to obtain debt or equity financing or the admission of new Members.

4.2 **Duties and Obligations of the Managing Member.** The Managing Member shall take any action which may be necessary or appropriate for the continuation of the Company's valid existence and authority to do business as a Company under the Act and of each other jurisdiction in which such authority to do business is necessary or, in the judgment of the Managing Member, advisable to protect the limited liability of the Members or to enable the Company to conduct the business in which it is engaged. The Managing Member shall not intentionally violate any law applicable to the Company. Neither the Managing Member nor its principals or beneficial owners shall have any liability to the Company or any other Person by reason of being or having been the Managing Member unless the liability shall have been the result of fraud or willful misconduct by the Managing Member. The Managing Member does not in any way guarantee the return of Capital Contributions to the Members or the making of Distributions by the Company.

4.3 **Other Businesses of the Managing Member; Conflicts of Interest.**

(a) The Managing Member shall devote to the Company such business time as the Managing Member, in its sole and absolute discretion, deems to be necessary to conduct the Company's business and affairs in accordance with the terms of this Agreement and the Company's obligations as the owner of the Property. It is expressly understood and agreed that neither the Managing Member, its Affiliates nor their respective managers, partners, members, interest holders, officers or directors are required to devote their entire time or attention to the business of the Company nor are any of them restricted in any manner from participating in other businesses or activities.

(b) Each Member acknowledges and agrees that the Managing Member, its Affiliates and their respective members, partners, directors, officers, partners, employees, interest holders and agents may exercise investment responsibility, or otherwise engage, directly or indirectly, in any other business, irrespective of whether any such business is similar to, or identical with, the business of the Company, which may include purchasing, selling, holding or otherwise dealing with investments, notwithstanding any provision to the contrary at law or in equity. The Managing Member and its directors, officers, employees, partners, members, interest holders and agents may form investment vehicles, with purposes similar to those of the Company, or with other purposes, or any other investment vehicle, directly or indirectly purchase, sell, hold or otherwise deal with investments for their own accounts, for their family members or for other clients. A Member will not, solely by reason of being a Member in the Company, have any right to participate in any manner in any profits or income earned or derived by or accruing to the Managing Member from the conduct of any business other than the business of the Company or from any transaction or other investment effected by any such person for any account other than that of the Company.

4.4 **Officers, Agents and Managing Member.** The Managing Member may from time to time designate such officers, agents and managers as it may deem necessary to carry out the day to day operations of the Company. Such officers, agents and managers shall have such duties, powers, responsibilities and authority as may from time to time be prescribed by the Managing Member, and may be removed at any time, with or without cause, by the Managing Member.

4.5 **Indemnification.** The Company shall indemnify and hold harmless any such officer, agent and manager (including, without limitation, the Managing Member) from and against all claims and demands made by third parties as a consequence of such person's good faith actions or activities on behalf of the Company. The Company shall not indemnify the Managing Member, its principals or any other person acting on behalf of the Company, if the claim for indemnification arises from their willful or wanton acts. This indemnification shall survive the termination or amendment of this Agreement and/or the termination of the Company. The indemnification rights set forth in this Section 4.5 shall be cumulative of and in addition to, any and all rights, remedies, and recourse to which it shall be entitled whether pursuant to the provisions of this Agreement, at law or in equity.

4.6 **Member Approval.** The Company and the Members, each hereby approve, authorize and consent to the following: (1) the purchase of the Property by the Company and the taking of any loan or loans that the Company intends to obtain for the purpose of funding the acquisition, construction and development of the Property (the “**Initial Financings**”), (ii) the execution and delivery of any document or instrument by the Managing Member shall be conclusive evidence that the terms and conditions contained therein have been determined to be appropriate by the Company and are binding upon the Company, (iii) that the Managing Member shall execute, deliver and perform in the name of and on behalf of the Company, and under the Company’s seal or otherwise, any and all documents required or appropriate to effectuate the transactions contemplated herein and to take any and all further actions of any kind or nature whatsoever (including the payment or authorization of payment of necessary costs and expenses) as the Managing Member may deem necessary or advisable to carry out the intent and accomplish the purpose of the foregoing and the transactions contemplated thereby, all upon such terms and conditions as the Managing Member deems appropriate, and (iv) any and all other actions heretofore taken by the Managing Member on behalf of the Company, in furtherance of or to effectuate any of the actions authorized herein are hereby approved, ratified and confirmed in all respects.

4.7 **Third Party Agreements.** In addition to and not in lieu of any and all management rights of the Managing Member

(a) The Members acknowledge and agree that the Managing Member may, in its sole discretion, retain Aptitude Development LLC, an Affiliate of the Managing Member, or any other third party to provide services to the Company, on terms and conditions determined by the Managing Member, in its sole discretion, which terms and conditions may include, without limitation, the following: (i) payment of a site plan and acquisition fee in the amount of Three Hundred Fifty Thousand (\$350,000.00) Dollars, payable in full on the date that is the later of: (y) the date the Company receives site plan approval for the Project; and (z) the date the Company acquires title to the Property; and (ii) payment of a development fee equal to Four (4%) Percent of all hard and soft costs of the Project, payable monthly, commencing on the date the Company receives site plan approval for the Project and ending on the date that the Company receives a final certificate of occupancy for the Project; and (iii) any other terms and conditions determined by the Managing Member, in its sole discretion.

(b) The Members acknowledge and agree that the Managing Member may, in its sole discretion, retain Aptitude Management LLC, an Affiliate of the Managing Member, or any other third party, to provide asset management services to the Company, on terms and conditions determined by the Managing Member, in its sole discretion, including, without limitation, a fee equal to One (1%) Percent of all monies maintained by the Company once the Project is operating.

(c) The Members acknowledge and agree that the Managing Member may, in its sole discretion, retain Aptitude Management LLC, an Affiliate of the Managing Member, or any other third party, to provide property management services to the Company on terms and conditions determined by the Managing Member, in its sole discretion. Such services may include, without limitation, property management, marketing, leasing, revenue collection and tenant interaction. Aptitude Management LLC may, in its sole and absolute discretion, designate a third party management company (whether or not affiliated with Aptitude Management LLC) to manage the Property on behalf of the Company.

(d) The Members acknowledge and agree that the Managing Member may, in its sole discretion, pay to any third party, including any member or affiliate of the Managing Member, a fee for guaranteeing any financing obtained by the Company to fund the acquisition of the Property and all or any portion of the hard and soft costs of the construction of the Project. The amount of the fee shall be determined by the Managing Member in its sole discretion and may be in the amount of One and One-Half (1.5%) Percent of the principal balance of any such financing, payable once Ten (10%) Percent of the proceeds of the construction financing has been distributed.

