

**FORM APPLICATION FOR FINANCIAL ASSISTANCE  
TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY  
1 Independence Hill, 2nd Floor, Farmingville, New York 11738**

DATE: June 16, 2021

APPLICATION OF: Coast 2 Coast Real Estate LLC  
Name of Owner and/or User of Proposed Project

ADDRESS: 20 Pinehurst Drive  
Bellport, New York 11713

Type of Application:    ☐ Tax-Exempt Bond                      ☐ Taxable Bond  
                                 ☒ Straight Lease                                      ☐ Refunding Bond

Please respond to all items either by filling in blanks, by attachment (by marking space "see attachment number 1", etc.) or by N.A., where not applicable. Application must be filed in two copies. A non-refundable application fee is required at the time of submission of this application to the Agency. The non-refundable application fee is \$3,000 for applications under \$5 million and \$4,000 for applications of \$5 million or more.

Transaction Counsel to the Agency may require a retainer which will be applied to fees incurred and actual out-of-pocket disbursements made during the inducement and negotiation processes and will be reflected on their final statement at closing.

Information provided herein will not be made public by the Agency prior to the passage of an official Inducement Resolution, but may be subject to disclosure under the New York State Freedom of Information Law.

Prior to submitting a completed final application, please arrange to meet with the Agency's staff to review your draft application. Incomplete applications will not be considered. The Board reserves the right to require that the applicant pay for the preparation of a Cost Benefit Analysis, and the right to approve the company completing the analysis.

PLEASE NOTE: It is the policy of the Brookhaven IDA to encourage the use of local labor and the payment of the area standard wage during construction on the project.

## **INDEX**

<b>PART I</b>	<b>OWNER AND USER DATA</b>
<b>PART II</b>	<b>OPERATION AT CURRENT LOCATION</b>
<b>PART III</b>	<b>PROJECT DATA</b>
<b>PART IV</b>	<b>PROJECT COSTS AND FINANCING</b>
<b>PART V</b>	<b>PROJECT BENEFITS</b>
<b>PART VI</b>	<b>EMPLOYMENT DATA</b>
<b>PART VII</b>	<b>REPRESENTATIONS, CERTIFICATIONS AND INDEMNIFICATION</b>
<b>PART VIII</b>	<b>SUBMISSION OF MATERIALS</b>
EXHIBIT A	Proposed PILOT Schedule
SCHEDULE A	Agency's Fee Schedule
SCHEDULE B	Construction Wage Policy
SCHEDULE C	Recapture and Termination Policy

## Part I: Owner & User Data

1. Owner Data:

A. Owner (Applicant for assistance): Coast 2 Coast Real Estate LLC

Address: 3505 Veterans Memorial Highway, Suite E

Ronkonkoma, New York 11779

Federal Employer ID # [REDACTED] Website: \_\_\_\_\_

NAICS Code: 531120

Owner Officer Certifying Application: Robert A. Lee, Jr.

Title of Officer: Managing Member

Phone Number                      E-mail                     

B. Business Type:

Sole Proprietorship ☐ Partnership ☐ Limited Liability Company ☒

Privately Held ☐ Public Corporation ☐ Listed on \_\_\_\_\_

State of Incorporation/Formation: New York

### C. Nature of Business:

(e.g., “manufacturer of \_\_\_\_\_ for \_\_\_\_\_ industry”; “distributor of \_\_\_\_\_”; or “real estate holding company”)

Real estate holding company

**D. Owner Counsel:**

Firm Name: Certilman Balin Adler & Hyman, LLP

Address: 100 Motor Parkway, Suite 560

Hauppauge, New York 11788

Individual Attorney: J. Timothy Shea, Jr., Esq. / Brian T. Sinsabaugh, Esq.

Phone Number: 631.979.3000

E-mail: [tshea@certilmanbalin.com](mailto:tshea@certilmanbalin.com)  
[bsinsabaugh@certilmanbalin.com](mailto:bsinsabaugh@certilmanbalin.com)

E. Principal Stockholders, Members or Partners, if any, of the Owner:

Name	Percent Owned
<u>Robert A. Lee, Jr.</u>	<u>90%</u>
<u>Anthony Aceto</u>	<u>10%</u>
<u> </u>	<u> </u>

- F. Has the Owner, or any subsidiary or affiliate of the Owner, or any stockholder, partner, member, officer, director or other entity with which any of these individuals is or has been associated with:

i. ever filed for bankruptcy, been adjudicated bankrupt or placed in receivership or otherwise been or presently is the subject of any bankruptcy or similar proceeding? (if yes, please explain)

No \_\_\_\_\_

ii. been convicted of a felony, or misdemeanor, or criminal offense (other than a motor vehicle violation)? (if yes, please explain)

No \_\_\_\_\_

- G. If any of the above persons (see "E", above) or a group of them, owns more than 50% interest in the Owner, list all other organizations which are related to the Owner by virtue of such persons having more than a 50% interest in such organizations.

Entities owned by Robert A. Lee, Jr.:

The Brooklyn Store LLC; 2049 Middle Country Rd LLC; Lee Plaza LLC; R Lee Family Holdings LLC; Corporate Division of the North East LLC; Corporate Division of the South East LLC; Northeast Credit Card Processing LLC; My Plan B LLC; Equity Capital Management of NYC LLC

- H. Is the Owner related to any other organization by reason of more than a 50% ownership? If so, indicate name of related organization and relationship:

No \_\_\_\_\_

- I. List parent corporation, sister corporations and subsidiaries:

n/a

J. Has the Owner (or any related corporation or person) been involved in or benefited by any prior industrial development financing in the municipality in which this project is located, whether by this agency or another issuer? (Municipality herein means city, town or village, or if the project is not in an incorporated city, town or village, the unincorporated areas of the county in which it is located.) If so, explain in full:

No

K. List major bank references of the Owner:

Newtek Small Business Finance LLC, 1981 Marcus Ave., Ste. 130, Lake Success, NY 11042  
Contact: Mike Ogus (tel. 631.553.3530)

## 2. User Data

***\*\* (for co-applicants for assistance or where a landlord/tenant relationship will exist between the owner and the user) \*\****

Coast 2 Coast Plumbing and HVAC, LLC  
d/b/a 1 800 Plumber & Coast 2 Coast

A. User (together with the Owner, the "Applicant"): Restoration, LLC d/b/a Restoration 1

Address: 3505 Veterans Memorial Highway, Suite E

Ronkonkoma, NY 11779

Federal Employer ID # [REDACTED]

Website: \_\_\_\_\_

NAICS Code: \_\_\_\_\_

User Officer Certifying Application: Anthony Aceto

Title of Officer: Managing Member

Phone Number: [REDACTED]

E-mail [REDACTED]

B. Business Type: ☒ - Limited Liability Company

Sole Proprietorship ☐ Partnership ☐ Privately Held ☐

Public Corporation ☐ Listed on

State of Incorporation/Formation: New York

### C. Nature of Business:

(e.g., “manufacturer of \_\_\_\_\_ for \_\_\_\_\_ industry”; “distributor of \_\_\_\_\_”; or “real estate holding company”)

1. Coast 2 Coast Plumbing and HVAC, LLC d/b/a 1 800 Plumber: Plumbing and HVAC services.

2. Coast 2 Coast Restoration, LLC d/b/a Restoration 1: residential and commercial property services for fire and water damage, mold and cleaning, including COVID-19 sanitation.

D. Are the User and the Owner Related Entities?    Yes ☒    No ☐

i. If yes, the remainder of the questions in this Part I, Section 2 (with the exception of "F" below) need not be answered if answered for the Owner.

ii. If no, please complete all questions below.

E. User's Counsel:

Firm Name: Certilman Balin Adler & Hyman, LLP

Address: 100 Motor Parkway, Suite 560

Hauppauge, New York 11788

Individual Attorney: Brian T. Sinsabaugh, Esq.

Phone Number: 631.979.3000

E-mail: bsinsabaugh@certilmanbalin.com

F. Principal Stockholders or Partners, if any:

Name	Percent Owned
<u>Robert A. Lee, Jr.</u>	<u>90%</u>
<u>Anthony Aceto</u>	<u>10%</u>
<u> </u>	<u> </u>

G. Has the User, or any subsidiary or affiliate of the User, or any stockholder, partner, officer, director or other entity with which any of these individuals is or has been associated with:

i. ever filed for bankruptcy, been adjudicated bankrupt or placed in receivership or otherwise been or presently is the subject of any bankruptcy or similar proceeding? (if yes, please explain)

No.

ii. been convicted of a felony or criminal offense (other than a motor vehicle violation)? (if yes, please explain)

No.

- H. If any of the above persons (see "F", above) or a group of them, owns more than 50% interest in the User, list all other organizations which are related to the User by virtue of such persons having more than a 50% interest in such organizations.

Robert A. Lee, Jr.: Coast 2 Coast Real Estate LLC, Coast 2 Coast Restoration LLC

- I. Is the User related to any other organization by reason of more than a 50% ownership? If so, indicate name of related organization and relationship:

n/a

- J. List parent corporation, sister corporations and subsidiaries:

n/a

- K. Has the User (or any related corporation or person) been involved in or benefited by any prior industrial development financing in the municipality in which this project is located, whether by this agency or another issuer? (Municipality herein means city, town or village, or if the project is not in an incorporated city, town or village, the unincorporated areas of the county in which it is located.) If so, explain in full:

No

- L. List major bank references of the User:

Newtek Small Business Finance LLC, 1981 Marcus Ave., Ste. 130, Lake Success, NY 11042

Contact: Mike Ogus (tel.: 631.553.3530)

### **Part II – Operation at Current Location**

***\*\* (if the Owner and the User are unrelated entities, answer separately for each) \*\****

1. Current Location Address: 3505 Veterans Memorial Highway, Suite E, Ronkonkoma, NY 11779
2. Owned or Leased: Leased
3. Describe your present location (acreage, square footage, number buildings, number of floors, etc.):

The entities utilize a total of 3 suites with a total area of 9,132 square feet on one floor.

The use of this space is office only. Due to size constraints, the entities utilize five off-size storage units for storage purposes.

