

**TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
(TOWN OF BROOKHAVEN, NEW YORK)**

**AMENDMENT AND MODIFICATION
OF
(AVR-SP BROOKHAVEN JV LLC 2022 FACILITY)**

Dated October 9, 2023

Prepared By:

Nixon Peabody LLP
1300 Clinton Square
Rochester, New York 14604

**TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
(TOWN OF BROOKHAVEN, NEW YORK)**

**AMENDMENT AND MODIFICATION
OF
(AVR-SP BROOKHAVEN JV LLC 2022 FACILITY)**

Dated October 9, 2023

Parties to Transaction

Town of Brookhaven Industrial Development Agency

“Agency”

AVR-SP Brookhaven JV LLC

“Company”

Index to Transcript

Tab No.

1. Amendment and Modification Agreement (by and between Agency and Company).
2. Memorandum of Amended Company Lease Agreement (by and between Company and Agency), together with attached Form TP-584.
3. Memorandum of Amended Lease Agreement (by and between Agency and Company), together with attached Form TP-584.
4. Resolution of the Agency dated July 19, 2023.
5. Directive to Tax Assessor, together with Form RP-412-a.

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
(TOWN OF BROOKHAVEN, NEW YORK)

and

AVR-SP BROOKHAVEN JV LLC

AMENDMENT AND MODIFICATION AGREEMENT

Dated as of October 1, 2023

Town of Brookhaven Industrial Development Agency
(AVR-SP Brookhaven JV LLC 2022 Facility)

AMENDMENT AND MODIFICATION AGREEMENT

THIS AMENDMENT AND MODIFICATION AGREEMENT, dated as of October 1, 2023 (this "**Amendment Agreement**"), is by and between the TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation duly organized and validly existing under the laws of the State of New York, with offices at 1 Independence Hill, 2nd Floor, Farmingville, New York 11738 (the "**Agency**") and AVR-SP BROOKHAVEN JV LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware and authorized to transact business in the State of New York, having its principal office at 1 Executive Boulevard, Yonkers, New York 10701 (the "**Company**").

RECITALS

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

WHEREAS, the aforesaid act authorizes the creation of industrial development agencies for the Public Purposes of the State; and

WHEREAS, the aforesaid act further authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, renovate, refurbish, equip, lease, 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 now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, recreation or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, pursuant to and in accordance with the provisions of the aforesaid act, as amended, and Chapter 358 of the Laws of 1970 of the State, as amended (collectively, the "**Act**"), the Agency was created and is empowered under the act to undertake the Project Work and the leasing of the Facility defined below; and

WHEREAS, the Agency has previously assisted AVR-SP Brookhaven JV LLC, a Delaware limited liability company (the "**Company**"), in connection with (a) the acquisition of an approximately 47.26-acre parcel of land located at Eastern terminus of Precision Drive, Shirley, New York 11967 (SCTM# 0200-554.00-03.00-004.410, 004.450 & 004.460) (the "**Original Land**"), (b) the clearance of 27.88 acres of the Land and the construction thereupon of two (2) buildings, totaling approximately 401,080 square feet, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the "**Improvements**"), and the acquisition and installation therein of certain equipment and personal property (the "**Facility Equipment**"; and together with the

Land and the Improvements, the "**Original Facility**"), which Facility will be leased by the Company to the Agency and will be subleased by the Agency back to the Company. The Facility is to be used by the Company as two industrial buildings to be leased to tenants for warehouse and distribution operations or other permitted uses within the L1 Industrial zone (the "**Project**"); and

WHEREAS, the Agency by resolution duly adopted on December 8, 2021 (the "**Authorizing Resolution**"), authorized the acquisition, construction and equipping of such facility and the execution and delivery of the Agency Documents (as defined therein); and

WHEREAS, the Company leased the Facility to the Agency pursuant to a Company Lease Agreement, dated as of June 1, 2022 (the "**Original Company Lease**"), between the Company and the Agency; and

WHEREAS, the Agency leased the Facility to the Company pursuant to a Lease and Project Agreement, dated as of June 1, 2022 (the "**Original Lease Agreement**"), between the Agency and the Company; and

WHEREAS, the Company and the Agency previously agreed that a Self-Storage Building (as defined in Section 9.1(d) of the Original Lease Agreement) would be constructed on a portion of the Original Land, and that upon subdivision of such portion of the Original Land, the Agency and the Company would cooperate to amend the Original Lease Agreement to release such portion, which portion is more particularly described in Exhibit A-1 hereto (the "**Released Land**"); and

WHEREAS, the Company has requested that the Agency agree to release the Released Land from the lien of the Lease Agreement and the Company Lease pursuant to this Amendment and Modification Agreement, such that the Lease Agreement and the Company Lease shall encumber the real property more particularly described in Exhibit A-2 attached hereto (the "**Land**", and together with the Facility Equipment and the Improvements, the "**Facility**"); and

WHEREAS, the Facility is intended to consist of two separate buildings, one approximately 150,000 square foot building located on an approximately 13.92 acre portion of the Land ("**Parcel 1**"), and an approximately 250,000 square foot building located on an approximately 22.03 acre portion of the Land ("**Parcel 2**"; and together with Parcel 1, the "**Facility**", and each of Parcel 1 and Parcel 2 are a "**Parcel**"); and

WHEREAS, the Agency and the Company have agreed to amend and modify the payment-in-lieu-of-tax payments, as described in the Original Lease Agreement (the "**Original PILOT Payments**"), in order to split the Original PILOT Payments between Parcel 1 and Parcel 2 (the "**PILOT Amendment**"); and

WHEREAS, the Agency and the Company have also agreed to split the full-time equivalent employee requirements as described in the Original Lease Agreement (the "**FTE Requirements**"), between Parcel 1 and Parcel 2 (the "**FTE Amendment**"); and

WHEREAS, to provide for the PILOT Amendment and the FTE Amendment, the Agency and the Company agree to amend the Original Lease Agreement pursuant to this Amendment and Modification Agreement (the "**Amendment and Modification Agreement**"; and together with the Original Lease Agreement, the "**Lease Agreement**"); and

AGREEMENT

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto do hereby mutually agree as follows:

ARTICLE I DEFINITIONS

Section 1.01. Definitions in this Amendment Agreement. All other capitalized terms used in this Amendment Agreement which are not otherwise defined herein shall have the meanings assigned thereto in the Schedule of Definitions attached to the Lease Agreement, which definitions are incorporated herein and made a part hereof by reference.

Section 1.02. Definitions in Amended Documents. All references in the Lease Agreement, to "this Lease Agreement", "the Lease Agreement", as the case may be, or words of similar import, and the terms "hereby", "hereof", "hereto", "herein", "hereunder", "thereby", "thereof", "thereto", "therein", "thereunder" and any similar terms as used in any such instrument or agreement shall be deemed to refer to such instrument or agreement as amended, modified and supplemented to date, including by this Amendment Agreement.

ARTICLE II

AMENDMENT AND MODIFICATION OF COMPANY LEASE

Section 2.01. Amendment and Modification of Company Lease. The Agency and the Company agree that the Company Lease is hereby amended and modified as follows:

(a) The Company Lease is hereby amended and modified in all respects to reflect that the Agency is now leasing the Facility as it is defined herein to the Company pursuant to the Company Lease. All references in the Company Lease to the "Facility" are hereby amended and modified to reflect the definition of the "Facility" contained herein.

(b) The description of Facility contained in the Company Lease is hereby amended to exclude the Released Land described herein.

(c) A separate Memorandum of Amended Lease Agreement between the Agency and the Company will be recorded in the Suffolk County Clerk's office to reflect the aforementioned amendment.

Section 2.02. Ratification of Company Lease. Except as otherwise amended and modified by this Amendment and Modification Agreement, the Agency and the Company agree that the Lease Agreement is hereby ratified and confirmed and remains in full force and effect.

ARTICLE III AMENDMENT AND MODIFICATION OF LEASE AGREEMENT

Section 3.01. Amendment and Modification of Lease Agreement. The Agency and the Company agree that the Lease Agreement is hereby amended and modified as follows:

- (a) The PILOT Schedule attached to the Lease Agreement as Exhibit C is hereby amended and replaced in its entirety with the schedule attached as Exhibit B-1 and Exhibit B-2 hereto.
- (b) The last sentence of Section 3.6 of the Lease Agreement is hereby amended to read "The Company agrees that the Completion Date shall be no later than December 31, 2026."
- (c) Section 5.4 to the Lease Agreement is hereby amended to add a subparagraph (i) as follows:
 - (i) Notwithstanding any of the foregoing, upon the occurrence of an Event of Default and Recapture Event whereby the Agency exercises its remedies provided in Section 10.2(a)(iv) hereof, the Company shall only be obligated to pay Recaptured Benefits associated with the Parcel occupied by the Defaulting Sublessee (as defined in Section 10.2(a)(iv)).
- (d) Section 8.11 to the Lease Agreement is hereby amended to reflect the FTE Amendment and the intent of the Company to provide eight and a half (8.5) full time equivalent employees at Parcel 1 and fourteen (14) full time equivalent employees at Parcel 2 by December 31, 2025, and twenty-six (26) full time equivalent employees at Parcel 1 and forty-four (44) full time equivalent employees at Parcel 2 by December 31, 2028.
- (e) Section 9.3 of the Lease Agreement is hereby amended to add a subparagraph (e) as follows:

- (e) The Agency and the Company hereby acknowledge that the Company may transfer title to Parcel 1 and/or Parcel 2 to any related or unrelated party, including but not limited to the eventual sublessees or an affiliate of the eventual sublessees thereof or an affiliate of the Company. Any such transfer shall be subject to the consent of the Agency and all other conditions of Section 9.3, provided the consent of the Agency to any such transfer shall not be unreasonably withheld, delayed, conditioned, or denied.
- (f) Section 10.2(a) of the Lease Agreement is hereby amended to include subparagraph (iv), as follows:
- (iv) upon (A) an Event of Default with respect to Section 8.11 where the FTE requirement for the sublessee of one Parcel (the “**Defaulting Sublessee**”) has not been satisfied, but the sublessee of the other Parcel has complied with its FTE requirement, or (B) an Event of Default under Section 10.1(a)(ix) where an Event of Default has occurred and is continuing under a Defaulting Sublessee’s Agency Compliance Agreement and the other sublessee is in full compliance with its Agency Compliance Agreement, the Agency may, in its reasonable discretion and at the sole cost and expense of the Company, require an amendment of the Transaction Documents to release the Parcel occupied by the Defaulting Sublessee from the Project and the Transaction Documents and record such appropriate amendment documents with the Suffolk County Clerk, and terminate the appointment of any Defaulting Sublessee as an Agent for Sales Tax Exemption purposes; provided, however, prior to the Agency taking such action, the Agency shall afford the Company thirty (30) days to evict the Defaulting Sublessee, and another thirty (30) days after the Defaulting Sublessee is evicted to present a tenant, that is acceptable in the Agency’s sole but reasonable discretion, to occupy the Defaulting Sublessee’s premises to the Agency for approval under Section 9.3 hereof; or
- (g) The Lease Agreement is hereby amended and modified in all other respects to reflect the PILOT Amendment and the FTE Amendment.
- (h) The Lease Agreement is hereby amended and modified in all respects to reflect that the Agency is now leasing the Facility as it is defined herein to the Company pursuant to the Lease Agreement. All references in the Company Lease to the “Facility” are hereby amended and modified to reflect the definition of “Facility” contained herein.
- (i) The description of Facility contained in the Lease Agreement is hereby amended to exclude the Released Land described herein.
- (j) A separate Memorandum of Amended Lease Agreement between the Agency and the Company will be recorded in the Suffolk County Clerk’s office to reflect the aforementioned amendment.