(e) All fees paid to the pursuant to this Section 4.7 shall be an expense of the Company.

ARTICLE 5 - CAPITAL CONTRIBUTIONS

5.1 Capital Contributions.

(a) Each Member has contributed or shall contribute the amount set forth in Schedule A to this Agreement as the initial Capital Contribution to be made by such Member.

(b) The Members hereby acknowledge that there is no assurance that they will receive a return of their Capital Contributions from the Company.

(c) No Member shall be paid interest on any Capital Contribution to the Company or on such Member's Capital Account. Furthermore, no Member shall have any right to demand the return of its Capital Contributions, or to receive property other than cash from the Company.

(d) All Capital Contributions must be made in cash. Any Capital Contribution made in a currency other than USD shall be converted to USD by the Company and the amount of such Capital Contribution shall for all purposes be the amount so obtained by the Company, less applicable exchange and bank fees.

5.2 **Capital Accounts.** A Capital Account shall be maintained for each Member. Each Member's Capital Account shall be increased by the value of each Capital Contribution made by the Member, the amount of any Company liabilities assumed by the Member (or which are secured by Company property distributed to such Member), allocations to such Member of the Profits and any other allocations to such Member of income pursuant to the Code. Each Member's Capital Account will be decreased by the value of each Distribution made to the Member by the Company, the amount of any liabilities assumed by the Company (or which are secured by property contributed to the Company by such Member), allocations to such Member of Losses and other allocations to such Member pursuant to the Code.

5.3 **Additional Capital Contributions.** In the event that at any time, or from time to time, the Managing Member determines that the Company requires additional funds or if such additional funds are requested by the Managing Member on behalf of the Company for the acquisition, development or operation of the Property, then the Managing Member shall deliver a written request to each Member specifying (i) the aggregate amount of Additional Capital Contribution required at such time, and (ii) the date on which such Additional Capital Contribution is due. Such Additional Capital Contribution shall be made by each Member in proportion to its respective Membership Interest. If any Member fails to timely fulfill its obligation to fund an Additional Capital Contribution, such Member shall receive a notice (a "**Default Notice**") that such Member has failed to meet its funding obligation (a "**Funding Shortfall**"). If such Funding Shortfall continues for five (5) Business Days after receipt by such Member of a Default Notice, such Member shall be designated as a "**Defaulting Member.**" In the event of such default, the Managing Member may, in its sole and absolute discretion, take any of the following actions to cover the Funding Shortfall:

(a) the Managing Member may, in its sole discretion, cause the Company to borrow funds from any party, including any Members or Affiliates thereof, for such amounts, and on such terms and conditions as the Managing Member shall determine in its sole discretion;

(b) the Managing Member may, in its sole discretion, issue additional Membership Interests or create a new class of ownership interests in the Company and issue such interests to any party on such terms and conditions as the Managing Member shall decide in its sole discretion, regardless of whether such class of interests is senior to, or has preferential treatment with respect to, the Membership Interests; provided, however, the Managing Member may not admit new Members except in accordance with Section 3.2;

(c) the Managing Member may, in its sole discretion, request each non-Defaulting Member to make an Additional Capital Contribution to the Company pro rata in accordance with their Membership Interest (excluding the Membership Interest(s) of the Defaulting Member(s) for this purpose) to cover the Funding Shortfall (such amount contributed, the "**Funded Portion**" and any non-Defaulting Member making such additional capital contribution, a "**Covering Member**"), in which event the Managing Member shall readjust the Membership Interests of each Member by comparing the aggregate Capital Contributions of each Member to the aggregate Capital Contributions of all Members, increasing the Membership Interests of the Covering Member(s) and decreasing the Membership Interests of the Defaulting Member(s) to properly reflect the adjustment of the Membership Interests held by the Members.

5.4 **Transfers.** Upon a permitted sale or other transfer of a Membership Interest in the Company in accordance with the provisions of Article 9, the Capital Account of the Member transferring such Member's Membership Interest shall become the Capital Account of the Person to which or whom such Membership Interest is sold or transferred in accordance with Section 1.704-1 (b)(2)(iv) of the Treasury Regulations.

5.5 **Modifications.** The manner in which Capital Accounts are to be maintained pursuant to this Section is intended to comply with the requirements of Code Section 704(b) and the Treasury Regulations promulgated thereunder. If in the opinion of the Members the manner in which Capital Accounts are to be maintained pursuant to this Agreement should be modified to comply with Code Section 704(b) or the Treasury Regulations, then the method in which Capital Accounts are maintained shall be so modified; provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.

5.6 **Deficit Capital Account.** Except as otherwise required under the Act or this Agreement, no Member shall have any liability to restore all or any portion of a deficit balance in a Capital Account.

5.7 **Withdrawal or Reduction of Capital Contributions.** A Member shall not receive from the Company any portion of a Capital Contribution until all indebtedness, liabilities of the Company, except any indebtedness, liabilities and obligations to Members on account of their Capital Contributions, have been paid or there remains property of the Company, in the sole discretion of the Managing Member, sufficient to pay them.

ARTICLE 6 - ALLOCATIONS

6.1 **Allocations of Profits and Losses.** Except as otherwise provided in this Agreement, all items of income, gain, loss and deduction comprising the Profits and Losses of the Company for each Fiscal Year will be allocated among the Members in accordance with each Members economic interest in the respective item, as determined by the Managing Member.

6.2 **Tax Allocations and Other Tax Matters.** Each item of income, gain, loss or deduction recognized by the Company shall be allocated among the Members for tax purposes in the same manner that each such item is allocated to the Members' Capital Accounts or as otherwise provided herein; provided, that, the Managing Member may adjust such allocations as long as such adjusted allocations have substantial economic effect or are in accordance with the Membership Interests in the Company. All tax matters, including accounting procedures, not expressly provided for by the terms of this Agreement, shall be determined by the Managing Member in its sole discretion.