4. Type of operation (manufacturing, wholesale, distribution, retail, etc.) and products and/or services:
- 1. Coast 2 Coast Real Estate LLC: Real estate holding company
  - 2. Coast 2 Coast Plumbing and HVAC, LLC d/b/a 1 800 Plumber: Plumbing and HVAC services.
  - 3. Coast 2 Coast Restoration, LLC d/b/a Restoration 1: residential and commercial property services for fire and water damage, mold and cleaning, including COVID-19 sanitation.
5. Are other facilities or related companies of the Applicant located within the State?
- Yes ☐ No ☒

A. If yes, list the Address: n/a

6. Will the completion of the project result in the removal of any facility or facilities of the Applicant from one area of the state to another OR in the abandonment of any facility or facilities of the Applicant located within the State? Yes ☐ No ☒

A. If no, explain how current facilities will be utilized: Applicant does not own or operate any facilities within the State. Area currently leased will be leased by the lessor to a new tenant.

- B. If yes, please indicate whether the project is reasonably necessary for the Applicant to maintain its competitive position in its industry or remain in the State and explain in full:

Applicant requires IDA benefits for this project to make upgrades and/or complete renovations to the property that are necessary for the proposed tenants to remain in the State.

7. Has the Applicant actively considered sites in another state? Yes ☒ No ☐

A. If yes, please list states considered and explain: Applicant has considered sites in Florida, North Carolina and South Carolina due to the reduced cost of living.

8. Is the requested financial assistance reasonably necessary to prevent the Applicant from moving out of New York State? Yes ☒ No ☐

A. Please explain: Without the financial assistance sought in this Application, the project cannot be economically viable in the State, and Applicant will be forced to locate outside the State.

9. Number of full-time employees at current location and average salary (indicate hourly or yearly salary):

Applicant and related users currently employ 15 employees, with an average weekly salary of \$1,100.

2. User Data

**\*\* (for co-applicants for assistance or where a landlord/tenant relationship will exist between the owner and the user) \*\***

A. User (together with the Owner, the "Applicant"): Target Media Group Corp.

Address: 37 Ridgefield Drive

Shoreham, NY 11786

Federal Employer ID: [REDACTED] Website: targetmediagroup.net

NAICS Code:                     

User Officer Certifying Application: Anthony Aceto

Title of Officer: President

Phone Number: [REDACTED]

E-mail: [REDACTED]

B. Business Type:

Sole Proprietorship ☐ Partnership ☐ Privately Held ☒

Public Corporation ☐ Listed on                     

State of Incorporation/Formation: New York / S-Corp

C. Nature of Business:

(e.g., "manufacturer of            for            industry"; "distributor of           "; or "real estate holding company")

Wholesale print media, advertising, mail fulfillment

D. Are the User and the Owner Related Entities? Yes ☐ No ☒

i. If yes, the remainder of the questions in this Part I, Section 2 (with the exception of "F" below) need not be answered if answered for the Owner.

ii. If no, please complete all questions below.

E. User's Counsel:

Firm Name: Zalli & Cahill, P.C.

Address: 86 Medford Avenue

Patchogue, New York 11772

Individual Attorney: Melissa Zelli, Esq.

Phone Number: 631.352.0215

E-mail: mzelli@zellicahill.com

F. Principal Stockholders or Partners, if any:

Name	Percent Owned
<u>Anthony Aceto</u>	<u>50%</u>
<u>Peter Anastasiadis</u>	<u>50%</u>
<u></u>	<u></u>

G. Has the User, or any subsidiary or affiliate of the User, or any stockholder, partner, officer, director or other entity with which any of these individuals is or has been associated with:

i. ever filed for bankruptcy, been adjudicated bankrupt or placed in receivership or otherwise been or presently is the subject of any bankruptcy or similar proceeding? (if yes, please explain)

No.

ii. been convicted of a felony or criminal offense (other than a motor vehicle violation)? (if yes, please explain)

No.

- H. If any of the above persons (see "F", above) or a group of them, owns more than 50% interest in the User, list all other organizations which are related to the User by virtue of such persons having more than a 50% interest in such organizations.

n/a

- I. Is the User related to any other organization by reason of more than a 50% ownership? If so, indicate name of related organization and relationship:

No.

- J. List parent corporation, sister corporations and subsidiaries:

n/a

- K. Has the User (or any related corporation or person) been involved in or benefited by any prior industrial development financing in the municipality in which this project is located, whether by this agency or another issuer? (Municipality herein means city, town or village, or if the project is not in an incorporated city, town or village, the unincorporated areas of the county in which it is located.) If so, explain in full:

No.

- L. List major bank references of the User:

TD Bank - Joe Clements (631.395.1005)(joseph.clements@td.com)

### **Part II – Operation at Current Location**

***\*\* (if the Owner and the User are unrelated entities, answer separately for each) \*\****

1. Current Location Address: 1850 Pond Road, Suite B, Ronkonkoma, New York 11779
2. Owned or Leased: Leased
3. Describe your present location (acreage, square footage, number buildings, number of floors, etc.):  
13,000 square foot facility, 1 floor with bay

4. Type of operation (manufacturing, wholesale, distribution, retail, etc.) and products and/or services:

Wholesale print media, advertising, mail fulfillment

5. Are other facilities or related companies of the Applicant located within the State?  
Yes ☐ No ☒

A. If yes, list the Address: n/a

6. Will the completion of the project result in the removal of any facility or facilities of the Applicant from one area of the state to another OR in the abandonment of any facility or facilities of the Applicant located within the State? Yes ☐ No ☒

A. If no, explain how current facilities will be utilized: Applicant will lease to the user at the project site. The user's current location will be released by the owner of that property.

- B. If yes, please indicate whether the project is reasonably necessary for the Applicant to maintain its competitive position in its industry or remain in the State and explain in full:

n/a

7. Has the Applicant actively considered sites in another state? Yes ☐ No ☒

A. If yes, please list states considered and explain: n/a

8. Is the requested financial assistance reasonably necessary to prevent the Applicant from moving out of New York State? Yes ☐ No ☒

A. Please explain: n/a

9. Number of full-time employees at current location and average salary (indicate hourly or yearly salary):

Two full-time employees with an average yearly salary of \$50,000.

2. User Data

*\*\* (for co-applicants for assistance or where a landlord/tenant relationship will exist between the owner and the user) \*\**

A. User (together with the Owner, the "Applicant"): Bold Systems, LLC

Address: 20 Pinehurst Drive

Bellport, New York 11713

Federal Employer ID #: [REDACTED]

Website: http://www.boldsys.com/

NAICS Code: 518210

User Officer Certifying Application: Brian J. Jusas

Title of Officer: Managing Member

Phone Number: [REDACTED]

E-mail: [REDACTED]

B. Business Type: ☒ - Limited Liability Company

Sole Proprietorship ☐ Partnership ☐ Privately Held ☐

Public Corporation ☐ Listed on \_\_\_\_\_

State of Incorporation/Formation: New York

C. Nature of Business:

(e.g., "manufacturer of \_\_\_\_\_ for \_\_\_\_\_ industry"; "distributor of \_\_\_\_\_"; or "real estate holding company")

Provider of electronic voting machines and service for school districts, municipalities and libraries.

D. Are the User and the Owner Related Entities? Yes ☐ No ☒

i. If yes, the remainder of the questions in this Part I, Section 2 (with the exception of "F" below) need not be answered if answered for the Owner.

ii. If no, please complete all questions below.

E. User's Counsel:

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Individual Attorney: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail: \_\_\_\_\_

F. Principal Stockholders or Partners, if any:

Name	Percent Owned
Brian J. Jusas	_____
_____	_____
_____	_____

G. Has the User, or any subsidiary or affiliate of the User, or any stockholder, partner, officer, director or other entity with which any of these individuals is or has been associated with:

i. ever filed for bankruptcy, been adjudicated bankrupt or placed in receivership or otherwise been or presently is the subject of any bankruptcy or similar proceeding? (if yes, please explain)

No.

\_\_\_\_\_  
\_\_\_\_\_

ii. been convicted of a felony or criminal offense (other than a motor vehicle violation)? (if yes, please explain)

No.

\_\_\_\_\_  
\_\_\_\_\_

- H. If any of the above persons (see "F", above) or a group of them, owns more than 50% interest in the User, list all other organizations which are related to the User by virtue of such persons having more than a 50% interest in such organizations.

n/a

- I. Is the User related to any other organization by reason of more than a 50% ownership? If so, indicate name of related organization and relationship:

No.

- J. List parent corporation, sister corporations and subsidiaries:

n/a

- K. Has the User (or any related corporation or person) been involved in or benefited by any prior industrial development financing in the municipality in which this project is located, whether by this agency or another issuer? (Municipality herein means city, town or village, or if the project is not in an incorporated city, town or village, the unincorporated areas of the county in which it is located.) If so, explain in full:

Yes. Current tenant at 20 Pinehurst Drive, Bellport, NY which was under an IDA lease and PILOT until June 2021.

- L. List major bank references of the User:

### **Part II – Operation at Current Location**

***\*\* (if the Owner and the User are unrelated entities, answer separately for each) \*\****

1. Current Location Address: 20 Pinehurst Drive, Bellport, NY 11713
2. Owned or Leased: Leased
3. Describe your present location (acreage, square footage, number buildings, number of floors, etc.):

4. Type of operation (manufacturing, wholesale, distribution, retail, etc.) and products and/or services:  
Office and storage related to electronic voting machines and service for local school districts, libraries and municipalities.
5. Are other facilities or related companies of the Applicant located within the State?  
Yes ☐ No ☒
- A. If yes, list the Address: \_\_\_\_\_
6. Will the completion of the project result in the removal of any facility or facilities of the Applicant from one area of the state to another OR in the abandonment of any facility or facilities of the Applicant located within the State? Yes ☐ No ☒
- A. If no, explain how current facilities will be utilized: Current location is the project site in the instant Application.
- B. If yes, please indicate whether the project is reasonably necessary for the Applicant to maintain its competitive position in its industry or remain in the State and explain in full:  
n/a
7. Has the Applicant actively considered sites in another state? Yes ☒ No ☐
- A. If yes, please list states considered and explain: Reduced cost to do business outside of NYS
8. Is the requested financial assistance reasonably necessary to prevent the Applicant from moving out of New York State? Yes ☒ No ☐
- A. Please explain: The requested financial assistant will permit the lessor to lease at a competitive rate. Without the financial assistance, Bold Systems, LLC will seek alternative locations to allow it to compete financially with other providers.
9. Number of full-time employees at current location and average salary (indicate hourly or yearly salary):  
Bold Systems, LLC employs one full-time employee year-round. Additional staff is employed based upon business needs.