Section. 3.02 Ratification of Lease Agreement. Except as otherwise amended and modified by this Amendment Agreement, the Agency and the Company agree that the Lease Agreement is hereby ratified and confirmed and remains in full force and effect.

ARTICLE IV MISCELLANEOUS

Section 4.01 Binding Effect. This Amendment Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

Section 4.02 Severability. In the event any provision of this Amendment Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 4.03 Amendments, Changes and Modifications. This Amendment Agreement may not be amended, changed, modified, altered or terminated except in a writing executed by all of the parties hereto.

Section 4.04 Execution of Counterparts. This Amendment Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 4.05 Applicable Law. This Amendment Agreement shall be governed exclusively by the applicable laws of the State of New York without regard or reference to its conflict of laws principles.

Section 4.06 Section Headings Not Controlling. The headings of the several sections in this Amendment Agreement have been prepared for convenience of reference only and shall not control or affect the meaning of or be taken as an interpretation of any provision of this Amendment Agreement.

(Remainder of Page Intentionally Left Blank – Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Amendment Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Name: Lisa MG Mulligan
Title: Chief Executive Officer

AVR-SP BROOKHAVEN JV LLC

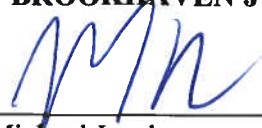
By: _____
Name: Michael Jacobs
Title: Manager

IN WITNESS WHEREOF, the parties hereto have caused this Amendment Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Name: Lisa MG Mulligan
Title: Chief Executive Officer

AVR-SP BROOKHAVEN JV LLC

By:  _____
Name: Michael Jacobs
Title: Manager

Amendment Agreement
Signature Page 1 of 1

EXHIBIT A-1

Released Land

SCTM # District 0200, Section 554, Block 3, P/O Lot 4.54

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York being more particularly bounded and described as follows;

BEGINNING at a point on the northerly side of the 60 foot Right of Way a distance of 271.25 feet easterly as measured along the northerly side of the 60 foot Right of Way from the intersection of the easterly side of Ramsay Road with the northerly side of Precision Drive;

THENCE from said point of beginning North 10 degrees 31 minutes 24 seconds West a distance of 405.00 feet to a point on the southerly side of the Long Island Expressway; thence the following two courses and distances along the southerly side of the Long Island Expressway:

1. Along the arc of a curve to the right having a radius of 9,795.00 feet an arc length of 1,216.54 feet to a point;
2. North 86 degrees 35 minutes 34 seconds East a distance of 137.20 feet to a point on the northerly side of the 60 foot Right of Way;

thence the following five courses and distances along the northerly side of the 60 foot Right of Way:

1. Along the arc of a curve to the left having a radius of 260.00 feet an arc length of 128.98 feet to a point;
2. South 58 degrees 10 minutes 08 seconds West a distance of 773.97 feet to a point;
3. Along the arc of a curve to the right having a radius of 200.00 feet an arc length of 82.31 feet to a point;
4. Along the arc of a curve to the left having a radius of 3,800.00 feet an arc length of 233.87 feet to a point;
5. South 78 degrees 13 minutes 19 seconds West a distance of 187.42 feet to the point of beginning.

Containing an Area of 350,933.82 square feet (8.06 Acres)
Bearings are referenced to NAD-83 Horizontal Datum

EXHIBIT A-2

Legal Description of Remaining Land

Description of **Parcel 1** as shown on the Map of R.D. Industrial (4 Lot Land Division)
SCTM # District 0200, Section 554, Block 3, P/O Lot 4.54

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York being more particularly bounded and described as follows;

BEGINNING at a point on the easterly side of Ramsay Road a distance of 90.00 feet southerly as measured along the easterly side of Ramsay Road from the intersection of the easterly side of Ramsay Road with the northerly side of Precision Drive;

THENCE from said point of beginning the following three courses and distances along the southerly side of the 60 foot wide Right of Way:

1. Along the arc of a curve to the right having a radius of 30.00 feet an arc length of 47.12 feet to a point;
2. North 78 degrees 13 minutes 19 seconds East a distance of 428.67 feet to a point;
3. Along the arc of a curve to the right having a radius of 3,740.00 feet an arc length of 224.46 feet to a point;

thence South 11 degrees 46 minutes 41 seconds East a distance of 764.33 feet to a point on the northerly side of land now or formerly of the Long Island Railroad; thence along the northerly side of land now or formerly of the Long Island Railroad South 58 degrees 10 minutes 08 seconds West a distance of 521.73 feet to a point; thence North 58 degrees 16 minutes 17 seconds West a distance of 429.71 feet to a point on the easterly side of Ramsay Road; thence the following two courses and distances along the easterly side of Ramsay Road:

1. Along the arc of a curve to the left having a radius of 560.00 feet an arc length of 371.49 feet to a point;
2. North 11 degrees 46 minutes 41 seconds West a distance of 279.29 feet to the point of beginning.

Containing an Area of 606,333.82 square feet (13.92 Acres)
Bearings are referenced to NAD-83 Horizontal Datum

Description of **Parcel 2** as shown on the Map of R.D. Industrial (4 Lot Land Division)
SCTM # District 0200, Section 554, Block 3, P/O Lot 4.54

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York being more particularly bounded and described as follows;

BEGINNING at a point on the southerly side of the 60 foot Right of Way the following four courses and distances from the intersection of the easterly side of Ramsay Road with the northerly side of Precision Drive:

1. Southerly as measured along the easterly side of Ramsay Road a distance of 90.00 feet to a point;
2. Along the arc of a curve to the right having a radius of 30.00 feet an arc length of 47.12 feet to a point;
3. North 78 degrees 13 minutes 19 seconds East a distance of 428.67 feet to a point;
4. Along the arc of a curve to the right having a radius of 3,740.00 feet an arc length of 224.46 feet to the point of beginning;

THENCE from said point of beginning the following seven courses and distances along the southerly side of the 60 foot wide Right of Way:

1. Along the arc of a curve to the right having a radius of 3,740.00 feet an arc length of 5.71 feet to a point;
2. Along the arc of a curve to the left having a radius of 260.00 feet an arc length of 107.00 feet to a point;
3. North 58 degrees 10 minutes 08 seconds East a distance of 773.97 feet to a point;
4. Along the arc of a curve to the right having a radius of 200.00 feet an arc length of 99.22 feet to a point;
5. North 86 degrees 35 minutes 34 seconds East a distance of 337.44 feet to a point;
6. Along the arc of a curve to the right having a radius of 32.00 feet an arc length of 44.44 feet to a point;
7. Along the arc of a curve to the left having a radius of 73.00 feet an arc length of 214.91 feet to a point;

thence South 02 degrees 30 minutes 24 seconds East a distance of 473.62 feet to a point on the northerly side of land now or formerly of the Long Island Railroad; thence along the northerly side of land now or formerly of the Long Island Railroad South 58 degrees 10 minutes 08 seconds West a distance of 1,453.57 feet to a point; thence North 11 degrees 46 minutes 41 seconds West a distance of 764.33 feet to the southerly side of the 60 foot Right of Way and the point of beginning.

Containing an Area of 959,460.65 square feet (22.03 Acres)
Bearings are referenced to NAD-83 Horizontal Datum

Exhibit B-1

Parcel 1 PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Town of Brookhaven, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Longwood School District, Suffolk County and Appropriate Special Districts

Property Address: Eastern terminus of Precision Drive, Shirley, New York

Tax Map Nos. 0200-554.00-03.00-004.410, 004.450 & 004.460

School District: Longwood School District

<u>Year</u>	<u>PILOT Payment Parcel 1</u>
1	\$ 35,119
2	\$ 35,822
3	\$ 36,538
4	\$ 37,269
5	\$ 38,014
6	\$ 40,937
7	\$ 83,511
8	\$ 127,772
9	\$ 173,771
10	\$ 221,557
11	\$ 271,186
12	\$ 322,712
13	\$ 376,190
14	\$ 431,678
15	\$ 489,234

Exhibit B-2

Parcel 2 PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Town of Brookhaven, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Longwood School District, Suffolk County and Appropriate Special Districts

Property Address: Eastern terminus of Precision Drive, Shirley, New York

Tax Map Nos. 0200-554.00-03.00-004.410, 004.450 & 004.460

School District: Longwood School District

<u>Year</u>	<u>PILOT Payment Parcel 2</u>
1	\$ 58,532
2	\$ 59,703
3	\$ 60,897
4	\$ 62,114
5	\$ 63,357
6	\$ 68,228
7	\$ 139,186
8	\$ 212,954
9	\$ 289,618
10	\$ 369,262
11	\$ 451,977
12	\$ 537,853
13	\$ 626,983
14	\$ 719,463
15	\$ 815,391

MEMORANDUM OF AMENDED COMPANY LEASE

This Memorandum of Amended Company Lease is hereby made and executed on October 9, 2023 between AVR-SP BROOKHAVEN JV LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware and authorized to transact business in the State of New York, having its principal office at 1 Executive Boulevard, Yonkers, New York 10701 (the “**Company**”), as lessor, and TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation duly organized and validly existing under the laws of the State of New York, with offices at 1 Independence Hill, 2nd Floor, Farmingville, New York 11738 (the “**Agency**”), as lessee, in order to evidence of record the parties’ agreement to amend the existing Company Lease as hereinafter defined.

The Agency and the Company entered into a Company Lease Agreement, dated as of June 1, 2022 (the “**Original Company Lease**”), a memorandum of which Original Company Lease was recorded in the Suffolk County Clerk’s Office on July 7, 2022 in **Liber 13163 of Deeds, Page 765.**

The Original Company Lease was amended pursuant to an Amendment and Modification Agreement, dated as of October 1, 2023 (the “**Amendment and Modification Agreement**”; and together with the Original Company Lease, the “**Company Lease**”), between the Company and the Agency, in order to provide for an extension of Lease Term (as defined below), and to release a certain parcel of land as described on Exhibit A.