ARTICLE 7 - DISTRIBUTIONS

7.1 **Distributions.**

(a) The Managing Member shall periodically review the available cash of the Company received by the Company. On a quarterly basis, the Managing Member shall distribute the portion of such amount which the Managing Member reasonably determines is not required by the Company for payment of the Company's expenses, liabilities and other obligations (whether fixed or contingent), and the establishment of appropriate reserves for such expenses, liabilities and obligations as may arise, and for the maintenance of adequate working capital for the continued conduct of the Company's operations (such portion, "**Distributable Cash**"), as follows:

(i) First, to the Members, pro rata in accordance with their Membership Interests, until each has received an amount equal to an annual, non-compounded return of eight percent (8%) on the unreturned portion of their respective Capital Contributions (the "**Preferred Amount**");

(ii) Then, (a) seventy percent (70%) to the Members, pro rata in accordance with their Membership Interests, and (b) thirty percent (30%) to the Managing Member, to be shared equally among them, until the Members have received, an amount equal to twelve percent (12%) on the unreturned portion of their respective Capital Contribution (including the Preferred Amount paid to Members in Paragraph (i) above); and

(iii) Thereafter, (a) sixty percent (60%) to the Members, pro rata in accordance with their Membership Interests and (b) forty percent (40%) to the Managing Member, to be shared equally among them.

(b) Notwithstanding Section 7.1(a), net proceeds from a capital transaction together with other funds remaining to be distributed, shall be distributed to the Members as follows:

(i) First, to the Members, pro rata in accordance with their Membership Interests, until each Member has received a return of their entire Capital Contribution;

(ii) Second, to the Members, pro rata in accordance with their Membership Interests, until each has received an amount equal to an annual, non-compounded return of twelve percent (12%) on the unreturned portion of their respective Capital Contributions;

(iii) Thereafter, (a) sixty percent (60%) to the Members, pro rata in accordance with their Membership Interests, and (b) forty percent (40%) to the Managing Member, to be shared equally among them.

(c) The Members acknowledge that the Company's only source of net cash flow will be payments received from the operation of the Property. The Members further acknowledge that this Agreement provides for the payment of certain construction fees, project management fees and other expenses. Such amounts are payable prior to and as a priority to distributions to be made to the Members of the Company.

(d) The Members acknowledge that the Company will be incurring debt and loans from third parties that may exceed market interest rates and that any distributions by the Company will be subject to the terms of such debt and loans.

7.2 **Fees on Sale/Refinancing of the Project.** Notwithstanding anything to the contrary set forth herein: (a) at the closing of any transaction involving the sale of all or any portion of the Property, the Company shall pay to the Managing Member a fee equal to Three (3%) Percent of the proceeds of such sale; and (b) at the closing of any transaction involving the refinance of all or any portion of the Company's debt or equity financing, the Company shall pay to the Managing Member a fee equal to One (1%) Percent of the proceeds of any such refinancing.

7.3 **Limitation Upon Distributions.** No Distribution shall be declared and paid unless, after such Distribution is made, the assets of the Company are in excess of all liabilities of the Company, unless so decided by the Managing Member.

7.4 **Interest on and Return of Capital Contributions.** No Member shall be entitled to interest on such Member's Capital Account or to a return of such Member's Capital Contribution, except as specifically set forth in this Agreement.

7.5 **Accounting Period.** The accounting period of the Company shall be the Fiscal Year.

ARTICLE 8 - TAXES

8.1 **Tax Returns.**

(a) Each Member shall cause to be prepared and filed all necessary federal, state and foreign income tax returns for such Member in connection with its Capital Contribution and Distributions made from the Company. The Managing Member shall assist the Members in selecting a qualified accountant and shall furnish to the Members all pertinent information in its possession relating to Company operations that is necessary to enable the Members' income tax returns to be prepared and filed. The Company shall provide the Members with K-1 tax returns for the Company within ninety (90) following the end of each calendar year.

(b) The Managing Member shall cause to be prepared and filed all necessary federal and state income tax returns for the Company. Each Member shall furnish to the Company all pertinent information in its possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed. Any accounting expenses incurred in connection with preparing the Company's tax returns or filings shall be paid by the Company.

8.2 **Tax Elections.** The Company shall make the following elections on the appropriate tax returns:

(a) To adopt the calendar year as the Fiscal Year;

(b) To elect to amortize the organizational expenses of the Company and the start-up expenditures of the Company under Code Section 195 ratably over a period of sixty months as permitted by Code Section 709(b); and

(c) Any other election that the Company may deem appropriate and in the best interests of the Members.

(d) Neither the Company nor any Member may make an election for the Company to be excluded from the application of Subchapter K of Chapter 1 of Subtitle A of the Code or any similar provisions of applicable state law, and no provisions of this Agreement shall be interpreted to authorize any such election.

8.3 **Tax Matters Partner.** The Managing Member shall be the “**tax matters partner**” of the Company pursuant to Code Section 6231(a)(7). Any Member who is designated “**tax matters partner**” shall take any action as may be necessary to cause each other Member to become a “**notice partner**” within the meaning of Code Section 6223. The Tax Matters Partner shall reasonably take into account the tax positions of all other Members prior to taking any actions that could likely affect the tax position of such Members.

8.4 **Withholding.** The Managing Member in its sole discretion may withhold and pay any taxes with respect to any Member, and any such taxes may be withheld from any distribution otherwise payable to such Member or, if no sufficiently large distribution is imminent, the Managing Member may require the relevant Member to promptly reimburse the Company for the amount of such tax withheld and paid over by the Company. No such reimbursement will be considered a Capital Contribution for purposes of this Agreement. Taxes withheld on amounts directly or indirectly payable to the Company and taxes otherwise paid by the Company shall be treated for purposes of this Agreement as distributed to the appropriate Members and shall be paid by the appropriate Members to the relevant taxing jurisdiction.

ARTICLE 9 - TRANSFERABILITY

9.1 **General.**

(a) **Transfers of Membership Interests.** A Member may not gift, bequeath, sell, assign, pledge, hypothecate, exchange or otherwise transfer (“**Transfer**”) to another Person all or any portion of such Member’s Membership Interest without the prior written consent of the Managing Member.

(b) **Transfers Subject to Terms of Agreement.** Any Membership Interest Transferred pursuant to any of the provisions of this Section 9 shall be subject to all of the terms, restrictions, liabilities and rights of this Agreement, all of which shall survive the closing of such Transfer. As a condition of the effectiveness of any Transfer to a Person not theretofore a party to this Agreement, such transferee shall indicate his agreement to become a party to this Agreement and to receive and hold such Membership Interest subject to all of the terms, restrictions, liabilities and rights of this Agreement and any other terms reasonably required by Managing Member by executing an appropriate written agreement to that effect and delivering a copy thereof to the Company and to each Member.