\_\_\_\_\_

1. Project Type:

A. What type of transaction are you seeking? (Check one)

Straight Lease ☒    Taxable Bonds ☐    Tax-Exempt Bonds ☐  
Equipment Lease Only ☐

B. Type of benefit(s) the Applicant is seeking: (Check all that apply)

Sales Tax Exemption ☒      Mortgage Recording Tax Exemption ☒  
 PILOT Agreement: ☒

2. Location of project:

A. Street Address: 20 Pinehurst Drive, Bellport, New York 11713

B. Tax Map: District 0200 Section 813.00 Block 01.00 Lot(s) 008.029

### C. Municipal Jurisdiction:

- i. Town: Brookhaven
- ii. Village: Hamlet of Bellport
- iii. School District: South Country CSD

D. Acreage: 1.75 acres

3. Project Components (check all appropriate categories):

A. Construction of a new building ☐ Yes ☒ No  
i. Square footage: n/a

B. Renovations of an existing building ☒ Yes ☐ No  
i. Square footage: 19,172 SF

C. Demolition of an existing building ☐ Yes ☒ No  
i. Square footage: n/a

D. Land to be cleared or disturbed ☐ Yes ☒ No  
i. Square footage/acreage: n/a

E. Construction of addition to an existing building ☐ Yes ☒ No

i. Square footage of addition: n/a

ii. Total square footage upon completion: n/a

F. Acquisition of an existing building ☒ Yes ☐ No  
i. Square footage of existing building: 19,172 SF

- G. Installation of machinery and/or equipment ☒ Yes ☐ No  
i. List principal items or categories of equipment to be acquired: Dehumidifiers, blowers, foggers, extraction machines, matt machines, generators, trailers, dump trailers, vans, cars, box trucks, plumbing equipment and printing equipment

4. Current Use at Proposed Location:

- A. Does the Applicant currently hold fee title to the proposed location?

Town of Brookhaven Industrial  
i. If no, please list the present owner of the site: Development Agency

- B. Present use of the proposed location: Grucci Fireworks / Grucci Properties East LLC  
Bold Systems LLC

- C. Is the proposed location currently subject to an IDA transaction (whether through this Agency or another?) ☒ Yes ☐ No

Brookhaven IDA: Grucci Properties East, LLC (leasehold estate created by  
i. If yes, explain: the Amended and Restated Lease Agreement dated August 1, 2013, terminated June 2021).

- D. Is there a purchase contract for the site? (if yes, explain): ☒ Yes ☐ No

See Exhibit 'A', attached.

- E. Is there an existing or proposed lease for the site? (if yes, explain): ☒ Yes ☐ No  
See response to 4(C), above. See also the proposed lease agreements for (i) Bold Systems LLC, (ii) Target Media Group Corp., (iii) Coast 2 Coast Renovation LLC, and (iv) Coast 2 Coast Plumbing and HVAC LLC, attached as **Exhibit 'B'**.

5. Proposed Use:

- A. Describe the specific operations of the Applicant or other users to be conducted at the project site: All uses will be office and corporate headquarter uses (w/ related on-site storage for operations).

- B. Proposed product lines and market demands: \_\_\_\_\_

Plumbing services, property restoration services, printing. See also Exhibit 'C', attached.

- C. If any space is to be leased to third parties, indicate the tenant(s), total square footage of the project to be leased to each tenant, and the proposed use by each tenant:

See Exhibit 'C', attached.

---

- D. Need/purpose for project (e.g., why is it necessary, effect on Applicant's business):

This project is necessary for the Applicant to grow the current business structure in Long Island and Suffolk County. The effect of the project will be the expansion of the Applicant's current business to assist the business in serving the surrounding communities and to provide a large number of jobs for residents of the local communities.

---

- E. Will any portion of the project be used for the making of retail sales to customers who personally visit the project location? Yes ☐ No ☒

- i. If yes, what percentage of the project location will be utilized in connection with the sale of retail goods and/or services to customers who personally visit the project location? n/a
- 

- F. To what extent will the project utilize resource conservation, energy efficiency, green technologies and alternative / renewable energy measures?

The project site will install and utilize solar power energy.

---

6. Project Work:

- A. Has construction work on this project begun? If yes, complete the following:

i. Site Clearance:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	% COMPLETE <u>n/a</u>
ii. Foundation:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	% COMPLETE <u>n/a</u>
iii. Footings:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	% COMPLETE <u>n/a</u>
iv. Steel:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	% COMPLETE <u>n/a</u>
v. Masonry:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	% COMPLETE <u>n/a</u>
vi. Other:			

---

- B. What is the current zoning? Town of Brookhaven's L Industrial 1 District

- C. Will the project meet zoning requirements at the proposed location?

Yes ☒

No ☐

D. If a change of zoning is required, please provide the details/status of the change of zone request: n/a

---

---

E. Have site plans been submitted to the appropriate planning department? Yes ☐ No ☒

7. Project Completion Schedule:

A. What is the proposed commencement date for the acquisition and the construction/renovation/equipping of the project?

i. Acquisition: September 15, 2021

ii. Construction/Renovation/Equipping: Within 1 year of acquisition

B. Provide an accurate estimate of the time schedule to complete the project and when the first use of the project is expected to occur: \_\_\_\_\_

Completion of project within 24 months of acquisition. First use of property will be immediately after closing. Will use property during renovation.

#### Part IV – Project Costs and Financing

##### 1. Project Costs:

- A. Give an accurate estimate of cost necessary for the acquisition, construction, renovation, improvement and/or equipping of the project location:

<u>Description</u>	<u>Amount</u>
Land and/or building acquisition	\$ <u>4,000,000</u>
Building(s) demolition/construction	\$ <u>n/a</u>
Building renovation	\$ <u>400,000</u>
Site Work	\$ <u>150,000</u>
Machinery and Equipment	\$ <u>150,000</u>
Legal Fees	\$ <u>50,000</u>
Architectural/Engineering Fees	\$ <u>n/a</u>
Financial Charges	\$ <u>n/a</u>
Other (Specify)	\$ <u>n/a</u>
Total	\$ <u>4,750,000.00</u>

Please note, IDA fees are based on the total project costs listed above. At the completion of your project, you are required to provide both a certificate of completion along with a cost affidavit certifying the final project costs. The IDA fees may be adjusted as a result of the certified cost affidavit. Money will not be refunded if the final project cost is less than the amount listed above.

##### 2. Method of Financing:

	<u>Amount</u>	<u>Term</u>
A. Tax-exempt bond financing:	\$ <u>n/a</u>	<u>-</u> years
B. Taxable bond financing:	\$ <u>n/a</u>	<u>-</u> years
C. Conventional Mortgage:	\$ <u>n/a</u>	<u>-</u> years
D. SBA (504) or other governmental financing:	\$ <u>n/a</u>	<u>-</u> years
E. Public Sources (include sum of all State and federal grants and tax credits):	\$ <u>n/a</u>	
F. Other loans:	\$ <u>3,650,000.00</u>	<u>25</u> years
G. Owner/User equity contribution:	\$ <u>1,100,00.00</u>	<u>n/a</u> years

Total Project Costs \$ 4,750,000.00

- i. What percentage of the project costs will be financed from public sector sources?

0%

3. Project Financing:

A. Have any of the above costs been paid or incurred (including contracts of sale or purchase orders) as of the date of this application? Yes ☐ No ☒

i. If yes, provide detail on a separate sheet.

B. Are costs of working capital, moving expenses, work in progress, or stock in trade included in the proposed uses of bond proceeds? Give details:

No

---

---

C. Will any of the funds borrowed through the Agency be used to repay or refinance an existing mortgage or outstanding loan? Give details:

No

---

---

D. Has the Applicant made any arrangements for the marketing or the purchase of the bond or bonds? If so, indicate with whom:

No

---

---

## Part V – Project Benefits

### 1. Mortgage Recording Tax Benefit:

- A. Mortgage Amount for exemption (include sum total of construction/permanent/bridge financing):

\$ \_\_\_\_\_

- B. Estimated Mortgage Recording Tax Exemption (product of Mortgage Amount and .75%):

\$ \_\_\_\_\_

### 2. Sales and Use Tax Benefit:

- A. Gross amount of costs for goods and services that are subject to State and local Sales and Use Tax (such amount to benefit from the Agency's exemption):

\$ 750,000

- B. Estimated State and local Sales and Use Tax exemption (product of 8.625% and figure above):

\$ 64,687.50

- C. If your project has a landlord/tenant (owner/user) arrangement, please provide a breakdown of the number in "B" above:

i. Owner: \$ 750,000

ii. User: \$ 0

### 3. Real Property Tax Benefit:

- A. Identify and describe if the project will utilize a real property tax exemption benefit other than the Agency's PILOT benefit: No other real property tax exemption benefit has been applied for or granted to the applicant and/or the subject property.

- B. Agency PILOT Benefit:

i. Term of PILOT requested: Standard ten (10) year PILOT Term

ii. Upon acceptance of this application, the Agency staff will create a PILOT schedule and attach such information to Exhibit A hereto. Applicant hereby requests such PILOT benefit as described on Exhibit A.

**\*\* This application will not be deemed complete and final until Exhibit A hereto has been completed. \*\***

## **Part VI – Employment Data**

1. List the Applicant's and each users present employment, and estimates of (i) employment at the proposed project location at the end of year one and year two following project completion and (ii) the number of residents of the Labor Market Area\* ("LMA") that would fill the full-time and part-time jobs at the end of year second year following completion:

Present number of employees: 15      2021      \$1,200,000  
Date      Average Annual Salary of Jobs to be Retained

First Year: 2022 (fill in year)

[illegible]

Second Year: 2023 (fill in year)

[illegible]

Number of Residents of LMA:

Full-Time:	<u>10</u>
Part-Time:	<u>0</u>

**Cumulative Total Employees After Year 2** 35

\* The Labor Market Area includes the County/City/Town/Village in which the project is located as well as Nassau and Suffolk Counties.