The Original Company Lease covers the premises described on Exhibit B attached hereto and made a part hereof. Except as amended and modified by the Amendment of Company Lease, the Original Company Lease remains in full force and effect.

The Company Lease provides for the rental of the premises by the Agency for a term commencing on June 24, 2022, and terminating at 11:59 p.m. on November 30, 2037 (the “**Lease Term**”).

Property Address: Eastern Terminus of Precision Drive, Shirley, New York

Tax Mailing Address: 1 Executive Boulevard, Yonkers, New York 10701

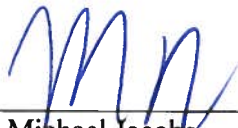
Tax Map Number: District 0200 Section 554.000 Block 03.00 Lots 004.041, 004.045 & 004.046

Record and return to:

Nixon Peabody LLP
1300 Clinton Square
Rochester, New York 14604
Attention: Terance V. Walsh, Esq.

IN WITNESS WHEREOF, the Company and the Agency have caused this Memorandum of Amended Company Lease to be executed in their respective names as of the date first above written.

AVR-SP BROKHAVEN JV LLC

By: 

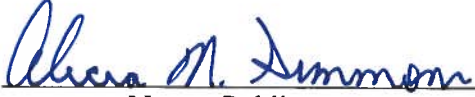
Name: Michael Jacobs

Title: Manager

STATE OF NEW YORK)

Westchester : SS.:
COUNTY OF ~~SUFFOLK~~)

On the 3rd day of October in the year 2023, before me, the undersigned, personally appeared **Michael Jacobs**, 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 within instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.


Notary Public

ALICIA N SIMMONS
NOTARY PUBLIC-STATE OF NEW YORK
No. 01SI6192713
Qualified in Westchester County
My Commission Expires 08-02-2024

Memorandum of Amended Company Lease
Signature Page 1 of 2

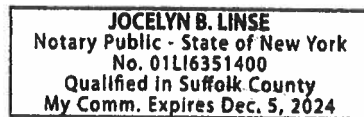
**TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY**

By: *Lisa MG Mulligan*
Name: Lisa MG Mulligan
Title: Chief Executive Officer

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

On the 5th day of October in the year 2023 before me, the undersigned, personally appeared **Lisa MG Mulligan**, 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 within instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

Joelyn B. Linse
Notary Public



Memorandum of Amended Company Lease
Signature Page 2 of 2

EXHIBIT A

Released Land

SCTM # District 0200, Section 554, Block 3, P/O Lot 4.54

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York being more particularly bounded and described as follows;

BEGINNING at a point on the northerly side of the 60 foot Right of Way a distance of 271.25 feet easterly as measured along the northerly side of the 60 foot Right of Way from the intersection of the easterly side of Ramsay Road with the northerly side of Precision Drive;

THENCE from said point of beginning North 10 degrees 31 minutes 24 seconds West a distance of 405.00 feet to a point on the southerly side of the Long Island Expressway; thence the following two courses and distances along the southerly side of the Long Island Expressway:

1. Along the arc of a curve to the right having a radius of 9,795.00 feet an arc length of 1,216.54 feet to a point;
2. North 86 degrees 35 minutes 34 seconds East a distance of 137.20 feet to a point on the northerly side of the 60 foot Right of Way;

thence the following five courses and distances along the northerly side of the 60 foot Right of Way:

1. Along the arc of a curve to the left having a radius of 260.00 feet an arc length of 128.98 feet to a point;
2. South 58 degrees 10 minutes 08 seconds West a distance of 773.97 feet to a point;
3. Along the arc of a curve to the right having a radius of 200.00 feet an arc length of 82.31 feet to a point;
4. Along the arc of a curve to the left having a radius of 3,800.00 feet an arc length of 233.87 feet to a point;
5. South 78 degrees 13 minutes 19 seconds West a distance of 187.42 feet to the point of beginning.

Containing an Area of 350,933.82 square feet (8.06 Acres)

Bearings are referenced to NAD-83 Horizontal Datum

EXHIBIT B

Legal Description of Remaining Land

Description of **Parcel 1** as shown on the Map of R.D. Industrial (4 Lot Land Division)
SCTM # District 0200, Section 554, Block 3, P/O Lot 4.54

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York being more particularly bounded and described as follows;

BEGINNING at a point on the easterly side of Ramsay Road a distance of 90.00 feet southerly as measured along the easterly side of Ramsay Road from the intersection of the easterly side of Ramsay Road with the northerly side of Precision Drive;

THENCE from said point of beginning the following three courses and distances along the southerly side of the 60 foot wide Right of Way:

1. Along the arc of a curve to the right having a radius of 30.00 feet an arc length of 47.12 feet to a point;
2. North 78 degrees 13 minutes 19 seconds East a distance of 428.67 feet to a point;
3. Along the arc of a curve to the right having a radius of 3,740.00 feet an arc length of 224.46 feet to a point;

thence South 11 degrees 46 minutes 41 seconds East a distance of 764.33 feet to a point on the northerly side of land now or formerly of the Long Island Railroad; thence along the northerly side of land now or formerly of the Long Island Railroad South 58 degrees 10 minutes 08 seconds West a distance of 521.73 feet to a point; thence North 58 degrees 16 minutes 17 seconds West a distance of 429.71 feet to a point on the easterly side of Ramsay Road; thence the following two courses and distances along the easterly side of Ramsay Road:

1. Along the arc of a curve to the left having a radius of 560.00 feet an arc length of 371.49 feet to a point;
2. North 11 degrees 46 minutes 41 seconds West a distance of 279.29 feet to the point of beginning.

Containing an Area of 606,333.82 square feet (13.92 Acres)
Bearings are referenced to NAD-83 Horizontal Datum

Description of **Parcel 2** as shown on the Map of R.D. Industrial (4 Lot Land Division)
SCTM # District 0200, Section 554, Block 3, P/O Lot 4.54

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York being more particularly bounded and described as follows;

BEGINNING at a point on the southerly side of the 60 foot Right of Way the following four courses and distances from the intersection of the easterly side of Ramsay Road with the northerly side of Precision Drive:

1. Southerly as measured along the easterly side of Ramsay Road a distance of 90.00 feet to a point;
2. Along the arc of a curve to the right having a radius of 30.00 feet an arc length of 47.12 feet to a point;
3. North 78 degrees 13 minutes 19 seconds East a distance of 428.67 feet to a point;
4. Along the arc of a curve to the right having a radius of 3,740.00 feet an arc length of 224.46 feet to the point of beginning;

THENCE from said point of beginning the following seven courses and distances along the southerly side of the 60 foot wide Right of Way:

1. Along the arc of a curve to the right having a radius of 3,740.00 feet an arc length of 5.71 feet to a point;
2. Along the arc of a curve to the left having a radius of 260.00 feet an arc length of 107.00 feet to a point;
3. North 58 degrees 10 minutes 08 seconds East a distance of 773.97 feet to a point;
4. Along the arc of a curve to the right having a radius of 200.00 feet an arc length of 99.22 feet to a point;
5. North 86 degrees 35 minutes 34 seconds East a distance of 337.44 feet to a point;
6. Along the arc of a curve to the right having a radius of 32.00 feet an arc length of 44.44 feet to a point;
7. Along the arc of a curve to the left having a radius of 73.00 feet an arc length of 214.91 feet to a point;

thence South 02 degrees 30 minutes 24 seconds East a distance of 473.62 feet to a point on the northerly side of land now or formerly of the Long Island Railroad; thence along the northerly side of land now or formerly of the Long Island Railroad South 58 degrees 10 minutes 08 seconds West a distance of 1,453.57 feet to a point; thence North 11 degrees 46 minutes 41 seconds West a distance of 764.33 feet to the southerly side of the 60 foot Right of Way and the point of beginning.

Containing an Area of 959,460.65 square feet (22.03 Acres)
Bearings are referenced to NAD-83 Horizontal Datum



Department of Taxation and Finance

TP-584 (9/19)

Recording office time stamp

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

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

Schedule A – Information relating to conveyance Memo of Amended Company Lease

Grantor/Transferor	Name (if individual, last, first, middle initial) (☐ mark an X if more than one grantor)	Social Security number (SSN)
☐ Individual	AVR-SP Brookhaven JV LLC	
☐ Corporation	Mailing address	SSN
☐ Partnership	1 Executive Drive	
☐ Estate/Trust	City State ZIP code	Employer Identification Number (EIN)
☐ Single member LLC	Yonkers NY 11738	86-1262759
☒ Multi-member LLC	Single member's name if grantor is a single member LLC (see instructions)	Single member EIN or SSN
☐ Other		

Grantee/Transferee	Name (if individual, last, first, middle initial) (☐ mark an X if more than one grantee)	SSN
☐ Individual	Town of Brookhaven Industrial Development Agency	
☒ Corporation	Mailing address	SSN
☐ Partnership	1 Independence Hill, 2nd Floor	
☐ Estate/Trust	City State ZIP code	EIN
☐ Single member LLC	Farmingville NY 11738	52-1299559
☐ Multi-member LLC	Single member's name if grantee is a single member LLC (see instructions)	Single member EIN or SSN
☐ 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
District 0200, Section 554.00, Block 03.00, Lot 004.041, 004.045 & 004.046		Eastern Terminus of Precision Drive	Shirley	Suffolk

Type of property conveyed (mark an X in applicable box)

1 ☐ One- to three-family house	6 ☐ Apartment building	Date of conveyance <table border="1"><tr><td>10</td><td>9</td><td>2023</td></tr><tr><td>month</td><td>day</td><td>year</td></tr></table>	10	9	2023	month	day	year	Percentage of real property conveyed which is residential real property _____% (see instructions)
10	9		2023						
month	day		year						
2 ☐ Residential cooperative	7 ☐ Office building								
3 ☐ Residential condominium	8 ☐ Four-family dwelling								
4 ☐ Vacant land	9 ☐ Other _____								
5 ☒ Commercial/industrial									

Condition of conveyance
(mark an X in all that apply)

a. ☐ Conveyance of fee interest	f. ☐ Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)	i. ☐ Option assignment or surrender
b. ☐ Acquisition of a controlling interest (state percentage acquired _____ %)	g. ☐ Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)	m. ☐ Leasehold assignment or surrender
c. ☐ Transfer of a controlling interest (state percentage transferred _____ %)	h. ☐ Conveyance of cooperative apartment(s)	n. ☒ Leasehold grant
d. ☐ Conveyance to cooperative housing corporation	i. ☐ Syndication	o. ☐ Conveyance of an easement
e. ☐ Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E)	j. ☐ Conveyance of air rights or development rights	p. ☒ Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part 3)
	k. ☐ Contract assignment	q. ☐ Conveyance of property partly within and partly outside the state
		r. ☐ Conveyance pursuant to divorce or separation
		s. ☒ Other (describe) <u>Memo Amended Co Lease</u>

For recording officer's use	Amount received	Date received	Transaction number
	Schedule B, Part 1 \$ _____		
	Schedule B, Part 2 \$ _____		

Schedule B – Real estate transfer tax return (Tax Law Article 31)**Part 1 – Computation of tax due**

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

1.		
2.		
3.		
4.		
5.		
6.		