9.2 **Transferee Not a Member.** No Person acquiring a Membership Interest pursuant to this Section 9 shall become a Member unless such Person is approved by the Managing Member. A transferee of a Membership Interest who has not been admitted as a Member shall have no right to vote or participate in the management of the business and affairs of the Company or to become a Member, but shall be entitled to receive the share of Profits, Losses and Distributions to which the transferor would otherwise be entitled with respect to the transferred Membership Interest. Furthermore, such transferee is not entitled to have access to information concerning Company transactions, or to inspect or copy any of the Company's books or other records.

ARTICLE 10 - DISSOLUTION

10.1 **Dissolution.** The Company shall be dissolved and its affairs shall be wound up upon the first to occur of the following:

(a) The termination of the legal existence of the last remaining Member of the Company or the occurrence of any other event which terminates the continued membership of the last remaining Member of the Company in the Company unless the business of the Company is continued in a manner permitted by this Agreement or the Act; or

(b) The written consent of the Managing Member to dissolve, wind up or liquidate the Company;

(c) The sale or disposition of all or substantially all of the property and business of the Company; or

(d) The entry of a decree of judicial dissolution under the Act.

10.2 **Bankruptcy of Member.** Notwithstanding any other provision of this Agreement, the bankruptcy of a Member shall not cause such Member to cease to be a Member of the Company and upon the occurrence of such an event, the business of the Company shall continue without dissolution.

10.3 **Deficit Capital Account.** Upon a liquidation of the Company within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other adjustments for all Fiscal Years, including the Fiscal Year in which such liquidation occurs), the Member shall have no obligation to make any Capital Contribution, and the negative balance of any Capital Account shall not be considered a debt owed by the Member to the Company or to any other Person for any purpose.

10.4 **Nonrecourse to Other Members.** Except as provided by applicable law or as expressly provided in this Agreement, upon dissolution, each Member shall receive a return of such Member's Capital Contribution solely from the assets of the Company. If the assets of the Company remaining after the payment or discharge of the debts and liabilities of the Company are insufficient to return any Capital Contribution of any Member, such Member shall have no recourse against the Company or any other Member.

10.5 **Termination.** In the event of dissolution, the Company shall conduct only such activities as are necessary to wind up its affairs (including the sale of the assets of the Company in an orderly manner), and the assets of the Company shall be applied in the manner, and in the order of priority, set forth in Section 18-804 of the Act. The Company shall terminate when (a) all of the assets of the Company, after payment of or due provision for all debts, liabilities and obligations of the Company, shall have been distributed to the Members in the manner provided for in this Agreement and (b) the Articles of Organization shall have been cancelled in the manner required by the Act.

ARTICLE 11 - POWER OF ATTORNEY

11.1 **Power of Attorney.** Each Member, by its execution as a deed of this Agreement or any other agreement incorporating this Agreement by reference, hereby irrevocably makes, constitutes and appoints the Managing Member, any successor Managing Member and the liquidating trustee, if any, in such capacity as liquidating trustee for so long as it acts as such, as its true and lawful agent and attorney-in-fact, with full power of substitution and full power and authority in its name, place and stead, to make, execute, sign, acknowledge, swear to, record and file (i) this Agreement and any amendment to this Agreement which has been duly adopted as herein provided; (ii) all certificates and other instruments deemed advisable by the Managing Member or the liquidating trustee to carry out the provisions of this Agreement and applicable law or to permit the Company to become or to continue as a Company wherein the Members have limited liability in each jurisdiction where the Company may be doing business; (iii) all instruments that the Managing Member or the liquidating trustee deems appropriate to reflect a change or modification of this Agreement, including, without limitation, the admission of substituted Members pursuant to the provisions of this Agreement; (iv) all conveyances and other instruments or papers deemed advisable by the Managing Member or the liquidating trustee to effect the dissolution and termination of the Company (consistent with Article 10); (v) all alternative name certificates required (in light of the Company's activities) to be filed on behalf of the Company; and (vi) all other instruments or papers which may be required or permitted by law to be filed on behalf of the Company which are not legally binding on the Members in their individual capacity and are necessary to carry out the provisions of this Agreement. The foregoing power of attorney:

(i) is deemed to be coupled with an interest, shall be irrevocable and shall survive and shall not be affected by the subsequent death, disability or incapacity of any Member;

(ii) may be exercised by the Managing Member or the liquidating trustee, as appropriate, either by signing separately as attorney-in-fact for each Member or by a single signature of the Managing Member or the liquidating trustee, as appropriate, acting as attorney-in-fact for all of them; and

(iii) shall survive the delivery of an assignment by a Member of the whole or any portion of its Membership Interests; except that, where the assignee of the whole of such Member's interests has been approved by the Managing Member for admission to the Company as a substituted Member, the power of attorney of the assignor shall survive the delivery of such assignment for the sole purpose of enabling the Managing Member or the liquidating trustee, as appropriate, to execute, swear to, acknowledge and file any instrument necessary or appropriate to effect such substitution.

(b) Each Member shall execute and deliver to the Managing Member within fifteen (15) days after receipt of the Managing Member's request therefor such other instruments as the Managing Member reasonably deems necessary to carry out the terms of this Agreement. The Managing Member shall notify each Member for which it has exercised a power-of-attorney as soon as practicable thereafter.

ARTICLE 12 - GENERAL PROVISIONS

12.1 **Notices.** Any notice, demand or other communication required or permitted to be given pursuant to this Agreement shall have been sufficiently given for all purposes if (a) delivered personally to the party or to an executive officer of the party to whom such notice, demand or other communication is directed or (b) sent by registered or certified mail, postage prepaid, addressed to the Member or the Company at his, her or its address set forth in this Agreement. Except as otherwise provided in this Agreement, any such notice shall be deemed to be given three business days after the date on which it was deposited in a regularly maintained receptacle for the deposit of mail, addressed and sent as set forth in this Section.

12.2 **Amendment.** This Agreement may be amended by the written consent of the Managing Member and the Managing Member; provided, however, that amendments which do not materially adversely affect any Member or the Company may be made to this Agreement, from time to time, by the Managing Member, without the consent of any of the Members, (i) to amend any provision of this Agreement which requires any action to be taken by or on behalf of the Managing Member or the Company pursuant to requirements of the Act if the provisions of the Act are amended, modified or revoked so that the taking of such action is no longer required, (ii) to take such action in light of changing regulatory conditions, as the case may be, as is necessary in order to permit the Company to continue in existence, (iii) to add to the representations, duties or obligations of the Managing Member, or to surrender any right granted to the Managing Member herein, for the benefit of the Members, (iv) to cure any ambiguity, or to correct any clerical mistake or to correct or supplement any immaterial provision herein which may be inconsistent with any other provision herein or therein, or correct any printing, stenographic or clerical errors or omissions, which shall not be inconsistent with the provisions of this Agreement or the status of the Company as a Membership for tax purposes, (v) to change the name of the Company, (vi) to amend the Register and this Agreement to give effect to changes in the Membership Interest holders of the Company and any terms applicable to the acceptance of additional capital contributions pursuant to Article 3; or (vii) to make any change which is for the benefit of, or not materially adverse to the interests of, the Members.