\*\* Agency staff converts Part-Time jobs into FTEs for state reporting purposes by dividing the number of Part-Time jobs by two (2).

## 2. Salary and Fringe Benefits:

Category of Jobs to be Created	Average Salary	Average Fringe Benefits
Salary Wage Earners	\$60,000	\$10,000
Commission Wage Earners	n/a	n/a
Hourly Wage Earners	\$30/hour	\$10,000
1099 and Contract Workers	\$100,000/year	n/a

What is the annualized salary range of jobs to created? \$41,600 to \$83,200

Note: The Agency reserves the right to visit the facility to confirm that job creation numbers are being met.

**Part VII – Representations, Certifications and Indemnification**

1. Is the Applicant in any litigation which would have a material adverse effect on the Applicant's financial condition? (if yes, furnish details on a separate sheet)

Yes ☐ No ☒

2. Has the Applicant or any of the management of the Applicant, the anticipated users or any of their affiliates, or any other concern with which such management has been connected, been cited for a violation of federal, state or local laws or regulations with respect to labor practices, hazardous wastes, environmental pollution or other operating practices? (If yes, furnish details on a separate sheet)

Yes ☐ No ☒

3. Is there a likelihood that the Applicant would proceed with this project without the Agency's assistance? (If no, please explain why; if yes, please explain why the Agency should grant the benefits requested)

Yes ☐ No ☒

The Applicant would not proceed with this project with the Agency's assistance because the project cannot be economically viable without the financial benefits sought in this Application.

4. If the Applicant is unable to obtain financial assistance from the Agency for the project, what would be the impact on the Applicant and on the municipality?

Without the financial benefits sought in this Application, the project cannot move forward.

---

5. The Applicant understands and agrees that in accordance with Section 858-b(2) of the General Municipal Law, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the project will be listed with the New York State Department of Labor, Community Services Division and with the administrative entity of the service delivery area created pursuant to the Job Training Partnership Act (PL 97-300) in which the project is located (collectively, the "Referral Agencies"). The Applicant also agrees, that it will, except as otherwise provided by collective bargaining contracts or agreements to which they are parties, where practicable, first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the Referral Agencies.

Initial RS

6. The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any financial assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement in the Project as well as may lead to other possible enforcement actions.

Initial RS

7. The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.

Initial RS

8. The Applicant represents and warrants that to the Applicant's knowledge neither it nor any of its affiliates, nor any of their respective partners, members, shareholders or other equity owners, and none of their respective employees, officers, directors, representatives or agents is, nor will they become a person or entity with who United States persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control (OFAC) of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List or under any statute, executive order including the September 24, 2001, Executive Order Block Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, or other governmental action and is not and will not assign or otherwise transfer this Agreement to, contract with or otherwise engage in any dealings or transactions or be otherwise associated with such persons or entities.

Initial RS

9. The Applicant confirms and hereby acknowledges it has received the Agency's fee schedule attached hereto as Schedule A and agrees to pay such fees, together with any expenses incurred by the Agency, including those of Transaction Counsel, with respect to the Facility. The Applicant agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the project. The IDA fees are based on the total project costs listed in this application. At the completion of the project, you are required to provide both a certificate of completion along with a cost affidavit certifying the final project costs. The IDA fees may be increased as a result of the certified cost affidavit. Monies will not be refunded if the final costs are below the amount listed in the application.

Initial RL

10. The Applicant confirms and hereby acknowledges it has received the Agency's Construction Wage Policy attached hereto as Schedule B and agrees to comply with the same.

Initial RL

11. The Applicant hereby agrees to comply with Section 875 of the General Municipal Law. The Company further agrees that the financial assistance granted to the project by the Agency is subject to recapture pursuant to Section 875 of the Act and the Agency's Recapture and Termination Policy, attached hereto as Schedule C.

Initial RL

12. The Applicant confirms and hereby acknowledges it has received the Agency's PILOT Policy attached hereto as Schedule D and agrees to comply with the same.

Initial RL

13. The Company hereby authorizes the Agency, without further notice or consent, to use the Company's name, logo and photographs related to the Facility in its advertising, marketing and communications materials. Such materials may include web pages, print ads, direct mail and various types of brochures or marketing sheets, and various media formats other than those listed (including without limitation video or audio presentations through any media form). In these materials, the Agency also has the right to publicize its involvement in the Project.

Initial RL

### **Part VIII – Submission of Materials**

1. Financial statements for the last two fiscal years (unless included in the Applicant's annual report).
2. Applicant's annual reports (or 10-K's if publicly held) for the two most recent fiscal years.
3. Quarterly reports (form 10-Q's) and current reports (form 8-K's) since the most recent annual report, if any.
4. In addition, please attach the financial information described in items A, B, and C of any expected guarantor of the proposed bond issue.
5. Completed Environmental Assessment Form.
6. Most recent quarterly filing of NYS Department of Labor Form 45, as well as the most recent fourth quarter filing. Please remove the employee Social Security numbers and note the full-time equivalency for part-time employees.

*(Remainder of Page Intentionally Left Blank)*

**Part IX – Special Representations**

1. The Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if financial assistance is provided for the proposed project. The Applicant hereby indicates its compliance with Section 862(1) by signing the applicable statement below. (Please sign only one of the following statements a. or b. below).

- a. The completion of the entire project will not result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state.

Representative of the Applicant: \_\_\_\_\_

- b. The completion of this entire project will result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state because the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

Representative of the Applicant: \_\_\_\_\_

By: Robert A. Lee, Jr., Managing Member

2. The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.

Representative of the Applicant: \_\_\_\_\_

By: Robert A. Lee, Jr., Managing Member

3. In accordance with Section 862(1) of the New York General Municipal Law the Applicant understands and agrees that projects which result in the removal of an industrial or manufacturing plant of the project occupant from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the project occupant within the State is ineligible for financial assistance from the Agency, unless otherwise approved by the Agency as reasonably necessary to preserve the competitive position of the project in its respective industry or to discourage the project occupant from removing such other plant or facility to a location outside the State.

Representative of the Applicant: \_\_\_\_\_

By: Robert A. Lee, Jr., Managing Member

4. The Applicant confirms and acknowledges that the owner, occupant, or operator receiving financial assistance for the proposed project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

Representative of the Applicant: \_\_\_\_\_

By: Robert A. Lee, Jr., Managing Member

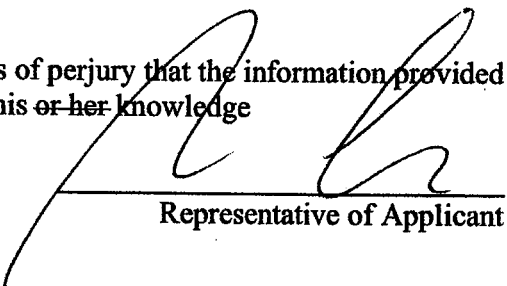
**Part X – Certification**

Robert A. Lee, Jr. (name of representative of entities submitting application) deposes and says that he or she is the Managing Member (title) of Coast 2 Coast Real Estate LLC, the entities named in the attached application; that he ~~or she~~ has read the foregoing application and knows the contents thereof; and that the same is true to his or her knowledge.

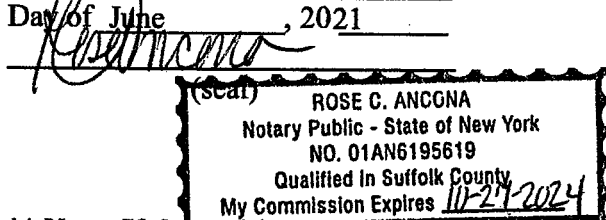
Deponent further says that s/he is duly authorized to make this certification on behalf of the entities named in the attached Application (the "Applicant") and to bind the Applicant. The grounds of deponent's belief relative to all matters in said Application which are not stated upon his/her personal knowledge are investigations which deponent has caused to be made concerning the subject matter this Application, as well as information acquired by deponent in the course of his/her duties in connection with said Applicant and from the books and papers of the Applicant.

As representative of the Applicant, deponent acknowledges and agrees that Applicant shall be and is responsible for all costs incurred by the Town of Brookhaven Industrial Development Agency (hereinafter referred to as the "Agency") in connection with this Application, the attendant negotiations and all matters relating to the provision of financial assistance to which this Application relates, whether or not ever carried to successful conclusion. If, for any reason whatsoever, the Applicant fails to conclude or consummate necessary negotiations or fails to act within a reasonable or specified period of time to take reasonable, proper, or requested action or withdraws, abandons, cancels or neglects the application or if the Applicant is unable to find buyers willing to purchase the total bond issue required, then upon presentation of invoice, Applicant shall pay to the Agency, its agents or assigns, all actual costs incurred with respect to the application, up to that date and time, including fees to bond or transaction counsel for the Agency and fees of general counsel for the Agency. Upon successful conclusion of the transaction contemplated herein, the Applicant shall pay to the Agency an administrative fee set by the Agency in accordance with its fee schedule in effect on the date of the foregoing application, and all other appropriate fees, which amounts are payable at closing.

The Applicant hereby subscribes and affirms under the penalties of perjury that the information provided in this Application is true, accurate and complete to the best of his ~~or her~~ knowledge

  
\_\_\_\_\_  
Representative of Applicant

Sworn to me before this 16th  
Day of June, 2021



**\*\* Note: If the entities named in this Application are unrelated and one individual cannot bind both entities, Parts VII, IX and X of this Application must be completed by an individual representative for each entity \*\***

## **EXHIBIT A**

### **Proposed PILOT Schedule**

Upon acceptance of the Application and completion of the Cost Benefit Analysis, the Agency will attach the proposed PILOT Schedule to this Exhibit.