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

1.		
2.		
3.		

Part 3 – Explanation of exemption claimed on Part 1, line 1 (mark an **X in all 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, New York State, 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, § 1401(e) (attach documents supporting such claim) **Transaction with an Industrial Development Agency** k ☒

* The total tax (from Part 1, line 6 and Part 2, line 3 above) is due within 15 days from the date of conveyance. Make check(s) payable to the county clerk where the recording is to take place. For conveyances of real property within New York City, use Form TP-584-NYC. 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 12205-0045. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

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

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

This is to certify that: (mark an **X** in the appropriate box)

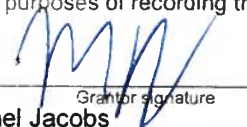
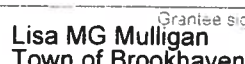
1. ☐ The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. ☐ The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
- a. ☐ The transfer of real 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.
- b. ☐ 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).
- c. ☐ The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
- d. ☐ The maximum principal amount secured by the credit line mortgage is \$3 million 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.

Note: for purposes of determining whether the maximum principal amount secured is \$3 million 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.

- e. ☐ 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. ☐ A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
- b. ☐ A check has been drawn payable for transmission to the credit line mortgagee or mortgagee's 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.)

Signature (both the grantors and grantees 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 their 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.

 _____ Grantor signature Michael Jacobs AVR-SP Brookhaven JV LLC	_____ Title Manager	 _____ Grantee signature Lisa MG Mulligan Town of Brookhaven Industrial Development Agency	_____ Title Chief Executive Officer
_____ 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 marked a, 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? If no recording is 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 12205-0045. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

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

This is to certify that: (mark an X in 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:
- a ☐ 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.
- b ☐ 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).
- c ☐ The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
- d ☐ The maximum principal amount secured by the credit line mortgage is \$3 million 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.
- Note:** for purposes of determining whether the maximum principal amount secured is \$3 million 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.
- e ☐ 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 ☐ A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
- b ☐ A check has been drawn payable for transmission to the credit line mortgagee or mortgagee's 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.)

Signature (both the grantors and grantees 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 their 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.

Grantor signature Michael Jacobs AVR-SP Brookhaven JV LLC	Manager Title	 Grantee signature Lisa MG Mulligan Town of Brookhaven Industrial Development Agency	Chief Executive Officer 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 marked 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? If no recording is 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 12205-0045. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

Schedule D – Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, § 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 2, mark an X in the second box under *Exemption for nonresident transferors/sellers*, and sign at bottom.

Part 1 – New York State residents

If you are a New York State resident transferor/seller listed in Form TP-584, Schedule A (or an attachment to Form TP-584), you must sign the certification below. If one or more transferor/seller 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, photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferors/sellers

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor/seller as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law § 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 § 685(c), but not as a condition of recording a deed.

Part 2 – Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Form TP-584, Schedule A (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 § 663(c), mark an X in the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor/seller, that transferor/seller is not required to pay estimated personal income tax to New York State under Tax Law § 663. **Each** nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, 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 Form TP-584-I, page 1.

Exemption for nonresident transferors/sellers

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor/seller (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 § 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 New York State, 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

MEMORANDUM OF AMENDED LEASE AGREEMENT

This Memorandum of Amended Lease Agreement is hereby made and executed on October 9, 2023, between the TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its office at 1 Independence Hill, 2nd Floor, Farmingville, New York 11738 (the “**Agency**”), party of the first part, and AVR-SP BROOKHAVEN JV LLC, a Delaware limited liability company, having an office at 1 Executive Boulevard, Yonkers, New York 10701 (the “**Company**”), party of the second part, in order to evidence of record the parties’ agreement to amend the existing Lease Agreement as hereinafter defined.

The Agency and the Company entered into a Lease Agreement, dated as of June 1, 2022 (the “**Original Lease Agreement**”), a memorandum of which was recorded in the Suffolk County Clerk’s office on July 7, 2022 in **Liber 13163 of Deeds, Page 766**.

The Original Lease Agreement was amended pursuant to an Amendment and Modification Agreement dated as of October 1, 2023 (the “**Amendment and Modification Agreement**”; and together with the Original Lease Agreement, the “**Lease Agreement**”), between the Agency and the Company, in order to provide for an extension of Lease Term (as defined below), and to release a certain parcel of land as described on Exhibit A.

The Lease Agreement covers the premises described on Exhibit B attached hereto and made a part hereof. Except as amended and modified by the Amendment and Modification Agreement, the Original Lease Agreement remains in full force and effect.

The Lease Agreement provides for the rental of the premises by the Company for a term commencing on June 24, 2022, and terminating at 11:58 p.m. on November 30, 2037 (the “**Lease Term**”). The Lease Agreement is available for inspection during normal business hours at the offices of the Agency indicated above.

Property Address: Eastern Terminus of Precision Drive, Shirley, New York

Tax Mailing Address: 1 Executive Boulevard, Yonkers, New York 10701

Tax Map Number: 0200-554.00-03.00-004.041, 004.045 & 004.046

Record and return to:

Nixon Peabody LLP
1300 Clinton Square
Rochester, New York 14604
Attention: Terance V. Walsh, Esq.

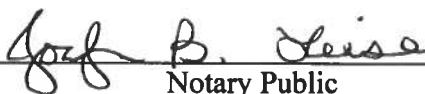
IN WITNESS WHEREOF, the Agency and the Company have caused this Memorandum of Amended Lease Agreement to be executed in their respective names as of the date first above written.

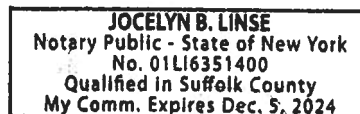
**TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Name: Lisa MG Mulligan
Title: Chief Executive Officer

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

On the 5th day of October in the year 2023, before me, the undersigned, personally appeared **Lisa MG Mulligan**, 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 within instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.


Notary Public



Memorandum of Amended Lease Agreement
Signature Page 1 of 2

AVR-SP BROOKHAVEN JV LLC

By: 
Name: Michael Jacobs
Title: Manager

STATE OF NEW YORK)
Westchester: SS.:
COUNTY OF SUFFOLK)

On the 3rd day of October in the year 2023, before me, the undersigned, personally appeared **Michael Jacobs**, 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 or entity on behalf of which the individual acted, executed the instrument.


Notary Public

ALICIA N SIMMONS
NOTARY PUBLIC-STATE OF NEW YORK
No. 01SI6192713
Qualified in Westchester County
My Commission Expires 09-02-2024

Memorandum of Amended Lease Agreement
Signature Page 2 of 2

EXHIBIT A

Released Land

SCTM # District 0200, Section 554, Block 3, P/O Lot 4.54

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York being more particularly bounded and described as follows;
BEGINNING at a point on the northerly side of the 60 foot Right of Way a distance of 271.25 feet easterly as measured along the northerly side of the 60 foot Right of Way from the intersection of the easterly side of Ramsay Road with the northerly side of Precision Drive;
THENCE from said point of beginning North 10 degrees 31 minutes 24 seconds West a distance of 405.00 feet to a point on the southerly side of the Long Island Expressway; thence the following two courses and distances along the southerly side of the Long Island Expressway:

1. Along the arc of a curve to the right having a radius of 9,795.00 feet an arc length of 1,216.54 feet to a point;
2. North 86 degrees 35 minutes 34 seconds East a distance of 137.20 feet to a point on the northerly side of the 60 foot Right of Way;

thence the following five courses and distances along the northerly side of the 60 foot Right of Way:

1. Along the arc of a curve to the left having a radius of 260.00 feet an arc length of 128.98 feet to a point;
2. South 58 degrees 10 minutes 08 seconds West a distance of 773.97 feet to a point;
3. Along the arc of a curve to the right having a radius of 200.00 feet an arc length of 82.31 feet to a point;
4. Along the arc of a curve to the left having a radius of 3,800.00 feet an arc length of 233.87 feet to a point;
5. South 78 degrees 13 minutes 19 seconds West a distance of 187.42 feet to the point of beginning.

Containing an Area of 350,933.82 square feet (8.06 Acres)

Bearings are referenced to NAD-83 Horizontal Datum

EXHIBIT B

Legal Description of Remaining Land

Description of **Parcel 1** as shown on the Map of R.D. Industrial (4 Lot Land Division)
SCTM # District 0200, Section 554, Block 3, P/O Lot 4.54

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York being more particularly bounded and described as follows;

BEGINNING at a point on the easterly side of Ramsay Road a distance of 90.00 feet southerly as measured along the easterly side of Ramsay Road from the intersection of the easterly side of Ramsay Road with the northerly side of Precision Drive;

THENCE from said point of beginning the following three courses and distances along the southerly side of the 60 foot wide Right of Way:

1. Along the arc of a curve to the right having a radius of 30.00 feet an arc length of 47.12 feet to a point;
2. North 78 degrees 13 minutes 19 seconds East a distance of 428.67 feet to a point;
3. Along the arc of a curve to the right having a radius of 3,740.00 feet an arc length of 224.46 feet to a point;

thence South 11 degrees 46 minutes 41 seconds East a distance of 764.33 feet to a point on the northerly side of land now or formerly of the Long Island Railroad; thence along the northerly side of land now or formerly of the Long Island Railroad South 58 degrees 10 minutes 08 seconds West a distance of 521.73 feet to a point; thence North 58 degrees 16 minutes 17 seconds West a distance of 429.71 feet to a point on the easterly side of Ramsay Road; thence the following two courses and distances along the easterly side of Ramsay Road:

1. Along the arc of a curve to the left having a radius of 560.00 feet an arc length of 371.49 feet to a point;
2. North 11 degrees 46 minutes 41 seconds West a distance of 279.29 feet to the point of beginning.