12.3 **No Right to Partition.** To the extent permitted by law, and except as otherwise expressly provided in this Agreement, the Members, on behalf of themselves and their shareholders, members, partners, heirs, executors, administrators, personal or legal representatives, successors and assigns, if any, hereby specifically renounce, waive and forfeit all rights, whether arising under contract or statute or by operation of law, to seek, bring or maintain any action in any court of law or equity for partition of the Company or any asset of the Company, or any interest which is considered to be Company property, regardless of the manner in which title to any such property may be held.

12.4 **Counsel.** Each Member hereby acknowledges and agrees that any law firm retained by the Managing Member in connection with the legal aspects of the organization of the Company, the offering of Membership Interests in the Company, the investment in the Property, the management and operation of the Company, or any dispute between the Managing Member and any Member, is acting as counsel to the Managing Member and as such does not represent or owe any duty to such Member or to the Members as a group in connection with such retention. Each Member further acknowledges that the foregoing law firms shall owe no direct duties to such Member. Each Member further represents and acknowledges that such Member was either represented by its own separate and independent counsel or had an opportunity to be so represented in connection with the execution and delivery of this Agreement. In the event that any dispute or controversy arises between any Member and the Company, or between any Member and the Managing Member or any of their Affiliates that either of the foregoing law firms represents, then each Member agrees that such law firm may represent the Company or the Managing Member or their Affiliates in any such dispute or controversy to the extent permitted by applicable rules relating to professional ethics, and each Member hereby consents to such representation. Each Member jointly and severally forever waive any claim that said law firm's representation of the Company and the Managing Member hereunder, and of the Company, Managing Member and/or their respective Affiliates now and in the future on matters for which said law firm is retained as counsel by the Company, Managing Member and/or their respective Affiliates constitutes a conflict of interest.

12.5 **Construction.** Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

12.6 **Headings.** The headings in this Agreement are for convenience only and shall not be used to interpret or construe any provision of this Agreement.

12.7 **Waiver.** No failure of a Member to exercise, and no delay by a Member in exercising, any right or remedy under this Agreement shall constitute a waiver of such right or remedy. No waiver by a Member of any such right or remedy under this Agreement shall be effective unless made in a writing duly executed by all of the Members and specifically referring to each such right or remedy being waived.

12.8 **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.

12.9 **Binding.** This Agreement shall be binding upon and inure to the benefit of all Members, and each of the successors and assigns of the Members, except such right or obligation of a Member under this Agreement that may not be assigned by such Member to another Person without first obtaining the written consent of all other Members.

12.10 **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. A facsimile or electronic mail signature hereof shall be deemed an original.

12.11 **Governing Law.** This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of New York, without regard to principles of conflict of laws.

12.12 **Subscription Agreement Representations/Warranties.** All of the representations, warranties and covenants made by the Members (each such Member defined in the Subscription Agreement as a “**Subscriber**”) in the Subscription Agreement are hereby incorporated into this Agreement by reference and shall have the same force and effect as if the same were repeated herein in their entirety. All such representations, warranties and covenants shall survive the execution and delivery of the Subscription Agreement, this Agreement and the issuance and sale of the Membership Interests. The Members shall and hereby do indemnify and hold harmless the Company, the Managing Member or any Affiliate of the foregoing, and the members, managers, stockholders, other beneficial owners, officers, directors, employees and agents of any of the foregoing, from and against any and all losses, expenses, liabilities and other claims and damages relating to or arising out of any breach of any such representation, warranty or covenant made by such Member. This indemnification shall survive the termination or amendment of this Agreement, the Subscription Agreement and/or the termination of the Company.

12.13 **Securities Law.** THE MEMBERSHIP INTERESTS (THE “**INTERESTS**”) OF THE COMPANY HAVE NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE “**SECURITIES ACT**”), THE ISRAELI SECURITIES LAW, 5728-1968, AS AMENDED (THE “**SECURITIES LAW**”), OR THE SECURITIES LAWS OF ANY OTHER STATE OR COUNTRY OR ANY OTHER APPLICABLE SECURITIES LAWS (COLLECTIVELY, THE “**APPLICABLE SECURITIES LAWS**”), IN EACH CASE IN RELIANCE UPON EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND SUCH LAWS. THE INTERESTS MUST BE ACQUIRED FOR INVESTMENT ONLY AND MAY NOT BE OFFERED FOR SALE, PLEDGED, HYPOTHECATED, SOLD, ASSIGNED OR TRANSFERRED AT ANY TIME EXCEPT IN COMPLIANCE WITH THIS AGREEMENT, THE SECURITIES ACT, THE SECURITIES LAW AND THE APPLICABLE SECURITIES LAWS. THEREFORE, PURCHASERS OF INTERESTS WILL BE REQUIRED TO BEAR THE RISK OF THEIR INVESTMENTS FOR AN INDEFINITE PERIOD OF TIME. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT AND UNDER THE SECURITIES ACT, THE SECURITIES LAW AND THE APPLICABLE SECURITIES LAWS, A MEMBER MAY NOT SELL, ASSIGN, TRANSFER, PLEDGE OR OTHERWISE DISPOSE OF ALL OR ANY PART OF ITS INTERESTS IN THE COMPANY UNLESS THE MANAGING MEMBER HAS CONSENTED THERETO AND SUCH SALE, ASSIGNMENT OR OTHER TRANSFER IS IN FULL COMPLIANCE WITH ALL SUCH LAWS. EXCEPT AS MAY BE PERMITTED BY THE SECURITIES LAW, AS IN EFFECT FROM TIME TO TIME, THE INTERESTS IN THE COMPANY WILL NOT BE OFFERED DURING ANY 12 MONTH PERIOD TO MORE THAN 35 ISRAELI PERSONS THAT ARE NOT INVESTORS LISTED IN THE FIRST SCHEDULE TO THE SECURITIES LAW.