**Coast 2 Coast DRAFT PILOT**

YEAR	PILOT
1	\$ 24,769
2	\$ 25,265
3	\$ 25,770
4	\$ 26,285
5	\$ 26,811
6	\$ 27,347
7	\$ 27,894
8	\$ 28,452
9	\$ 29,021
10	\$ 29,602

**PROPOSED PILOT BENEFITS ARE FOR  
DISCUSSION PURPOSES ONLY AND  
HAVE NOT BEEN APPROVED BY THE  
AGENCY.**

**Town of Brookhaven Industrial Development**  
**Schedule of Fees**

Application - \$3,000 for projects with total costs under \$5 million  
\$4,000 for projects with total costs \$5 million and over  
(non-refundable)

Closing/Expansion  
Sale/Transfer/Increase of  
Mortgage Amount/  
Issuance of Refunding  
Bonds -

$\frac{3}{4}$  of one percent up to \$25 million total project cost and an additional  $\frac{1}{4}$  of one percent on any project costs in excess of \$25 million. Projects will incur a minimum charge of \$10,000 plus all fees incurred by the Agency including, but not limited to publication, legal, and risk monitoring.

Annual Administrative - \$2,000 administrative fee plus \$500 per unrelated subtenant located in the project facility. This fee is due annually.

Termination - Between \$1,000 and \$2,500

Refinance

(excluding refunding bonds) -  $\frac{1}{4}$  of one percent of mortgage amount or \$5,000, whichever is greater.

Late PILOT Payment - 5% penalty, 1% interest compounded monthly, plus \$1,000 administrative fee.

PILOT extension - a minimum of \$15,000

Processing Fee - \$275 per hour with a minimum fee of \$275

Lease of Existing Buildings  
(partial or complete) -

Fee is based on contractual lease amount.

The Agency reserves the right to adjust these fees.

Updated: November 17, 2020

## **SCHEDULE B**

### **CONSTRUCTION WAGE POLICY**

**EFFECTIVE January 1, 2005**

The purpose of the Brookhaven IDA is to provide benefits that reduce costs and financial barriers to the creation and to the expansion of business and enhance the number of jobs in the Town.

The Agency has consistently sought to ensure that skilled and fair paying construction jobs be encouraged in projects funded by the issuance of IDA tax exempt bonds in large projects.

The following shall be the policy of the Town of Brookhaven IDA for application for financial assistance in the form of tax-exempt financing for projects with anticipated construction costs in excess of \$5,000,000.00 per site received after January 1, 2005. Non-profit corporations and affordable housing projects are exempt from the construction wage policy.

Any applicant required to adhere to this policy shall agree to:

- (1) Employ 90% of the workers for the project from within Nassau or Suffolk Counties. In the event that this condition cannot be met, the applicant shall submit to the Agency an explanation as to the reasons for its failure to comply and;
- (2) Be governed by the requirements of Section 220d of Article 8 of the Labor Law of the State of New York; and when requested by the Agency, provide to the Agency a plan for an apprenticeship program;

OR

- (3) Provide to the Agency a project labor agreement or alternative proposal to pay fair wages to workers at the construction site.

Furthermore, this policy may be waived, in the sole and final discretion of the Agency, in the event that the applicant demonstrates to the Agency special circumstances or economic hardship to justify a waiver to be in the best interests of the Town of Brookhaven.

Adopted: May 23, 2005

## **SCHEDULE C**

### **RECAPTURE AND TERMINATION POLICY**

**EFFECTIVE JUNE 8, 2016**

Pursuant to Sections 874(10) and (11) of Title 1 of Article 18-A of the New York State General Municipal Law (the “Act”), the Town of Brookhaven Industrial Development Agency (the “Agency”) is required to adopt policies (i) for the discontinuance or suspension of any financial assistance provided by the Agency to a project or the modification of any payment in lieu of tax agreement and (ii) for the return of all or part of the financial assistance provided by the Agency to a project. This Recapture and Termination Policy was adopted pursuant to a resolution enacted by the members of the Agency on June 8, 2016.

#### **I. Termination or Suspension of Financial Assistance**

The Agency, in its sole discretion and on a case-by-case basis, may determine (but shall not be required to do so) to terminate or suspend the Financial Assistance (defined below) provided to a project upon the occurrence of an Event of Default, as such term is defined and described in the Lease Agreement entered into by the Agency and a project applicant (the “Applicant”) or any other document entered into by such parties in connection with a project (the “Project Documents”). Such Events of Default may include, but shall not be limited to, the following:

- 1) Sale or closure of the Facility (as such term is defined in the Project Documents);
- 2) Failure by the Applicant to pay or cause to be paid amounts specified to be paid pursuant to the Project Documents on the dates specified therein;
- 3) Failure by the Applicant to create and/or maintain the FTEs as provided in the Project Documents;
- 4) A material violation of the terms and conditions of the Project Agreements; and
- 5) A material misrepresentation contained in the application for Financial Assistance, any Project Agreements or any other materials delivered pursuant to the Project Agreements.

The decision of whether to terminate or suspend Financial Assistance and the timing of such termination or suspension of Financial Assistance shall be determined by the Agency, in its sole discretion, on a case-by-case basis, and shall be subject to the notice and cure periods provided for in the Project Documents.

For the purposes of this policy, the term “Financial Assistance” shall mean all direct monetary benefits, tax exemptions and abatements and other financial assistance, if any, derived solely from the Agency’s participation in the transaction contemplated by the Project Agreements including, but not limited to:

- (i) any exemption from any applicable mortgage recording tax with respect to the Facility on mortgages granted by the Agency on the Facility at the request of the Applicant;

- (ii) sales tax exemption savings realized by or for the benefit of the Applicant, including and savings realized by any agent of the Applicant pursuant to the Project Agreements in connection with the Facility; and
- (iii) real property tax abatements granted under the Project Agreements.

## **II. Recapture of Financial Assistance**

The Agency, in its sole discretion and on a case-by-case basis, may determine (but shall not be required to do so) to recapture all or part of the Financial Assistance provided to a project upon the occurrence of a Recapture Event, as such term is defined and described in the Project Documents. Such Recapture Events may include, but shall not be limited to the following:

- 1) Sale or closure of the Facility (as such term is defined in the Project Documents);
- 2) Failure by the Applicant to pay or cause to be paid amounts specified to be paid pursuant to the Project Documents on the dates specified therein;
- 3) Failure by the Applicant to create and/or maintain the FTEs as provided in the Project Documents;
- 4) A material violation of the terms and conditions of the Project Agreements; and
- 5) A material misrepresentation contained in the application for Financial Assistance, any Project Agreements or any other materials delivered pursuant to the Project Agreements.

The timing of the recapture of the Financial Assistance shall be determined by the Agency, in its sole discretion, on a case-by-case basis, and is subject to the notice and cure periods provided for in the Project Documents. The percentage of such Financial Assistance to be recaptured shall be determined by the provisions of the Project Documents.

All recaptured amounts of Financial Assistance shall be redistributed to the appropriate affected taxing jurisdiction, unless agreed to otherwise by any local taxing jurisdiction.

For the avoidance of doubt, the Agency may determine to terminate, suspend and/or recapture Financial Assistance in its sole discretion. Such actions may be exercised simultaneously or separately and are not mutually exclusive of one another.

## **III. Modification of Payment In Lieu of Tax Agreement**

In the case of any Event of Default or Recapture Event, in lieu of terminating, suspending or recapturing the Financial Assistance, the Agency may, in its sole discretion, adjust the payments in lieu of taxes due under the Project Agreements, so that the payments in lieu of taxes payable under the Project Agreements are adjusted upward retroactively and/or prospectively for each tax year until such time as the Applicant has complied with the provisions of the Project Agreements. The amount of such adjustments shall be determined by the provisions of the Project Documents.

## SCHEDULE D

### Agency Payment in Lieu of Taxes (PILOT) Policy

An annual fee of \$1,000 will be due to the Agency in addition to the PILOT payment to cover ongoing costs incurred by the Agency on behalf of the project.

1. The Town of Brookhaven Industrial Development Agency (IDA) may grant or be utilized to obtain a partial or full real property tax abatement for a determined period. To be eligible for this abatement there would be a requirement of new construction, or renovation, and a transfer of title of the real property to the Town of Brookhaven IDA.
2. The Chief Executive Officer (CEO) or their designee shall consult with the Town Assessor to ascertain the amounts due pursuant to each PILOT Agreement. Thereafter, the PILOT payment for each project shall be billed to the current lessees. The lessees can pay the PILOT payment in full by January 31<sup>st</sup> of each year, or in two equal payments due January 31<sup>st</sup> and May 31<sup>st</sup> of each year of the PILOT Agreement. The CEO or their designee shall send all PILOT invoices to the lessees on a timely basis.
3. The Town of Brookhaven IDA shall establish a separate, interest bearing bank account for receipt and deposit of all PILOT payments. The CEO or their designee shall be responsible for depositing and maintaining said funds with input from the Chief Financial Officer (CFO).
4. The CEO or their designee shall remit PILOT payments and penalties if any, to the respective taxing authorities in the proportionate amounts due to said authorities. These remittances shall be made within thirty (30) days of receipt of the payments to the Agency.
5. Payments in lieu of taxes which are delinquent under the agreement shall be subject to a late payment penalty of five percent (5%) of the amount due. For each month, or part thereof, that the payment in lieu of taxes is delinquent beyond the first month, interest shall on the total amount due plus a late payment penalty in the amount of one percent (1%) per month until the payment is made.
6. If a PILOT payment is not received by **January 31<sup>st</sup>** of any year or **May 31<sup>st</sup>** of the second half of the year the lessee shall be in default pursuant to the PILOT Agreement. The Agency may give the lessee notice of said default. If the payment is not received within thirty (30) days of when due, the CEO shall notify the Board, and thereafter take action as directed by the Board.
7. The CEO shall maintain records of the PILOT accounts at the Agency office.
8. Nothing herein shall be interpreted to require the Agency to collect or disburse PILOT payments for any projects which are not Agency projects.

9. Should the Applicant fail to reach employment levels as outlined in their application to the Agency, the Board reserves the right to reduce or suspend the PILOT Agreement, declare a default under the Lease or the Installment Sale Agreement, and/or convey the title back to the Applicant.
10. This policy has been adopted by the IDA Board upon recommendation of the Governance Committee and may only be amended in the same manner.