Containing an Area of 606,333.82 square feet (13.92 Acres)
Bearings are referenced to NAD-83 Horizontal Datum

Description of **Parcel 2** as shown on the Map of R.D. Industrial (4 Lot Land Division)
SCTM # District 0200, Section 554, Block 3, P/O Lot 4.54

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York being more particularly bounded and described as follows;

BEGINNING at a point on the southerly side of the 60 foot Right of Way the following four courses and distances from the intersection of the easterly side of Ramsay Road with the northerly side of Precision Drive:

1. Southerly as measured along the easterly side of Ramsay Road a distance of 90.00 feet to a point;
2. Along the arc of a curve to the right having a radius of 30.00 feet an arc length of 47.12 feet to a point;
3. North 78 degrees 13 minutes 19 seconds East a distance of 428.67 feet to a point;
4. Along the arc of a curve to the right having a radius of 3,740.00 feet an arc length of 224.46 feet to the point of beginning;

THENCE from said point of beginning the following seven courses and distances along the southerly side of the 60 foot wide Right of Way:

1. Along the arc of a curve to the right having a radius of 3,740.00 feet an arc length of 5.71 feet to a point;
2. Along the arc of a curve to the left having a radius of 260.00 feet an arc length of 107.00 feet to a point;
3. North 58 degrees 10 minutes 08 seconds East a distance of 773.97 feet to a point;
4. Along the arc of a curve to the right having a radius of 200.00 feet an arc length of 99.22 feet to a point;
5. North 86 degrees 35 minutes 34 seconds East a distance of 337.44 feet to a point;
6. Along the arc of a curve to the right having a radius of 32.00 feet an arc length of 44.44 feet to a point;
7. Along the arc of a curve to the left having a radius of 73.00 feet an arc length of 214.91 feet to a point;

thence South 02 degrees 30 minutes 24 seconds East a distance of 473.62 feet to a point on the northerly side of land now or formerly of the Long Island Railroad; thence along the northerly side of land now or formerly of the Long Island Railroad South 58 degrees 10 minutes 08 seconds West a distance of 1,453.57 feet to a point; thence North 11 degrees 46 minutes 41 seconds West a distance of 764.33 feet to the southerly side of the 60 foot Right of Way and the point of beginning.

Containing an Area of 959,460.65 square feet (22.03 Acres)
Bearings are referenced to NAD-83 Horizontal Datum



Department of Taxation and Finance

TP-584 (9/19)

Recording office time stamp

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

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

Schedule A – Information relating to conveyance **Memo of Amended Lease**

Grantor/Transferor	Name (if individual, last, first, middle initial) (☐ mark an X if more than one grantor)	Social Security number (SSN)
☐ Individual	Town of Brookhaven Industrial Development Agency	
☒ Corporation	Mailing address	SSN
☐ Partnership	1 Independence Hill, 2nd Floor	
☐ Estate/Trust	City State ZIP code	Employer Identification Number (EIN)
☐ Single member LLC	Farmingville NY 11738	52-1299559
☐ Multi-member LLC	Single member's name if grantor is a single member LLC (see instructions)	Single member EIN or SSN
☐ Other		
Grantee/Transferee	Name (if individual, last, first, middle initial) (☐ mark an X if more than one grantee)	SSN
☐ Individual	AVR-SP Brookhaven JV LLC	
☐ Corporation	Mailing address	SSN
☐ Partnership	1 Executive Boulevard	
☐ Estate/Trust	City State ZIP code	EIN
☐ Single member LLC	Yonkers NY 10701	86-1262759
☒ Multi-member LLC	Single member's name if grantee is a single member LLC (see instructions)	Single member EIN or SSN
☐ 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
District 0200, Section 554.00, Block 03.00, Lot 004.041, 004.045 & 004.046		Eastern Terminus of Precision Drive	Shirley	Suffolk

Type of property conveyed (mark an X in applicable box)

1 ☐ One- to three-family house	6 ☐ Apartment building	Date of conveyance <table><tr><td>10</td><td>9</td><td>2023</td></tr><tr><td>month</td><td>day</td><td>year</td></tr></table>	10	9	2023	month	day	year	Percentage of real property conveyed which is residential real property _____% (see instructions)
10	9		2023						
month	day		year						
2 ☐ Residential cooperative	7 ☐ Office building								
3 ☐ Residential condominium	8 ☐ Four-family dwelling								
4 ☐ Vacant land	9 ☐ Other _____								
5 ☒ Commercial/industrial									

Condition of conveyance
(mark an X in all that apply)

a. ☐ Conveyance of fee interest	f. ☐ Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)	l. ☐ Option assignment or surrender
b. ☐ Acquisition of a controlling interest (state percentage acquired _____ %)	g. ☐ Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)	m. ☐ Leasehold assignment or surrender
c. ☐ Transfer of a controlling interest (state percentage transferred _____ %)	h. ☐ Conveyance of cooperative apartment(s)	n. ☒ Leasehold grant
d. ☐ Conveyance to cooperative housing corporation	i. ☐ Syndication	o. ☐ Conveyance of an easement
e. ☐ Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E)	j. ☐ Conveyance of air rights or development rights	p. ☒ Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part 3)
	k. ☐ Contract assignment	q. ☐ Conveyance of property partly within and partly outside the state
		r. ☐ Conveyance pursuant to divorce or separation
		s. ☒ Other (describe) memo amended lease

For recording officer's use	Amount received	Date received	Transaction number
	Schedule B, Part 1 \$ _____		
	Schedule B, Part 2 \$ _____		

Schedule B – Real estate transfer tax return (Tax Law Article 31)**Part 1 – Computation of tax due**

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

1.		
2.		
3.		
4.		
5.		
6.		

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

1.		
2.		
3.		

Part 3 – Explanation of exemption claimed on Part 1, line 1 (mark an **X in all 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, New York State, 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, § 1401(e) (attach documents supporting such claim) **Transaction with an Industrial Development Agency** k ☒

* The total tax (from Part 1, line 6 and Part 2, line 3 above) is due within 15 days from the date of conveyance. Make check(s) payable to the county clerk where the recording is to take place. For conveyances of real property within New York City, use Form TP-584-NYC. 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 12205-0045. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

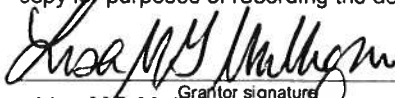
Schedule C – Credit Line Mortgage Certificate (Tax Law Article 11)**Complete the following only if the interest being transferred is a fee simple interest.**

This is to certify that: (mark an X in 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:
- a ☐ 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.
- b ☐ 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).
- c ☐ The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
- d ☐ The maximum principal amount secured by the credit line mortgage is \$3 million 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.
- Note:** for purposes of determining whether the maximum principal amount secured is \$3 million 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.
- e ☐ 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 ☐ A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
- b ☐ A check has been drawn payable for transmission to the credit line mortgagee or mortgagee's 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.)

Signature (both the grantors and grantees 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 their 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.



Grantor signature
Lisa MG Mulligan
 Town of Brookhaven Industrial Development Agency

Chief Executive
 Officer

 Title

Grantee signature

Michael Jacobs
 AVR-SP Brookhaven JV LLC

Manager

Title

Grantor signature

Title

Grantee signature

Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you marked 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? If no recording is 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 12205-0045. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

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

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

This is to certify that: (mark an **X** in 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:
 - a. ☐ 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.
 - b. ☐ 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).
 - c. ☐ The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - d. ☐ The maximum principal amount secured by the credit line mortgage is \$3 million 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.

Note: for purposes of determining whether the maximum principal amount secured is \$3 million 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.

- e. ☐ 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. ☐ A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - b. ☐ A check has been drawn payable for transmission to the credit line mortgagee or mortgagee's 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.)

Signature (both the grantors and grantees 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 their 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.

_____ Grantor signature Lisa MG Mulligan Town of Brookhaven Industrial Development Agency	_____ Title Chief Executive Officer	_____ Grantee signature  Michael Jacobs AVR-SP Brookhaven JV LLC	_____ Title Manager
_____ 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 marked 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? If no recording is 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 12205-0045. If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

Schedule D – Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, § 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 2, mark an X in the second box under *Exemption for nonresident transferors/sellers*, and sign at bottom.

Part 1 – New York State residents

If you are a New York State resident transferor/seller listed in Form TP-584, Schedule A (or an attachment to Form TP-584), you must sign the certification below. If one or more transferor/seller 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, photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferors/sellers

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor/seller as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law § 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 § 685(c), but not as a condition of recording a deed.

Part 2 – Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Form TP-584, Schedule A (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 § 663(c), mark an X in the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor/seller, that transferor/seller is not required to pay estimated personal income tax to New York State under Tax Law § 663. **Each** nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, 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 Form TP-584-I, page 1.

Exemption for nonresident transferors/sellers

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor/seller (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 § 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 New York State, 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

Date: July 19, 2023

At a meeting of the Town of Brookhaven Industrial Development Agency (the "Agency"), held on the 19th day of July, 2023, at 1 Independence Hill, 2nd Floor, Farmingville, New York 11738, the following members of the Agency were:

Present: Frederick C. Braun III, Chairman
Martin Callahan, Treasurer
Ann-Marie Scheidt, Secretary
Gary Pollakusky, Asst. Secretary (via Zoom)
Frank C. Trotta, Asst. Treasurer
Mitchell H. Pally, Member

Recused:

Absent: Felix J. Grucci, Jr., Vice Chair

Also Present: Lisa M. G. Mulligan, Chief Executive Officer
Lori LaPonte, Chief Financial Officer
Amy Illardo, Director of Marketing and Project Development
Jocelyn Linse, Executive Assistant
Terri Alkon, Administrative Assistant
Annette Eaderesto, Esq., Counsel to the Agency
William F. Weir, Esq., Transaction Counsel
Howard Gross, Esq., Transaction Counsel (via Zoom)

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to the amendment and modification of certain payment-in-lieu-of-tax benefits for a certain industrial development facility more particularly described below (AVR-SP Brookhaven JV LLC 2022 Facility).

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Braun
Callahan
Scheidt
Pollakusky
Trotta
Pally

Voting Nay

.