12.14 **Entire Agreement.** This Agreement shall constitute the entire agreement among the Members with respect to the subject matter hereof and shall supersede all previous promises, agreements, conditions, understandings, representations and warranties among the Members with respect to the Company and the business of the Company. To the extent there are any inconsistencies between the terms and provisions of this Agreement and the Subscription Agreement or any other document entered into by the Members, or any one of them, with respect to the Company, the terms and conditions of this Agreement shall govern and be binding.

12.15 **Representations and Warranties of the Members.** Each Member hereby represents, warrants and/or covenants to the Company and the other Members, as follows:

(a) Such Member will acquire their Membership Interests for its own account and not with a view to or for sale in connection with any public distribution thereof within the meaning of the Securities Act of 1933 (the “**Securities Act**”). Such Member is aware that the Membership Interests are not registered under the Securities Act or any state securities laws and cannot be resold or transferred without registration thereunder or exemption therefrom. Such Member is an “accredited investor” as such term is defined in Regulation D promulgated under the Securities Act.

(b) Such Member has sufficient knowledge and experience in financial and business matters to enable it to evaluate the merits and risks of investment in its Membership Interest. Such Member has the ability to bear the economic risk of acquiring its Membership Interests and has determined that the Membership Interests are a suitable investment. The overall commitment by such Member to investments which are not readily marketable is not disproportionate to such Member’s net worth and such investment by such Member in the Membership Interests will not cause such overall commitment to become excessive.

(c) Such Member recognizes and fully understands that the Membership Interests are speculative investments which involve a high degree of risk of loss and that a purchaser of such Membership Interests may well lose all or a substantial part of its investment.

(d) Such Member does not intend or anticipate that an investment in the Company will be a source of income.

(e) Such Member has been supplied with, or has had access to, information to which a reasonable investor would attach significance in making investment decisions, including, without limitation, any Company information with respect to the Company’s financial condition, business and prospects, and any other information such Member has requested, to answer all of its inquiries about the Company, and to enable such Member to make its decision to acquire its Membership Interests.

(f) Such Member has received and has carefully read and understands this Operating Agreement.

(g) There are no consents or approvals of governmental authorities or other

Persons that are required for the execution and delivery of this Agreement by such Member; the execution of this Agreement by such Member shall not constitute a default under any material contract or agreement to which such Member is bound; and no agreement or obligation exists that affects such Member that has the effect of restricting the ability of such Member to perform its obligations under this Agreement.

(h) There is no litigation, action or proceeding pending or, to the best knowledge of the Member, threatened, to which the Member is a party that, if adversely determined, could have a material adverse effect on, or enjoin, restrict or otherwise prevent, the consummation of any of the transactions contemplated by this Agreement or the ability of such Member to perform its obligations under this Agreement.

(i) This Agreement has been duly authorized by all requisite action (corporate, partnership, limited liability company, or otherwise), and has been duly executed and delivered by such Member. Each Member has the power and authority to enter into this Agreement and consummate the transactions herein provided.

(j) This Agreement is a valid and binding agreement of such Member enforceable against such Member in accordance with its terms, subject as to enforcement to bankruptcy, insolvency and other laws of general applicability relating to or affecting creditors' rights and to general equitable principles.

(k) Each Member acknowledges and agrees that Chiesa Shahinian & Giantomasi PC serves as counsel to Syracuse 727 LLC, and that Chiesa Shahinian & Giantomasi PC does not serve as counsel to any Member. Such Member acknowledges and agrees that they do not have an attorney-client relationship with Chiesa Shahinian & Giantomasi PC, and that no such relationship will arise in the course of the Company's existence or dissolution by any means. Such Member acknowledges that such Member: (1) has entered into this Agreement of his, her or its own free will, without any coercion on the part of any other person or entity; (2) has entered into this Agreement in consultation with legal counsel, or has determined not to consult with legal counsel of his, her or its own free will; and (3) is executing and delivering this Agreement with the knowledge of the legal effect hereof.

(l) Such Member is a bona fide residents of the state set forth on page one of this Agreement, or, if not on page one of this Agreement, on the signature page to this Agreement; the address set forth herein or on the signature page of this Agreement is such Member's true and correct residence address; and such Member is legally empowered to enter into binding contracts pursuant to the laws of such state.

(m) Such Member has adequate means of providing for its current needs and possible personal contingencies and has no need for liquidity in its respective investment in the Company. Such Member is able to bear the economic risk of its respective investment in the Company and can afford a complete loss of its respective investment without adversely affecting its standard of living.

(n) Such Member understands that nothing contained in the Operating

Agreement should be construed as tax advice to such members; Such Member has secured independent tax advice related to its purchasing Membership Interests in the Company; and such Member understands that no governmental agency has made any finding or determination as to the fairness of the investment, nor any recommendation or endorsement of the Membership Interests.

(o) Such Member understands that all document, records and books pertaining to its investment and the Membership Interests in the Company have been made available for inspection.

(p) Such Member hereby acknowledges that the Managing Member may now or hereafter engage in businesses that provide goods and/or services to the Company which otherwise would be provided by unrelated third parties. Such Member expressly consents to such activities, provided they shall be rendered to the Company on terms substantially as favorable to the Company as would have been provided by unrelated third parties.

(q) If such Member is not a natural person, then such Member is an entity of the kind set forth on its signature page to this Operating Agreement and is duly organized, validly existing and in good standing under the laws of such Member's jurisdiction of organization, and such Member is authorized and qualified to become a Member of the Company and authorized to make capital contributions to, the Company. The person signing this Agreement on behalf of such Member has been duly authorized to do so. This Agreement is such Member's legal, valid and binding obligation, enforceable against such member in accordance with its terms.

(r) Such Member acknowledges that the Company seeks to comply at all times with applicable anti-money laundering laws and that it is the Company's policy to cooperate fully with law enforcement agencies. Neither such Member nor any person directly or indirectly controlling, controlled by or under common control with such Member is a person identified as a terrorist organization on any relevant lists maintained by governmental authorities. To assist the Company in its efforts to comply with anti-money laundering laws, such Member represents that none of the funds invested by such Member are or will be, directly or indirectly, derived from or related to any activity that is deemed criminal or unlawful under federal, state or foreign laws, rules or regulations, including anti-money laundering laws, rules or regulations and that the investment is not intended to further or advance any criminal or unlawful activities, or otherwise hide, disguise or conceal the source, nature or ownership of the proceeds used for the investment. Such Member acknowledges and agrees that the Company and the Managing Member may, upon notice to such Member, release confidential information about such Member and, if applicable, any underlying beneficial owners of such Member, to law enforcement agencies to the extent necessary to ensure compliance with all applicable laws, rules and regulations.