## Exhibit A

## AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE ("**Agreement**"), made as of the Effective Date (as defined in Section 30 of this Agreement), by and between GRUCCI PROPERTIES EAST LLC, a New York limited liability company, having an office at 1 Grucci Lane, Brookhaven, NY, 11719 ("**Seller**"), and ROBERT LEE, JR., an individual, having an office at \_\_\_\_\_ ("**Purchaser**").

### W I T N E S S E T H :

In consideration of the promises made and exchanged herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby covenant and agree as follows:

1. Agreement to Sell and Purchase.

Seller agrees to sell and convey to Purchaser, and Purchaser agrees to purchase from Seller, upon the terms and conditions hereinafter contained, all right, title and interest of Seller in and to (a) those certain lots, pieces or parcels of land having an address 20 Pinehurst Drive, Bellport, New York, as more particularly bounded and described in Exhibit A attached hereto and hereby made a part hereof (the "Land"), together with (i) the building(s) erected thereon (collectively, the "Building"), any and all other improvements erected thereon (the Building and such other improvements being hereinafter collectively referred to as the "Improvements"), (ii) the land lying in the bed of any street, highway, road or avenue, opened or proposed, public or private, in front of or adjoining the Land, to the center line thereof, (iii) any rights of way, appendages, appurtenances, easements, sidewalks, alleys, gores or strips of land adjoining or appurtenant to the Land or any portion thereof and used in conjunction therewith, (iv) development, mineral, oil, air, gas and/or water rights, if any, appurtenant to the Land or any portion thereof and (v) any award or payment made or to be made in lieu of any of the foregoing or any portion thereof and any unpaid award for damage to the Land or any of the Improvements by reason of change of grade or closing of any street, road or avenue, it being understood and agreed that Seller will execute and deliver to Purchaser on the Closing Date (as hereinafter defined) or thereafter (which obligation shall survive the Closing (as hereinafter defined), upon reasonable written request, all proper instruments for the conveyance of such right, title and interest and for the assignment and collection of any such awards or payments, without representation or warranty by or recourse to Seller, (b) all fixtures, machinery, tangible personal property and equipment (including the cubicles and desks located within the cubicles currently located in the center common area and the wall paper murals located on the lobby and internal entrance area), all in its "as is" condition, and (c) transferable permits and licenses, if any, held solely for use in connection with all or any portion of the Land and the Improvements. All desks and furniture located within the enclosed external offices are excluded from the sale.

All of the above enumerated property, rights and interests to be sold to Purchaser pursuant to this Agreement are hereinafter sometimes collectively referred to as the "Property."

2. Exceptions to Title; Title Matters.

2.1. The Property shall be subject to the following (collectively, the "Permitted Exceptions"):

2.1.1. All presently existing and future liens for unpaid real estate taxes and water and sewer charges not due and payable as of the Closing Date, subject to adjustment as provided below.

2.1.2. All present and future zoning, building, environmental and other laws, ordinances, codes, restrictions and regulations of all governmental authorities having jurisdiction with respect to the Property, including, without limitation, landmark designations and all zoning variances and special exceptions, if any (collectively, "Laws and Regulations"), provided that the current use and occupancy do not violate the Laws and Regulations.

2.1.3. All recorded covenants, restrictions and rights and all easements and agreements for the erection and/or maintenance of water, gas, steam, electric, telephone, sewer or other utility pipelines, poles, wires, conduits or other like facilities, and appurtenances thereto, over, across and under the Property (collectively, "Rights") provided the same are not violated by the Improvements.

2.1.4. Any state of facts shown on that survey prepared by Barrett Bonacci & Van Weele, P.C. dated July 30, 2013, a copy of which is attached hereto as Exhibit B, and any additional state of facts (such additional state of facts are collectively hereinafter referred to as "Facts") that an updated survey of or a personal inspection of the Property would show or reveal, provided such Facts do not render title uninsurable in accordance with this Agreement.

2.1.5. All violations of building, fire, sanitary, environmental, housing and similar Laws and Regulations (collectively, "Violations") noted or issued after the date ~~hereof~~ *of Closing*.

2.1.6. Consents by the Seller or any former owner of the Property for the erection of any structure or structures on, under or above any street or streets on which the Property may abut, provided such consents do not render title uninsurable in accordance with this Agreement.

2.1.7. Possible minor encroachments and/or projections of stoop areas, roof cornices, window trims, vent pipes, cellar doors, steps, columns and column bases, flue pipes, signs, piers, lintels, window sills, fire escapes, satellite dishes, protective netting, sidewalk sheds, ledges, fences, coping walls (including retaining walls and yard walls), air conditioners and the like, if any, on, under or above any street or highway, the Property or any adjoining property, provided that

the Title Company (as hereinafter defined) will insure against such deviations without additional premium.

2.1.8. Minor <sup>less than 1 foot</sup> variations between tax lot lines and lines of record title.

2.1.9. Standard exclusions and exceptions contained in the jacket of a standard New York form of title insurance policy issued at the time of Closing by the Title Company.

2.1.10. Any financing statements, chattel mortgages, encumbrances or mechanics' or other liens entered into by, or arising from, any financing statements filed on a day more than five (5) years prior to the Closing and any financing statements, chattel mortgages, encumbrances or mechanics' or other liens filed against property no longer on the Property. ?

2.1.11. The matters described in Schedule 2.1.11 attached hereto and made a part hereof.

2.1.12. Any other matter which the Title Company may raise as an exception to title, provided the Title Company will insure against collection or enforcement of same out of the Property and/or that no prohibition of present use or maintenance of the Property will result therefrom, as may be applicable.

2.2. Purchaser agrees to cause title to the Property to be examined by \_\_\_\_\_ (the "Title Company") and shall direct the Title Company to deliver copies of such title report (the "Title Report") to Seller's attorney simultaneously with the delivery of same to Purchaser. Purchaser further agrees that no later than forty-five (45) days following the Effective Date (the "Title Report Objection Date"), Purchaser will furnish to Seller's attorney in writing (the "Title Report Objection Notice"), specifying any defect, lien or encumbrance (each a "Title Defect" and collectively, the "Title Defects") other than a Permitted Exception. Purchaser's failure to deliver the Title Report Objection Notice to Seller's attorney on or prior to 5:00 PM Eastern Standard Time on the Title Report Objection Date shall constitute Purchaser's irrevocable acceptance of the Title Report and Purchaser shall be deemed to have unconditionally waived any right to object to any matters set forth therein. Except as otherwise expressly provided herein, Seller shall have no obligation to cure any Title Defects. If Purchaser timely provides Seller's attorney with Purchaser's title objections with respect to the Property, and the Seller does not give notice, in writing, of Seller's agreement to cure any or all of such Title Defects within three (3) business days following the receipt by Seller's attorney of Purchaser's written Title Defects (the "Seller Title Response Period"), Purchaser may terminate this Agreement by providing written notice to Seller within three (3) business days following the Seller Title Response Period. In the event Purchaser elects a termination of this Agreement, all rights, duties and obligations hereunder shall cease and be of no further force or effect and the Escrow Agent (as defined in Section 3.2.1 below) shall return the Downpayment (as hereinafter defined) to Purchaser, whereupon neither party shall have any further rights, duties or obligations

hereunder except with respect to the provisions of this Agreement which expressly survive the termination of this Agreement. If Purchaser does not terminate this Agreement pursuant to its rights under this Section 2.2, then Purchaser shall be deemed to have waived its right to object to such Title Defect. If Purchaser shall fail to notify Sellers' counsel on or before the date which is the fifth (5<sup>th</sup>) day after Purchaser's receipt, or Purchaser's attorney's receipt, of a Supplement, of the existence of any Title Defect which is not shown on the Title Report, but in any event prior to the Closing Date, Purchaser shall be deemed to have waived its right to object to such Title Defect. Such notice shall include a description of the Title Defects being objected to by Purchaser or Purchaser's attorney. If, after giving the Title Report Objection Notice to Seller's attorney, Purchaser learns, through continuation reports or other written evidence, of any title defect(s) which Purchaser claims are not Permitted Exceptions and "subject to" which Purchaser believes it is not required to accept title, Purchaser shall give written notice thereof to Seller's attorney immediately after the date Purchaser learns of same and Purchaser shall be deemed to have unconditionally waived any such matters as to which it fails to give such written notice to Seller's attorney within five (5) Business Days after the date Purchaser learns of same. Purchaser acknowledges and agrees that TIME IS OF THE ESSENCE with respect to all time periods set forth in this Section 2.2. For the purposes of this Agreement, the term "Business Day" shall mean any day of the year on which banks are not required or authorized by law to close in New York City. Notwithstanding any provision to the contrary contained in this Agreement, with respect to any matter which the Title Company may raise as an exception to title in the Title Report, if First American Title Insurance Company, Chicago National Title Insurance Company, Stewart Title Insurance Company or any other national title company licensed in New York State, would be willing to, as applicable, (i) insure against collection or enforcement of same out of the Property or (ii) insure that no prohibition of the present use of the Property will result therefrom (in each instance, without additional charge to Purchaser), then same shall constitute a Permitted Exception hereunder (even if the named Title Company is not willing to, as applicable, (i) insure against collection or enforcement of same out of the Property or (ii) insure that no prohibition of the present use of the Property will result therefrom (in each instance, without additional charge to Purchaser). *Delivery of a copy of the title report or of any supplement to the title report shall be deemed Notice of objection or notice of title defects.*

2.3. If, at the Closing, Seller fails or is unable to convey to Purchaser title to the Property subject to and in accordance with the provisions of this Agreement, Seller shall be entitled, upon written notice delivered by email or fax to Purchaser's attorney, to reasonable adjournments of the Closing Date one or more times to enable Seller to convey such title, provided such adjournments shall not exceed sixty (60) days (provided in no event shall such adjournment extend the Closing beyond the expiration date of Purchaser's loan commitment). If Seller does not so elect to adjourn the Closing, or if Seller has not adjourned the Closing Date for an additional period and is unable to convey title subject to and in accordance with the provisions of this Agreement, Purchaser may terminate this Agreement by written notice delivered on or promptly after the date scheduled for the Closing, in which event the Escrow Agent shall repay to Purchaser the Downpayment (as hereinafter defined), subject to Section 23 hereof, and this Agreement shall thereupon be deemed canceled and become void and of no further effect, and neither party hereto shall have any obligations of any nature to the other hereunder or by reason hereof, except that the provisions of Sections 5.4, 12, 23 and 26 hereof shall survive such termination. If Seller elects to adjourn the Closing as provided above, this Agreement shall remain in effect for the period or periods of adjournment, in accordance with its terms. Except

as otherwise expressly set forth in Section 2.6 hereof, Seller shall not be required to take or bring any action or proceeding or to take any other steps to remove any defect in or objection to title or to fulfill any condition or to expend any moneys therefor, nor shall Purchaser have any right of action against Seller therefor, at law or in equity.