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY APPROVING AMENDMENT AND MODIFICATION OF THE PILOT BENEFITS OF A CERTAIN INDUSTRIAL DEVELOPMENT FACILITY FOR THE AVR-SP BROOKHAVEN JV LLC 2022 FACILITY, AUTHORIZING THE EXECUTION AND DELIVERY OF AMENDMENTS TO THE LEASE AGREEMENT, AND THE EXECUTION AND DELIVERY OF RELATED DOCUMENTS IN CONNECTION THEREWITH AND APPROVING THE FORM, SUBSTANCE AND EXECUTION OF RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 358 of the Laws of 1970 of the State of New York, as amended from time to time (collectively, the "Act"), the Town of Brookhaven Industrial Development Agency (the "Agency") was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency has previously assisted AVR-SP Brookhaven JV LLC, a Delaware limited liability company (the "Company"), in connection with (a) the acquisition of an approximately 47.26-acre parcel of land located at Eastern terminus of Precision Drive, Shirley, New York 11967 (SCTM# 0200-554.00-03.00-004.410, 004.450 & 004.460) (the "Land"), (b) the clearance of 27.88 acres of the Land and the construction thereupon of two (2) buildings, totaling approximately 401,080 square feet, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the "Improvements"), and the acquisition and installation therein of certain equipment and personal property (the "Facility Equipment"; and together with the Land and the Improvements, the "Original Facility"), which Facility will be leased by the Company to the Agency and will be subleased by the Agency back to the Company. The Facility is to be used by the Company as two industrial buildings to be leased to tenants for warehouse and distribution operations or other permitted uses within the L1 Industrial zone (the "Project"); and

WHEREAS, the Agency by resolution duly adopted on December 8, 2021 (the "Authorizing Resolution"), authorized the acquisition, construction and equipping of such facility and the execution and delivery of the Agency Documents (as defined therein); and

WHEREAS, the Company leased the Facility to the Agency pursuant to a Company Lease Agreement, dated as of June 1, 2022 (the "Original Company Lease"), between the Company and the Agency; and

WHEREAS, the Agency leased the Facility to the Company pursuant to a Lease and Project Agreement, dated as of June 1, 2022 (the "Original Lease Agreement"), between the Agency and the Company; and

WHEREAS, the Facility consists of two separate buildings, one approximately 150,000 square foot building located on an approximately 13.92 acre portion of the Land ("**Parcel 1**"), and an approximately 250,000 square foot building located on an approximately 22.03 acre portion of the Land ("**Parcel 2**"; and together with Parcel 1, the "**Facility**"); and

WHEREAS, the Company has now requested the Agency to amend and modify the payment-in-lieu-of-tax payments, as described in the Original Lease Agreement (the "**Original PILOT Payments**"), in order to split the Original PILOT Payments between Parcel 1 and Parcel 2 (the "**PILOT Amendment**"), and provide exemptions from sales and use taxes in connection with the development of Parcel 1 and Parcel 2; and

WHEREAS, the Company has also requested the Agency to split the full-time equivalent employee requirements as described in the Original Lease Agreement (the "**FTE Requirements**"), between Parcel 1 and Parcel 2 (the "**FTE Amendment**"); and

WHEREAS, to provide for the PILOT Amendment and the FTE Amendment, the Agency and the Company will amend the Original Lease Agreement pursuant to an Amendment and Modification Agreement, dated as of August 1, 2023, or such other date as may be determined by the Chairman or Chief Executive Officer of the Agency and counsel to the Agency (the "**Amendment and Modification Agreement**"; and together with the Original Lease Agreement, the "**Lease Agreement**"); and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:

(a) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

(b) The Facility constitutes a "project", as such term is defined in the Act; and

(c) The Facility preserves the public purposes of the Act by preserving or increasing the number of permanent private sector jobs in the Town of Brookhaven. The Company has represented to the Agency that, upon the effectiveness of the FTE Amendment, it intends to provide eight and a half (8.5) full time employees at Parcel and fourteen (14) full time employees at Parcel 2 by December 31, 2025, and twenty-six (26) full time employees at Parcel 1 and forty-four (44) full time employees at Parcel 2 by December 31, 2028; and

(d) The continued leasing of the Facility to the Company, will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of Brookhaven, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(e) The continued leasing of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

(f) The Amendment and Modification Agreement will be an effective instrument whereby the Agency and the Company agree to amend the Original Company Lease and the Original Lease Agreement to reflect the PILOT Amendment and the FTE Amendment;

Section 2. In consequence of the foregoing, the Agency hereby (i) approves the PILOT Amendment, (ii) approves the FTE Amendment, (iii) approves the form and substance of the Amendment and Modification Agreement, and (iv) authorizes the execution and delivery of the Amendment and Modification Agreement and such other related documents as may be necessary or appropriate to effect the PILOT Amendment and the FTE Amendment.

Section 3. The form and substance of the Amendment and Modification Agreement to which the Agency is a party (each in substantially the forms presented to or approved by the Agency and which, prior to the execution and delivery thereof, may be redated) is hereby approved.

Section 4. Subject to the provisions of this resolution,

(a) The Chairman, the Chief Executive Officer, or any member of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Amendment and Modification Agreement in substantially the form thereof presented to this meeting with such changes, variations, omissions and insertions as the Chairman, the Chief Executive Officer or any member of the Agency shall approve, and such other related documents as may be, in the judgment of the Chairman, the Chief Executive Officer, and Agency Counsel, necessary or appropriate to effect the transactions contemplated by this resolution (hereinafter collectively called the "Agency Documents"). The execution thereof by the Chairman, the Chief Executive Officer, or any member of the Agency shall constitute conclusive evidence of such approval.

(b) The Chair, Vice Chair, Executive Director, Deputy Executive Director, or any member of the Agency is further hereby authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency.

Section 5. Subject to the provisions of this resolution, the Agency hereby authorizes and approves the following amendments to the Lease Agreement of (a) the PILOT Amendment (as set forth in the PILOT Schedules attached as Exhibit A-1 and Exhibit A-2 hereof), and (b) the FTE Amendment.

Section 6. Counsel to the Agency and Nixon Peabody LLP, Transaction Counsel to the Agency are hereby authorized and directed to prepare, for submission to the Agency, the Agency Documents described in the foregoing resolution.

Section 7. The Chairman, the Chief Executive Officer, and any member of the Agency are each hereby authorized and directed (i) to distribute copies of this resolution to the Company, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 8. This resolution shall take effect immediately.

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

I, the undersigned Chief Executive Officer of the Town of Brookhaven Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town of Brookhaven Industrial Development Agency (the "Agency"), including the resolutions contained therein, held on the 19th day of July, 2023, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Agency Documents contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 19th day of July, 2023.

By:


Chief Executive Officer

Exhibit A-1

Proposed Parcel 1 PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Town of Brookhaven, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Longwood School District, Suffolk County and Appropriate Special Districts

Property Address: Eastern terminus of Precision Drive, Shirley, New York

Tax Map Nos. 0200-554.00-03.00-004.410, 004.450 & 004.460

School District: Longwood School District

<u>Year</u>	<u>PILOT Payment Parcel 1</u>
1	\$ 35,119
2	\$ 35,822
3	\$ 36,538
4	\$ 37,269
5	\$ 38,014
6	\$ 40,937
7	\$ 83,511
8	\$ 127,772
9	\$ 173,771
10	\$ 221,557
11	\$ 271,186
12	\$ 322,712
13	\$ 376,190
14	\$ 431,678
15	\$ 489,234

Exhibit A-2

Proposed Parcel 2 PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Town of Brookhaven, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Longwood School District, Suffolk County and Appropriate Special Districts

Property Address: Eastern terminus of Precision Drive, Shirley, New York

Tax Map Nos. 0200-554.00-03.00-004.410, 004.450 & 004.460

School District: Longwood School District

<u>Year</u>	<u>PILOT Payment Parcel 2</u>
1	\$ 58,532
2	\$ 59,703
3	\$ 60,897
4	\$ 62,114
5	\$ 63,357
6	\$ 68,228
7	\$ 139,186
8	\$ 212,954
9	\$ 289,618
10	\$ 369,262
11	\$ 451,977
12	\$ 537,853
13	\$ 626,983
14	\$ 719,463
15	\$ 815,391

October 17, 2023

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Felix Wienclaw
Sole Assessor
Town of Brookhaven
One Independence Hill
Farmingville, New York 11738

RE: Town of Brookhaven Industrial Development Agency
(AVR-SP Brookhaven JV LLC 2022 Facility)

Dear Mr. DeBragga:

Enclosed is an original, executed Form RP-412-a Application for Real Property Tax Exemption related to the above-referenced transaction. On June 24, 2022, the Town of Brookhaven Industrial Development Agency (the “**Agency**”), acquired a leasehold interest in the above-described realty (which is further described in Exhibit A attached hereto) from AVR-SP Brookhaven JV LLC, a Delaware limited liability company (the “**Company**”), pursuant to the provisions of the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law of the State of New York, duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York) and Chapter 358 of the Laws of 1970 of the State of New York, as amended (collectively, the “**Act**”). The Agency and the Company entered into a certain Lease and Project Agreement, dated as of June 1, 2022 (the “**Lease Agreement**”), pursuant to which the Agency leased its interest in said realty to the Company, and a memorandum of the Lease Agreement was recorded in the Suffolk County Clerk’s office on July 7, 2022 in **Liber 13163 of Deeds, Page 766.**

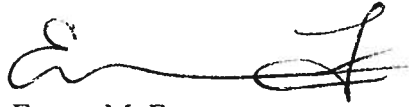
The Agency and the Company have entered into an Amendment and Modification Agreement, dated as of October 1, 2023 (the “**Amendment Agreement**”), to reflect the release of the Released Land, and the distribution of the Original PILOT Payments between Parcel 1 and Parcel 2 of the Facility (each as defined in the Amendment Agreement). A copy of the Amendment Agreement is attached hereto as Exhibit A.

Please note that the total amount of the PILOT payments has not changed, but has been split between the two parcels, and the term remains the same. The purpose of this mailing is to notify your office of the amendment.

Felix Wienclaw, Assessor
Town of Brookhaven
October 17, 2023
Page 2

Please contact our office if you should have any questions. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Emma M. Feary', with a stylized flourish at the end.

Emma M. Feary
Paralegal

Enclosure

cc: Attached Distribution List (w/encls.)

Distribution List

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Hon. Steven Bellone
Suffolk County Executive
H. Lee Dennison Building
100 Veterans Memorial Highway
P.O. Box 6100
Hauppauge, New York 11788-0099

Hon. Edward P. Romaine
Town Supervisor
Town of Brookhaven
One Independence Hill
Farmingville, New York 11738

Louis J. Marcoccia
Receiver of Taxes
One Independence Hill, Suite 110
Farmingville, New York 11738

Dr. Lance Lohman
Superintendent of Schools
Longwood Central School District
35 Yaphank-Middle Island Road
Middle Island, New York 11953

FIRST CLASS MAIL

Lisa MG Mulligan
Chief Executive Officer
Town of Brookhaven Industrial
Development Agency
One Independence Hill, 2nd Floor
Farmingville, New York 11738

Annette Eaderesto, Esq.
Town Attorney
Town of Brookhaven
One Independence Hill, 3rd Floor
Farmingville, New York 11738

EXHIBIT A

Amendment Agreement

**TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY
(TOWN OF BROOKHAVEN, NEW YORK)**

and

AVR-SP BROOKHAVEN JV LLC

AMENDMENT AND MODIFICATION AGREEMENT

Dated as of October 1, 2023

**Town of Brookhaven Industrial Development Agency
(AVR-SP Brookhaven JV LLC 2022 Facility)**

AMENDMENT AND MODIFICATION AGREEMENT

THIS AMENDMENT AND MODIFICATION AGREEMENT, dated as of October 1, 2023 (this "**Amendment Agreement**"), is by and between the TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation duly organized and validly existing under the laws of the State of New York, with offices at 1 Independence Hill, 2nd Floor, Farmingville, New York 11738 (the "**Agency**") and AVR-SP BROOKHAVEN JV LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware and authorized to transact business in the State of New York, having its principal office at 1 Executive Boulevard, Yonkers, New York 10701 (the "**Company**").