(s) Such Member acknowledges that at no time was the Member presented with, or solicited by, any leaflet, public promotional meeting, newspaper or magazine article, radio or television advertisement, internet communication or any other form of general advertising or general solicitation with respect to the Company.

(t) Such Member agrees to notify the Managing Member of any adverse changes in the information set forth or referred to in this Section 12.15 which may occur after such Member's execution and delivery of this Agreement.

[THE REMAINDER OF THE PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have signed or caused this Agreement to be duly signed as of the date first above written.

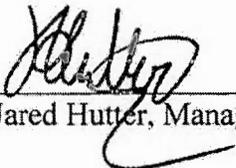
MANAGING MEMBER:

APTITUDE 727 LLC

By: ORANGE 727 LLC

By: 
Brian Rosen, Managing Member

By: JHUTTER DEVELOPMENT, LLC

By: 
Jared Hutter, Managing Member

SCHEDULE A

INITIAL CAPITAL CONTRIBUTION

Name of Member	Initial Capital Contribution	Membership Interests
APTITUDE 727 LLC	\$1,000,000	[]
	[\$_____]	[]
TOTAL		100%

OPERATING AGREEMENT
MEMBER SIGNATURE PAGE

MEMBER:

EXHIBIT "C"
GOOD STANDING CERTIFICATE

**State of New York
Department of State } ss:**

I hereby certify, that SYRACUSE 727 LLC a NEW YORK Limited Liability Company filed Articles of Organization pursuant to the Limited Liability Company Law on 10/28/2016, and that the Limited Liability Company is existing so far as shown by the records of the Department.

*Witness my hand and the official seal
of the Department of State at the City
of Albany, this 23rd day of May
two thousand and seventeen.*



Brendan W. Fitzgerald
Executive Deputy Secretary of State



EXHIBIT "D"
RESOLUTION

**CERTIFICATE OF MEMBERS OF
SYRACUSE 727 LLC**

The undersigned, being all of the members of SYRACUSE 727 LLC, a New York limited liability company (the "LLC"), do hereby certify that Exhibit "A" attached hereto is a true, complete and correct copy of resolutions adopted by the LLC by way of the unanimous written consent of the member, and we do hereby

FURTHER CERTIFY, that the undersigned are the only members of the LLC, that the attached resolutions are entered in the minutes of the proceedings of the LLC, that the attached resolutions are in full force and effect and have not been superseded, modified or amended, and that the attached resolutions are not in conflict with or contrary to any resolution or other agreement of the LLC.

IN WITNESS WHEREOF, the undersigned have executed this certificate effective as of the 1 day of August, 2017.

MEMBERS:

APTITUDE 727 LLC

By: Orange 727, LLC

By: 
Brian Rosen, Managing Member

By: LRC Investments 727 LLC

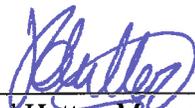
By: 
Jared Hutter, Managing Member

EXHIBIT "A"

RESOLUTIONS OF MEMBERS OF

SYRACUSE 727 LLC

RESOLVED, that SYRACUSE 727 LLC (the "LLC") is authorized to make an application to the City of Syracuse Industrial Development Agency (the "Agency") for the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax with respect to the Project more fully described herein; and be it further

RESOLVED, that the LLC is authorized to undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the "Existing Building") located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the "Land"); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 be it further

RESOLVED, that the LLC is authorized to lease the Land together with the Facility to the Agency pursuant to a Lease Agreement (the "Lease"); and be it further

RESOLVED, that the LLC shall transfer its interest in the Equipment to the Agency pursuant to a bill of sale (the "Bill of Sale"); and be it further

RESOLVED, that the LLC will enter into a lease with the Agency wherein the Agency will sublease the Land, Facility and Equipment back to the LLC; and be it further

RESOLVED, that the LLC will execute and deliver any and all documents otherwise necessary or appropriate to accomplish the same; and be it further

RESOLVED, that in connection with the foregoing transaction, Brian Rosen be, and hereby is, authorized, directed and empowered, in the name and on behalf of the LLC, to execute and deliver all necessary and proper documents reasonably required by the Agency, each such document to be in such form and substance as he may approve, such approval to be conclusively evidenced by his execution and delivery thereof and as so executed shall be binding upon the LLC; and be it further

RESOLVED, that Brian Rosen be, and hereby is, authorized, directed and empowered, in the name and on behalf of the LLC, to take all such other actions which in his judgment may be necessary or appropriate in connection with the foregoing transaction.

EXHIBIT "E"
LOCAL ACCESS AGREEMENT

City of Syracuse

Industrial Development Agency

Local Access Agreement

Syracuse 727 (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		SYRACUSE 727		General Contractor		Hueber-Breuer	
Representative for Contract Bids and Awards		Brian Rosen Sean Foran		Contact		Sean Foran	
Address		270 Sylvan Ave Suite 164		Address		148 Berwyn Ave	
City	Englewood Cliffs	ST	NY	Zip	07632	City	Syr
Phone		Fax		Phone	315 476 7917	Fax	315 476 7990
Email		br@rosenpropertygroup.com		Email		sforan@hueber-breuer.com	
Project Address		727 S. Ludue Ave		Construction Start Date		6/15/17	
City	Syr	ST	NY	Zip	13240	Occupancy Date	
						8/15/18	

Project Components – Indicate those for which bids will be sought:

Item	Estimated Value	Bid Date	Contact
Site work/Demolition	90,000	4/5	Hueber Breuer
Foundation and footings	800,000	6/5	
Building	3,400,000	7/11	
Masonry	200,000	7/11	
Metals	1,000,000	6/5	
Wood/casework	1,000,000	7/11	
Thermal/moisture proof	2,400,000	7/11	
Doors, windows, glazing	1,500,000	7/11	
Finishes	4,000,000	7/11	
Electrical	2,500,000	6/5	
HVAC	2,500,000	6/5	
Plumbing	2,100,000	6/5	
Specialties		7/11	
Machinery & Equipment	400,000	7/11	
Furniture and Fixtures			
Utilities	250,000		
Paving	100,000		
Landscaping	50,000		
Other (identify)			

Date: 6/19/17

Company: Hueber Breuer

Signature: [Handwritten Signature]

Name: Sean Foran

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August 10, 2017

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202

Syracuse 727 LLC
c/o Rosen Property Group LLC
270 Sylvan Avenue
Englewood Cliffs, New Jersey 07632

Re: City of Syracuse Industrial Development Agency
Lease/Leaseback Transaction
Syracuse 727 LLC - Campus Plaza 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 Syracuse 727 LLC (the “*Company*”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the “*Existing Building*”) located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 has also requested that the Agency grant the Financial Assistance to the Project. 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.