2.4. Notwithstanding anything in Section 2.3 above to the contrary, Purchaser may at any time accept such title as Seller can convey, without reduction of the Purchase Price (as hereinafter defined) or any credit or allowance on account thereof or any claim against Seller. The acceptance of the Deed (as defined in subsection 8.1.1 below) by Purchaser shall be deemed to be full performance of, and discharge of, every agreement and obligation on Seller's part to be performed under this Agreement.

2.5. The amount of any unpaid taxes, assessments and water and sewer charges which Seller is obligated to pay and discharge, with interest and penalties, may at the option of Seller be allowed to be paid by Purchaser out of the balance of the Purchase Price if official bills therefor with interest and penalties thereon figured to said date are furnished to or obtained by the Title Company at the Closing for payment thereof.

2.6. If the Property shall, at the time of the Closing, be subject to any liens such as for judgments or transfer, inheritance, estate, franchise, license or other similar taxes or any encumbrances or other title exceptions which would be grounds for Purchaser to terminate this Agreement, the same shall not be deemed an objection to title provided that, at the time of the Closing, either (a) Seller delivers in Current Funds (as hereinafter defined) to the Title Company at the Closing in the amount required to satisfy the same and delivers to Purchaser and/or the Title Company at the Closing instruments in recordable form (and otherwise in form reasonably satisfactory to the Title Company in order to omit the same as an exception to the Title Policy (hereinafter defined) sufficient to satisfy and discharge of record such liens and encumbrances together with the cost of recording or filing such instruments or (b) the Title Company will otherwise issue or bind itself to issue a policy which will insure against collection thereof from or enforcement thereof against the Property.

2.7. Notwithstanding anything to the contrary contained in this Agreement, the fact that the Property does not have a certificate or certificates of occupancy (or, if there be such certificate(s), that there exist any variances between such certificate(s) and the actual state or use(s) of the Property) shall not be deemed to be an objection to title. 77

### 3. Purchase Price and Payment.

3.1. The purchase price payable to Seller for the Property is Four Million and 00/100 DOLLARS (\$4,000,000.00) (the "Purchase Price"), subject to such apportionments, adjustments and credits as are provided in Sections 6, 11 and 24 hereof.

3.2. The Purchase Price is payable as follows:

3.2.1. ONE HUNDRED THOUSAND AND 00/100 (\$100,000.00) DOLLARS (the "Downpayment"), not later than one (1) business

days after the date hereof, by wire transfer of immediately available federal funds ("Current Funds") to \_\_\_\_\_, as escrow agent ("Escrow Agent"). The Downpayment shall be applied against the Purchase Price at Closing subject to the earlier termination of this Agreement as provided herein.

3.2.2. THREE MILLION NINE HUNDRED THOUSAND AND 00/100 (\$3,900,000.00) DOLLARS, subject to the prorations, credits and payments specified in this Agreement, at the Closing (as hereinafter defined), shall be paid to Seller at the Closing by Current Funds to the Escrow Agent.

3.3. The Downpayment shall be held by Escrow Agent and disbursed in accordance with the terms and conditions of this Agreement. In the event Purchaser fails to deposit the Downpayment with the Escrow Agent as herein provided, Seller may, at its option, terminate this Agreement, in which event neither Seller nor Purchaser shall have any further rights, duties or obligations hereunder except for provisions of this Agreement which expressly survive the termination of this Agreement. Any interest earned on the Downpayment shall be deemed to be part of the Downpayment and shall be paid to the party entitled to receipt of the Downpayment, it being understood and agreed that any interest earned on the Downpayment shall not be credited to the Purchase Price upon the Closing and shall, upon the Closing, be and remain the property of Seller.

3.4. Subject to Section 23.1.3, whenever in this Agreement Purchaser is entitled to a return of the Downpayment, Purchaser shall be entitled to the return of the Downpayment, together with accrued interest, if any, actually being held by Escrow Agent pursuant to this Agreement. Subject to Section 23.1.3, whenever in this Agreement Seller is entitled to retain the Downpayment, Seller shall be entitled to the Downpayment actually being held by Escrow Agent pursuant to this Agreement.

3.5. The Purchaser shall have an opportunity to obtain at its own cost and expense a conventional first mortgage loan in the sum of \$3,650,000.00 (or such lesser amount that Purchaser is willing to accept) or a Small Business Administration Loan ("SBA Loan") at the prevailing interest rate for a term of one or more years and such other terms and conditions as may be required by the lending institution (the "Financing Contingency"). Purchaser agrees to make a good faith application for a loan commitment no later than ten (10) days after the Effective Date and to furnish all information and execute all instruments and pay all fees and charges customarily required by the lending institution. Purchaser shall promptly notify Seller of the name and address of such lending institution. Purchaser shall have forty-five (45) days after the Effective Date ("Financing Contingency Period") to obtain a loan commitment for a conventional mortgage loan or SBA Loan that satisfies the requirements of this Section 3.5. It is further agreed that all costs related to procuring and closing the conventional mortgage loan or SBA Loan, including, but not limited to mortgage broker's fees, origination fees, mortgage attorney's fees, mortgage insurance and other costs related to closing the loan shall be borne entirely by Purchaser. Purchaser shall accept such commitment when issued and shall comply with all requirements of such commitment. Purchaser shall furnish Seller with a copy of such commitment promptly after receipt thereof. In the event that, after diligent application by

Purchaser, Purchaser is unable to obtain such commitment within the time allotted, then following Seller's receipt (prior to the expiration of the Financing Contingency Period) of Purchaser's written notice to terminate this Agreement, the Downpayment paid hereunder shall be refunded to Purchaser and, upon such payment, this Agreement shall be deemed cancelled without further liability of the parties. In the event this Agreement is not terminated by reason of Purchaser's failure to obtain a mortgage commitment for a conventional loan or SBA Loan that satisfies the requirements of this Section 3.5, Purchaser shall be bound to proceed with this transaction. Furthermore, it is expressly agreed between the parties that after expiration of the Financing Contingency Period, Purchaser shall have no further rights to terminate this Agreement or to delay the Closing, regardless of whether its lender actually funds the loan pursuant to the mortgage commitment.

Once a bank commitment is issued and accepted by Purchaser, Purchaser will be required to use due diligence in obtaining any and all extensions necessary to maintain such commitment in force, notwithstanding that such extension may be at a higher interest rate or required payment of additional fees, or include other charges, provided that the need for such extension(s) are not the result of any act, or failure to act, on the part of Seller in fulfillment of its obligations under this Agreement.

The Financing Contingency shall be deemed fulfilled, and this Agreement shall be considered firm and binding on the Purchaser even though the mortgage loan commitment contains conditions to be satisfied by the Purchaser, as a prerequisite to funding the mortgage loan including but not limited to (i) proof and confirmations regarding the credit worthiness of Purchaser or any co-applicant and existing bank accounts of Purchaser or any co-applicant and any balances thereof, (ii) continuing employment of Purchaser or any co-applicant, and (iii) satisfaction of a debt by Purchaser or any co-applicant. THE RISK OF COMPLYING WITH ALL CONDITIONS OF THE COMMITMENT IN SUFFICIENT TIME TO BE ABLE TO CLOSE TITLE AT THE TIME, PLACE AND DATE SET FORTH HEREIN, IS EXCLUSIVELY ON PURCHASER, AND THE FAILURE OF THE LENDER TO FUND THE LOAN BECAUSE OF PURCHASER'S FAILURE TO COMPLY WITH ALL CONDITIONS OF THE COMMITMENT SHALL NOT EXCUSE PURCHASER FROM CLOSING TITLE AND PAYING THE BALANCE OF ALL SUMS DUE UNDER THIS PURCHASE AGREEMENT ON THE DATE OF CLOSING.

3.6. Upon the expiration of the Contingency Periods (as hereinafter defined), the Downpayment shall become non-refundable to Purchaser, except in the event of a default by Seller pursuant to the terms of Section 10 of this Agreement. *or seller's inability to transfer good & clear title free of liens or defects*

#### 4. Closing.

4.1. Provided the terms and conditions set forth in this Agreement have been fulfilled, the Seller's Closing Documents (hereinafter defined) and the Purchaser's Closing Documents (hereinafter defined) shall be delivered to Escrow Agent, together with payment of the Purchase Price, at the closing (the "Closing", the actual date of the Closing being herein referred to as the "Closing Date"), which shall take place on the date which is ninety (90) days after the expiration of the Due Diligence Period. **NOTWITHSTANDING ANYTHING TO**

THE CONTRARY, TIME SHALL BE OF THE ESSENCE with respect to all of Seller's and Purchaser's obligations under this Agreement, including, without limitation, Seller's and Purchaser's obligations under this Article 4 to deliver the Closing Documents and Purchaser's obligation to deliver the Purchase Price on the Closing Date. Notwithstanding the foregoing, Purchase acknowledges that Seller may adjourn the Closing in accordance with Section 2.3.

4.2. The Closing shall occur at the offices of Escrow Agent (or such other location as may be mutually agreed upon by Seller and Purchaser). The parties intend that the Closing will not be attended in person by representatives of the parties. Rather, the Closing shall occur by; (a) delivery of the Closing Documents by the Seller and Purchaser to the Escrow Company in escrow on or before the scheduled date of Closing, and (b) Purchaser shall deposit funds in the amount of the Net Purchase Price, plus or minus applicable prorations, with the Escrow Company in a closing escrow account with a bank satisfactory to both Purchaser and Seller. Upon satisfaction or completion of all closing conditions and deliveries, the parties shall direct Escrow Agent to immediately record and deliver the closing documents to the appropriate parties and make disbursements according to the closing statements executed by Seller and Purchaser.