RECITALS

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

WHEREAS, the aforesaid act authorizes the creation of industrial development agencies for the Public Purposes of the State; and

WHEREAS, the aforesaid act further authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, renovate, refurbish, equip, lease, 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 now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, recreation or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, pursuant to and in accordance with the provisions of the aforesaid act, as amended, and Chapter 358 of the Laws of 1970 of the State, as amended (collectively, the "**Act**"), the Agency was created and is empowered under the act to undertake the Project Work and the leasing of the Facility defined below; and

WHEREAS, the Agency has previously assisted AVR-SP Brookhaven JV LLC, a Delaware limited liability company (the "**Company**"), in connection with (a) the acquisition of an approximately 47.26-acre parcel of land located at Eastern terminus of Precision Drive, Shirley, New York 11967 (SCTM# 0200-554.00-03.00-004.410, 004.450 & 004.460) (the "**Original Land**"), (b) the clearance of 27.88 acres of the Land and the construction thereupon of two (2) buildings, totaling approximately 401,080 square feet, together with the acquisition, installation and equipping of improvements, structures and other related facilities attached to the Land (the "**Improvements**"), and the acquisition and installation therein of certain equipment and personal property (the "**Facility Equipment**"; and together with the

Land and the Improvements, the **"Original Facility"**), which Facility will be leased by the Company to the Agency and will be subleased by the Agency back to the Company. The Facility is to be used by the Company as two industrial buildings to be leased to tenants for warehouse and distribution operations or other permitted uses within the L1 Industrial zone (the **"Project"**); and

WHEREAS, the Agency by resolution duly adopted on December 8, 2021 (the **"Authorizing Resolution"**), authorized the acquisition, construction and equipping of such facility and the execution and delivery of the Agency Documents (as defined therein); and

WHEREAS, the Company leased the Facility to the Agency pursuant to a Company Lease Agreement, dated as of June 1, 2022 (the **"Original Company Lease"**), between the Company and the Agency; and

WHEREAS, the Agency leased the Facility to the Company pursuant to a Lease and Project Agreement, dated as of June 1, 2022 (the **"Original Lease Agreement"**), between the Agency and the Company; and

WHEREAS, the Company and the Agency previously agreed that a Self-Storage Building (as defined in Section 9.1(d) of the Original Lease Agreement) would be constructed on a portion of the Original Land, and that upon subdivision of such portion of the Original Land, the Agency and the Company would cooperate to amend the Original Lease Agreement to release such portion, which portion is more particularly described in Exhibit A-1 hereto (the **"Released Land"**); and

WHEREAS, the Company has requested that the Agency agree to release the Released Land from the lien of the Lease Agreement and the Company Lease pursuant to this Amendment and Modification Agreement, such that the Lease Agreement and the Company Lease shall encumber the real property more particularly described in Exhibit A-2 attached hereto (the **"Land"**, and together with the Facility Equipment and the Improvements, the **"Facility"**); and

WHEREAS, the Facility is intended to consist of two separate buildings, one approximately 150,000 square foot building located on an approximately 13.92 acre portion of the Land (**"Parcel 1"**), and an approximately 250,000 square foot building located on an approximately 22.03 acre portion of the Land (**"Parcel 2"**); and together with Parcel 1, the **"Facility"**, and each of Parcel 1 and Parcel 2 are a **"Parcel"**); and

WHEREAS, the Agency and the Company have agreed to amend and modify the payment-in-lieu-of-tax payments, as described in the Original Lease Agreement (the **"Original PILOT Payments"**), in order to split the Original PILOT Payments between Parcel 1 and Parcel 2 (the **"PILOT Amendment"**); and

WHEREAS, the Agency and the Company have also agreed to split the full-time equivalent employee requirements as described in the Original Lease Agreement (the **"FTE Requirements"**), between Parcel 1 and Parcel 2 (the **"FTE Amendment"**); and

WHEREAS, to provide for the PILOT Amendment and the FTE Amendment, the Agency and the Company agree to amend the Original Lease Agreement pursuant to this Amendment and Modification Agreement (the "**Amendment and Modification Agreement**"; and together with the Original Lease Agreement, the "**Lease Agreement**"; and

AGREEMENT

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto do hereby mutually agree as follows:

ARTICLE I DEFINITIONS

Section 1.01. Definitions in this Amendment Agreement. All other capitalized terms used in this Amendment Agreement which are not otherwise defined herein shall have the meanings assigned thereto in the Schedule of Definitions attached to the Lease Agreement, which definitions are incorporated herein and made a part hereof by reference.

Section 1.02. Definitions in Amended Documents. All references in the Lease Agreement, to "this Lease Agreement", "the Lease Agreement", as the case may be, or words of similar import, and the terms "hereby", "hereof", "hereto", "herein", "hereunder", "thereby", "thereof", "thereto", "therein", "thereunder" and any similar terms as used in any such instrument or agreement shall be deemed to refer to such instrument or agreement as amended, modified and supplemented to date, including by this Amendment Agreement.

ARTICLE II

AMENDMENT AND MODIFICATION OF COMPANY LEASE

Section 2.01. Amendment and Modification of Company Lease. The Agency and the Company agree that the Company Lease is hereby amended and modified as follows:

(a) The Company Lease is hereby amended and modified in all respects to reflect that the Agency is now leasing the Facility as it is defined herein to the Company pursuant to the Company Lease. All references in the Company Lease to the "Facility" are hereby amended and modified to reflect the definition of the "Facility" contained herein.

(b) The description of Facility contained in the Company Lease is hereby amended to exclude the Released Land described herein.

(c) A separate Memorandum of Amended Lease Agreement between the Agency and the Company will be recorded in the Suffolk County Clerk's office to reflect the aforementioned amendment.

Section 2.02. Ratification of Company Lease. Except as otherwise amended and modified by this Amendment and Modification Agreement, the Agency and the Company agree that the Lease Agreement is hereby ratified and confirmed and remains in full force and effect.

ARTICLE III AMENDMENT AND MODIFICATION OF LEASE AGREEMENT

Section 3.01. Amendment and Modification of Lease Agreement. The Agency and the Company agree that the Lease Agreement is hereby amended and modified as follows:

- (a) The PILOT Schedule attached to the Lease Agreement as Exhibit C is hereby amended and replaced in its entirety with the schedule attached as Exhibit B-1 and Exhibit B-2 hereto.
- (b) The last sentence of Section 3.6 of the Lease Agreement is hereby amended to read "The Company agrees that the Completion Date shall be no later than December 31, 2026."
- (c) Section 5.4 to the Lease Agreement is hereby amended to add a subparagraph (i) as follows:
 - (i) Notwithstanding any of the foregoing, upon the occurrence of an Event of Default and Recapture Event whereby the Agency exercises its remedies provided in Section 10.2(a)(iv) hereof, the Company shall only be obligated to pay Recaptured Benefits associated with the Parcel occupied by the Defaulting Sublessee (as defined in Section 10.2(a)(iv)).
- (d) Section 8.11 to the Lease Agreement is hereby amended to reflect the FTE Amendment and the intent of the Company to provide eight and a half (8.5) full time equivalent employees at Parcel 1 and fourteen (14) full time equivalent employees at Parcel 2 by December 31, 2025, and twenty-six (26) full time equivalent employees at Parcel 1 and forty-four (44) full time equivalent employees at Parcel 2 by December 31, 2028.
- (e) Section 9.3 of the Lease Agreement is hereby amended to add a subparagraph (e) as follows:

- (e) The Agency and the Company hereby acknowledge that the Company may transfer title to Parcel 1 and/or Parcel 2 to any related or unrelated party, including but not limited to the eventual sublessees or an affiliate of the eventual sublessees thereof or an affiliate of the Company. Any such transfer shall be subject to the consent of the Agency and all other conditions of Section 9.3, provided the consent of the Agency to any such transfer shall not be unreasonably withheld, delayed, conditioned, or denied.
- (f) Section 10.2(a) of the Lease Agreement is hereby amended to include subparagraph (iv), as follows:
- (iv) upon (A) an Event of Default with respect to Section 8.11 where the FTE requirement for the sublessee of one Parcel (the "**Defaulting Sublessee**") has not been satisfied, but the sublessee of the other Parcel has complied with its FTE requirement, or (B) an Event of Default under Section 10.1(a)(ix) where an Event of Default has occurred and is continuing under a Defaulting Sublessee's Agency Compliance Agreement and the other sublessee is in full compliance with its Agency Compliance Agreement, the Agency may, in its reasonable discretion and at the sole cost and expense of the Company, require an amendment of the Transaction Documents to release the Parcel occupied by the Defaulting Sublessee from the Project and the Transaction Documents and record such appropriate amendment documents with the Suffolk County Clerk, and terminate the appointment of any Defaulting Sublessee as an Agent for Sales Tax Exemption purposes; provided, however, prior to the Agency taking such action, the Agency shall afford the Company thirty (30) days to evict the Defaulting Sublessee, and another thirty (30) days after the Defaulting Sublessee is evicted to present a tenant, that is acceptable in the Agency's sole but reasonable discretion, to occupy the Defaulting Sublessee's premises to the Agency for approval under Section 9.3 hereof; or
- (g) The Lease Agreement is hereby amended and modified in all other respects to reflect the PILOT Amendment and the FTE Amendment.
- (h) The Lease Agreement is hereby amended and modified in all respects to reflect that the Agency is now leasing the Facility as it is defined herein to the Company pursuant to the Lease Agreement. All references in the Company Lease to the "Facility" are hereby amended and modified to reflect the definition of "Facility" contained herein.
- (i) The description of Facility contained in the Lease Agreement is hereby amended to exclude the Released Land described herein.
- (j) A separate Memorandum of Amended Lease Agreement between the Agency and the Company will be recorded in the Suffolk County Clerk's office to reflect the aforementioned amendment.

Section. 3.02 Ratification of Lease Agreement. Except as otherwise amended and modified by this Amendment Agreement, the Agency and the Company agree that the Lease Agreement is hereby ratified and confirmed and remains in full force and effect.

ARTICLE IV MISCELLANEOUS

Section 4.01 Binding Effect. This Amendment Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

Section 4.02 Severability. In the event any provision of this Amendment Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 4.03 Amendments, Changes and Modifications. This Amendment Agreement may not be amended, changed, modified, altered or terminated except in a writing executed by all of the parties hereto.

Section 4.04 Execution of Counterparts. This Amendment Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 4.05 Applicable Law. This Amendment Agreement shall be governed exclusively by the applicable laws of the State of New York without regard or reference to its conflict of laws principles.

Section 4.06 Section Headings Not Controlling. The headings of the several sections in this Amendment Agreement have been prepared for convenience of reference only and shall not control or affect the meaning of or be taken as an interpretation of any provision of this Amendment Agreement.