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.

August 10, 2017
Page 3

Very truly yours,

BARCLAY DAMON, LLP

Barclay Damon, LLP

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Robert J. Smith*
Michael A. Tremont
Alicia S. Calagiovanni
James J. Gascon
Paul G. Ferrara**
Maureen G. Fatcheric
Timothy J. Conan
John R. Langey
Daniel P. Fletcher

Anthony R. Hanley
Dennis P. Hennigan
Robert W. Connolly**
Nicole Marlow-Jones
Donald S. DiBenedetto
Nadine C. Bell+
Wendy S. Lougnot
Zachary R. Benjamin
Melinda B. Bowe



COSTELLO • COONEY • FEARON
PLLC
Attorneys at law since 1896

500 PLUM STREET, SUITE 300 | SYRACUSE, NY 13204-1401
TEL. 315.422.1152 | FAX 315.422.1139
WWW.CCF-LAW.COM

Jennifer L. Wang
Richard J. Andino
Elizabeth A. Hoffman
Daniel R. Rose
Megan E. Grimsley

Alexandra L. Condon
Nicholas S. Cortese
Erin K. Skuce
C. Taylor Payne

Carol C. Olech, Special Counsel
Jonathan P. McSherry, Special Counsel, CPA

Kevin M. Gilligan, Senior Counsel
Donald L. Nicholas, Of Counsel
Warren W. Bader, Of Counsel
Peter J. Corrigan, Of Counsel
Scott W. Bush, Of Counsel
John M. DeLaney, Of Counsel
Michael E. O'Connor, Of Counsel

* Also admitted in Texas
** Also admitted in Massachusetts
+ Also admitted in Pennsylvania

August 10, 2017

Syracuse 727 LLC
c/o Rosen Property Group LLC
270 Sylvan Avenue
Englewood Cliffs, New Jersey 07632
Attn: Brian Rosen

City of Syracuse Industrial Development Agency
City Hall Commons, 7th Floor
201 East Washington Street
Syracuse, New York 13202

Re: **City of Syracuse Industrial Development Agency**
Lease/Leaseback Transaction
Syracuse 727 LLC - Campus Plaza Project

Ladies and Gentlemen:

We have acted as counsel to Syracuse 727 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 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the “**Existing Building**”) located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 August 1, 2017 (the "**Company Lease**") and transfer its interest in the Equipment to the Agency pursuant to a bill of sale dated as of August 1, 2017 (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 August 1, 2017 (the "**Agency Lease**"). Capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Agency Lease.

In that regard, we have examined the Project Agreement, the Company Lease, the Agency Lease, the Bill of Sale, the Mortgage, the Environmental Compliance and Indemnification Agreement and the other documents identified in the Closing Memorandum and defined in the Agency Lease to which the Company is a party (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.

3. The Company Documents constitute the legal, valid and binding obligation 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, 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,

COSTELLO, COONEY & FEARON, PLLC



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CLOSING MEMORANDUM
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
SYRACUSE 727 LLC PROJECT

DATE AND TIME OF CLOSING: August 10, 2017

PLACE OF CLOSING: Via mail

I. Action Taken Prior to Closing

At the request of Syracuse 727 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 2 parcels of land totaling approximately .6 acres improved by existing building(s) (the “**Existing Building**”) located at 721-723, 727-729 South Crouse Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of the Existing Building and the construction of a new eight story, approximately 168,400 square foot mixed-use building consisting of approximately 16,800 square feet of retail and retail support space on the ground floor; approximately 287 beds within a mix of approximately 168 residential units which include studio, 1 bedroom, 2 bedroom and 4 bedroom units) on floors 2-8; residential amenity space, fitness room, laundry room and storage in the partial basement; and various site improvements, including, but not limited to, new pedestrian corridor, site utilities and streetscape; all located on the Land (collectively, 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 State and local sales and use tax and mortgage recording tax (except as limited by 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, 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 July 1, 2017 (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 July 1, 2017 (the "**Bill of Sale**"). The Agency will sublease the Project Facility back to the Company, pursuant to an Agency Lease Agreement dated as of July 1, 2017 (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:

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| December 28, 2016 | The Company submitted an application for financial assistance for the project. |
| January 24, 2017 | A resolution determining that the acquisition, construction, equipping and completion of a mixed-use commercial facility constitutes a project; describing the financial assistance in connection therewith; and authorizing a public hearing (the " Public Hearing Resolution "). |
| February 13, 2017 | 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. |
| February 14, 2017 | Notice of the Public Hearing was published in the <u>Post-Standard</u> pursuant to Section 859-a of the Act. |
| February 28, 2017 | The Agency conducted the Public Hearing pursuant to Section 859-a of the Act. |
| February 28, 2017 | A resolution classifying a certain project as Unlisted Action pursuant to SEQRA, 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. |
| February 28, 2017 | A resolution authorizing the undertaking of the acquisition, construction, equipping and completion of a mixed-use commercial facility; appointing the Company agent of the Agency for the purpose of the acquisition, construction, equipping and |

completion of the Project and authorizing the execution and delivery of an agreement between the Agency and the Company (the “*Inducement Resolution*”).

February 28, 2017

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. Mortgage	LC	C, A
14. UCC-1 Financing Statement(s)	LC	

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" - SEQRA Resolution	AC	
Exhibit "G" - Inducement Resolution	AC	
Exhibit "H" - Final Approving Resolution	AC	
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" - Limited Liability Company Agreement C C

Exhibit "C" Certificate of Good Standing C

Exhibit "D" Company Resolution C

Exhibit "E" Local Access Agreement C

D. Opinions of Counsel C

1. Opinion of Barclay Damon, LLP, counsel to the Agency, addressed to the Company and the Agency AC AC

2. Opinion of Costello, Cooney & Fearon 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 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 William M. Ryan, Chairman
For the Company:	Syracuse 727 LLC Brian Rosen
Company Counsel:	Costello, Cooney & Fearon PLLC Robert Smith, Esq. Zachary Benjamin, Esq.
For the Lender:	Bank of America, N.A.
Lender's counsel:	Westerman Ball Ederer Miller Zucker & Sharfstein, LLP Jay H. Levinton, Esq.
Agency's Counsel:	Barclay Damon, LLP Susan R. Katzoff, Esq.