(Remainder of Page Intentionally Left Blank – Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Amendment Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Name: Lisa MG Mulligan
Title: Chief Executive Officer

AVR-SP BROOKHAVEN JV LLC

By: _____
Name: Michael Jacobs
Title: Manager

IN WITNESS WHEREOF, the parties hereto have caused this Amendment Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Name: Lisa MG Mulligan
Title: Chief Executive Officer

AVR-SP BROOKHAVEN JV LLC

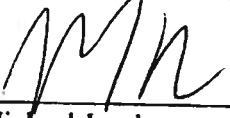
By:  _____
Name: Michael Jacobs
Title: Manager

EXHIBIT A-1

Released Land

SCTM # District 0200, Section 554, Block 3, P/O Lot 4.54

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York being more particularly bounded and described as follows;

BEGINNING at a point on the northerly side of the 60 foot Right of Way a distance of 271.25 feet easterly as measured along the northerly side of the 60 foot Right of Way from the intersection of the easterly side of Ramsay Road with the northerly side of Precision Drive;

THENCE from said point of beginning North 10 degrees 31 minutes 24 seconds West a distance of 405.00 feet to a point on the southerly side of the Long Island Expressway; thence the following two courses and distances along the southerly side of the Long Island Expressway:

1. Along the arc of a curve to the right having a radius of 9,795.00 feet an arc length of 1,216.54 feet to a point;
2. North 86 degrees 35 minutes 34 seconds East a distance of 137.20 feet to a point on the northerly side of the 60 foot Right of Way;

thence the following five courses and distances along the northerly side of the 60 foot Right of Way:

1. Along the arc of a curve to the left having a radius of 260.00 feet an arc length of 128.98 feet to a point;
2. South 58 degrees 10 minutes 08 seconds West a distance of 773.97 feet to a point;
3. Along the arc of a curve to the right having a radius of 200.00 feet an arc length of 82.31 feet to a point;
4. Along the arc of a curve to the left having a radius of 3,800.00 feet an arc length of 233.87 feet to a point;
5. South 78 degrees 13 minutes 19 seconds West a distance of 187.42 feet to the point of beginning.

Containing an Area of 350,933.82 square feet (8.06 Acres)
Bearings are referenced to NAD-83 Horizontal Datum

EXHIBIT A-2

Legal Description of Remaining Land

Description of **Parcel 1** as shown on the Map of R.D. Industrial (4 Lot Land Division)
SCTM # District 0200, Section 554, Block 3, P/O Lot 4.54

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York being more particularly bounded and described as follows;

BEGINNING at a point on the easterly side of Ramsay Road a distance of 90.00 feet southerly as measured along the easterly side of Ramsay Road from the intersection of the easterly side of Ramsay Road with the northerly side of Precision Drive;

THENCE from said point of beginning the following three courses and distances along the southerly side of the 60 foot wide Right of Way:

1. Along the arc of a curve to the right having a radius of 30.00 feet an arc length of 47.12 feet to a point;
2. North 78 degrees 13 minutes 19 seconds East a distance of 428.67 feet to a point;
3. Along the arc of a curve to the right having a radius of 3,740.00 feet an arc length of 224.46 feet to a point;

thence South 11 degrees 46 minutes 41 seconds East a distance of 764.33 feet to a point on the northerly side of land now or formerly of the Long Island Railroad; thence along the northerly side of land now or formerly of the Long Island Railroad South 58 degrees 10 minutes 08 seconds West a distance of 521.73 feet to a point; thence North 58 degrees 16 minutes 17 seconds West a distance of 429.71 feet to a point on the easterly side of Ramsay Road; thence the following two courses and distances along the easterly side of Ramsay Road:

1. Along the arc of a curve to the left having a radius of 560.00 feet an arc length of 371.49 feet to a point;
2. North 11 degrees 46 minutes 41 seconds West a distance of 279.29 feet to the point of beginning.

Containing an Area of 606,333.82 square feet (13.92 Acres)
Bearings are referenced to NAD-83 Horizontal Datum

Description of **Parcel 2** as shown on the Map of R.D. Industrial (4 Lot Land Division)
SCTM # District 0200, Section 554, Block 3, P/O Lot 4.54

ALL that certain piece or parcel of land, situate, lying and being at Yaphank, Town of Brookhaven, County of Suffolk, State of New York being more particularly bounded and described as follows;

BEGINNING at a point on the southerly side of the 60 foot Right of Way the following four courses and distances from the intersection of the easterly side of Ramsay Road with the northerly side of Precision Drive:

1. Southerly as measured along the easterly side of Ramsay Road a distance of 90.00 feet to a point;
2. Along the arc of a curve to the right having a radius of 30.00 feet an arc length of 47.12 feet to a point;
3. North 78 degrees 13 minutes 19 seconds East a distance of 428.67 feet to a point;
4. Along the arc of a curve to the right having a radius of 3,740.00 feet an arc length of 224.46 feet to the point of beginning;

THENCE from said point of beginning the following seven courses and distances along the southerly side of the 60 foot wide Right of Way:

1. Along the arc of a curve to the right having a radius of 3,740.00 feet an arc length of 5.71 feet to a point;
2. Along the arc of a curve to the left having a radius of 260.00 feet an arc length of 107.00 feet to a point;
3. North 58 degrees 10 minutes 08 seconds East a distance of 773.97 feet to a point;
4. Along the arc of a curve to the right having a radius of 200.00 feet an arc length of 99.22 feet to a point;
5. North 86 degrees 35 minutes 34 seconds East a distance of 337.44 feet to a point;
6. Along the arc of a curve to the right having a radius of 32.00 feet an arc length of 44.44 feet to a point;
7. Along the arc of a curve to the left having a radius of 73.00 feet an arc length of 214.91 feet to a point;

thence South 02 degrees 30 minutes 24 seconds East a distance of 473.62 feet to a point on the northerly side of land now or formerly of the Long Island Railroad; thence along the northerly side of land now or formerly of the Long Island Railroad South 58 degrees 10 minutes 08 seconds West a distance of 1,453.57 feet to a point; thence North 11 degrees 46 minutes 41 seconds West a distance of 764.33 feet to the southerly side of the 60 foot Right of Way and the point of beginning.

Containing an Area of 959,460.65 square feet (22.03 Acres)
Bearings are referenced to NAD-83 Horizontal Datum

Exhibit B-1

Parcel 1 PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Town of Brookhaven, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Longwood School District, Suffolk County and Appropriate Special Districts

Property Address: Eastern terminus of Precision Drive, Shirley, New York

Tax Map Nos. 0200-554.00-03.00-004.410, 004.450 & 004.460

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Exhibit B-2

Parcel 2 PILOT Schedule

Schedule of payments-in-lieu-of-taxes: Town of Brookhaven, (including any existing incorporated village and any village which may be incorporated after the date hereof, within which the Facility is wholly or partially located), Longwood School District, Suffolk County and Appropriate Special Districts

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NYS BOARD OF REAL PROPERTY SERVICES

RP-412-a (1/95)

INDUSTRIAL DEVELOPMENT AGENCIES
APPLICATION FOR REAL PROPERTY TAX EXEMPTION
(Real Property Tax Law, Section 412-a and General Municipal Law, Section 874)

1. **INDUSTRIAL DEVELOPMENT AGENCY (IDA)**

Name Town of Brookhaven Industrial Development Agency
Street 1 Independence Hill, 3rd Floor
City Farmingville
Telephone no. Day (631) 406-4244
Evening () _____
Contact Lisa MG Mulligan
Title Chief Executive Officer

2. **OCCUPANT (IF OTHER THAN IDA)**

(If more than one occupant attach separate listing)

Name AVR-SP Brookhaven JV LLC
Street 1 Executive Boulevard
City Yonkers, New York 10701
Telephone no. Day (941) 965-3990
Evening () _____
Contact Michael Jacobs
Title Manager

3. **DESCRIPTION OF PARCEL**

- a. Assessment roll description (tax map no./roll year)
0200-554.00-03.00-004.041, 004.045 & 004.046
- b. Street address Eastern Terminus of Precision Drive
- c. City, Town or Village Shirley/Brookhaven
- d. School District Longwood
- e. County Suffolk
- f. Current assessment unavailable
- g. Deed to IDA (date recorded; liber and page)
see #5e

4. **GENERAL DESCRIPTION OF PROPERTY** (if necessary, attach plans or specifications)

- a. Brief description (include property use)
construction and equipping of an industrial building to be used as a laboratory space.
- b. Type of construction unavailable
- c. Square footage app 401,080 sq ft
- d. Total cost app. \$72,448,353
- e. Date construction commenced unavailable
- f. Projected expiration of exemption (i.e. date when property is no longer possessed, controlled, supervised or under the jurisdiction of IDA)
November 30, 2037

5. **SUMMARIZE AGREEMENT (IF ANY) AND METHOD TO BE USED FOR PAYMENTS TO BE MADE TO MUNICIPALITY REGARDLESS OF STATUTORY EXEMPTION**

(Attach copy of the agreement or extract of the terms relating to the project).

- a. Formula for payment see attached "PILOT Schedule"
The project has been amended from the June 1, 2022 project to release a certain parcel of land from the lien of the Lease Agreement.
- b. Projected expiration date of agreement November 30, 2037

c. Municipal corporations to which payments will be made

County Suffolk Yes ☒ No ☐
 Town/City Shirley/Brookhaven ☒
 Village Shirley/Brookhaven
 School District Longwood ☒

d. Person or entity responsible for payment

Name Michael Jacobs
 Title Manager
 Address 1 Executive Boulevard
Yonkers, New York 10701

e. Is the IDA the owner of the property? Yes/No (circle one)

If "No" identify owner and explain IDA rights or interest

Telephone 914-965-3990

in an attached statement. The IDA has acquired a leasehold interest in the Facility pursuant to a Company Lease Agreement, dated as of June 1, 2022, between the Agency and the Company, as amended as of October 1, 2023.

6. Is the property receiving or has the property ever received any other exemption from real property taxation? (check one) ☒ Yes ☐ No

If yes, list the statutory exemption reference and assessment roll year on which granted:
 exemption GML 875 assessment roll year 2022

7. A copy of this application, including all attachments, has been mailed or delivered on 10/17/23 (date) to the chief executive official of each municipality within which the project is located as indicated in Item 3.

CERTIFICATION

I, Lisa MG Mulligan, Chief Executive Officer of Town of Brookhaven Industrial Development Agency hereby certify that the information
 Name Title
 Organization

on this application and accompanying papers constitutes a true statement of facts.

October 9, 2023
 Date

Lisa MG Mulligan
 Signature

FOR USE BY ASSESSOR

1. Date application filed _____

2. Applicable taxable status date _____

3a. Agreement (or extract) date _____

3b. Projected exemption expiration (year) _____

4. Assessed valuation of parcel in first year of exemption \$ _____

5. Special assessments and special as valorem levies for which the parcel is liable:

 Date

 Assessor's signature