5. Environmental Review Period; As Is.

5.1. Purchaser's Environmental Review Period

5.1.1. Purchaser shall have until 5:00 p.m. of the forty-fifth (45<sup>th</sup>) day following the Effective Date ("Limited Environmental Period") to conduct environmental inspections of the Property, provided, however, Purchaser acknowledges that it may not perform any type of invasive testing or sampling of, on, in or under the Property without Seller's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed provided that the Purchaser's consultant who issued a Phase I environmental assessment with respect to the Property recommends in writing that invasive testing or sampling of, on, in or under the Property be performed and provides a written scope of work for said invasive testing or sampling of, on, in or under the Property and said scope of work is reasonably acceptable to Seller. Upon completion of any intrusive testing performed on the Property, Purchaser shall restore promptly, at Purchaser's own cost and expense, the Property to its condition existing prior to such testing. Purchaser shall cause copies of any report (the "Report") showing results of any environmental study or test of the Property to be delivered to Seller promptly following Purchaser's receipt of the same. Unless the Report evidences a Recognized Environmental Condition ("REC") (as such term is defined by the American Society for Testing and Materials) that requires remediation, Purchaser shall proceed to Closing pursuant to the terms of this Agreement. However, should the Report evidence a REC requiring remediation, Purchaser, in its sole and absolute discretion, shall have the right to cancel this Agreement provided Seller receives written notice from Purchaser prior to the expiration of the Limited Environmental Period, which termination notice shall have attached thereto a copy of the Report. In the event Purchaser timely gives a written termination notice, this Agreement shall thereupon terminate, whereupon all rights (including, without limitation, Purchaser's right to purchase the Property) and obligations

of the parties under this Agreement shall terminate, except for those provisions hereunder which specifically survive the termination of this Agreement, and the Escrow Agent shall return the Downpayment, together with interest earned thereon, if any, to Purchaser. If Purchaser shall fail to timely give the termination notice, Purchaser shall be deemed to have waived the right to cancel this Agreement as provided in this Section 5.1.1 and Purchaser shall proceed with the Closing without any credit or reduction to the Purchase Price.

5.1.2. Purchaser shall carry and/or Purchaser shall cause its contractors conducting any on site investigations to carry commercial general liability insurance covering all activities conducted by such contractors on the Property. Such insurance shall have limits of not less than One Million Dollars (\$1,000,000.00) for personal injury to or death of persons in any one accident and One Million Dollars (\$1,000,000.00) for property damage, and shall name Seller as an additional insured. As a condition precedent to Purchaser's or any of Purchaser's contractors' first entry onto the Property, Purchaser shall deliver (or cause to be delivered) to Seller a certificate of insurance (from an insurance company and in a form reasonably acceptable to Seller) certifying that Purchaser or such contractor, as applicable, carries the insurance required by this Section. Any access to the Property required by Purchaser in connection with the inspection of the Property contemplated hereunder (i) must be upon written notice to Seller and during reasonable business hours and (ii) at all times Purchaser and its representatives shall be accompanied by a representative of Seller when at the Property. Purchaser agrees that its inspection activities shall not interfere with the operation of the Property, and to repair any or all damage caused to the Property arising or resulting from such inspection.

5.1.3. As a covenant of Purchaser which, notwithstanding any provision herein to the contrary, shall survive the Closing or the termination of this Agreement, Purchaser agrees to indemnify and hold Seller harmless from any and all costs, liabilities, liens, actions, damages and expenses, including, without limitation, reasonable attorneys' fees (and reasonable attorney's fees in the collection thereof) imposed upon, incurred by, asserted against, or suffered by Seller resulting from, arising out of or in connection with the activities or entry upon the Property by Purchaser, its affiliates, officers, members, shareholders, agents, partners, employees and contractors.

5.2. Purchaser hereby acknowledges, represents, warrants and agrees as follows:

5.2.1. Except as may otherwise be expressly set forth in this Agreement, Purchaser is expressly purchasing the Property in its existing condition "AS IS, WHERE IS, AND WITH ALL FAULTS" with respect to all facts, circumstances, conditions and defects. Seller has no obligation to determine or correct any such facts, circumstances, conditions or defects or to compensate Purchaser for same. Seller has specifically bargained for the assumption by Purchaser of all responsibility to investigate the Property, Laws and Regulations, Rights, Facts, Service Contracts and Violations and of all risk of adverse conditions and has structured the Purchase Price and other terms of this Agreement in consideration thereof. Except as otherwise provided herein, Purchaser

has, as of the date hereof, undertaken all such investigations and review of the Property, Laws and Regulations, Rights, Facts, Service Contracts and Violations as Purchaser deems necessary or appropriate under the circumstances as to the status of the Property and based upon same. Purchaser is and will be relying strictly and solely upon such inspections and examinations and the advice and counsel of its own consultants, agents, legal counsel and officers and Purchaser is and will be fully satisfied that the Purchase Price is fair and adequate consideration for the Property, and by reason of all the foregoing, Purchaser assumes the full risk of any loss or damage occasioned by any fact, circumstance, condition or defect pertaining to the Property.

5.2.2. Seller hereby disclaims all warranties of any kind or nature whatsoever (including warranties of habitability and fitness for particular purposes), whether expressed or implied, including, without limitation, warranties with respect to the Property. Purchaser acknowledges that, except as otherwise expressly provided in this Agreement, Purchaser is not relying upon any representation of any kind or nature made by Seller, or any of its employees or agents with respect to the Property, and that, in fact, no such representations were made except as expressly set forth in this Agreement.

5.2.3. Seller makes no warranty with respect to the presence of Hazardous Materials (as hereinafter defined) on, above or beneath the Land (or any parcel in proximity thereto) or in any water on or under the Property, except as otherwise expressly provided in this Agreement. Purchaser's closing hereunder shall be deemed to constitute an express waiver of Purchaser's right to cause Seller to be joined in any action brought under any Environmental Laws (as hereinafter defined). The term "Hazardous Materials" shall mean (a) those substances included within the definitions of any one or more of the terms "hazardous materials," "hazardous wastes," "hazardous substances," "industrial wastes," and "toxic pollutants," as such terms are defined under the Environmental Laws, or any of them, (b) petroleum and petroleum products, including, without limitation, crude oil and any fractions thereof, (c) natural gas, synthetic gas and any mixtures thereof, (d) asbestos and or any material which contains any hydrated mineral silicate, including, without limitation, chrysotile, amosite, crocidolite, tremolite, anthophyllite and/or actinolite, whether friable or non-friable, (e) polychlorinated biphenyl ("PCBs") or PCB-containing materials or fluids, (f) radon, (g) any other hazardous or radioactive substance, material, pollutant, contaminant or waste, and (h) any other substance with respect to which any Environmental Law or governmental authority requires environmental investigation, monitoring or remediation. The term "Environmental Laws" shall mean all federal, state and local laws, statutes, ordinances and regulations, now or hereafter in effect, in each case as amended or supplemented from time to time, including, without limitation, all applicable judicial or administrative orders, applicable consent decrees and binding judgments relating to the regulation and protection of human health, safety, the environment and natural resources (including, without limitation, ambient air, surface, water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species and vegetation), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §§ 9601, et seq.), the Hazardous Material Transportation Act, as amended (49 U.S.C. §§ 1801, et seq.), the Federal Insecticide, Fungicide, and

Rodenticide Act, as amended (7 U.S.C. §§ 136, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S. §§ 6901, et seq.) ("RCRA"), the Toxic Substance Control Act, as amended (42 U.S.C. §§ 7401, et seq.), the Clean Air Act, as amended (42 U.S.C. §§ 7401, et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251, et seq.), the Occupational Safety and Health Act, as amended (29 U.S.C. §§ 651, et seq.), the Safe Drinking Water Act, as amended (42 U.S.C. §§ 300f, et seq.), any state or local environmental law or counterpart or equivalent of any of the foregoing, and any Federal, state or local transfer of ownership notification or approval statutes.

5.3. Purchaser shall rely solely upon Purchaser's own knowledge of the Property based on its investigation of the Property and its own inspection of the Property in determining the Property's physical condition. Purchaser releases Seller, the Seller Related Parties and their respective successors and assigns from and against any and all claims which Purchaser or any party related to or affiliated with Purchaser (each, a "Purchaser Related Party") has or may have arising from or related to any matter or thing related to or in connection with the Property, except as expressly set forth in this Agreement to the contrary, including the documents and information referred to herein, any construction defects, errors or omissions in the design or construction and any environmental conditions, and, except as expressly set forth in this Agreement to the contrary, neither Purchaser nor any Purchaser Related Party shall look to Seller, the Seller Related Parties or their respective successors and assigns in connection with the foregoing for any redress or relief. This release shall be given full force and effect according to each of its express terms and provisions, including those relating to unknown and unsuspected claims, damages and causes of action. The provisions of this Section 5.3 shall survive the termination of this Agreement or the Closing Date and shall not be deemed to have merged into any of the documents executed or delivered at the Closing. To the extent required to be operative, the disclaimers and warranties contained herein are "conspicuous" disclaimers for purposes of any applicable law, rule, regulation or order.

5.4. As a covenant of Purchaser which, notwithstanding any provision herein to the contrary, shall survive any termination of this Agreement, Purchaser shall keep all materials provided to Purchaser by Seller, if any, and all materials generated by Purchaser in the course of conducting its inspections and other due diligence activities relating to the Property, whether obtained through documents, oral or written communications or otherwise (collectively, "Information"), in the strictest confidence for a period ending the earlier of closing or first anniversary of the date hereof, provided Purchaser shall have the right to disclose such Information to and share such Information with attorneys, auditors, accountants, contractors and any other third parties whom Purchaser may employ or engage or with whom Purchaser may work in connection with this transaction and the investigations contemplated hereunder. Under no circumstances shall any of the Information be used for any purpose other than the investigation of the Property in connection with its purchase by Purchaser as contemplated under this Agreement. Purchaser shall cause the confidentiality obligations set forth in this Section 5.4 to be agreed to by its attorneys, auditors, accountants and any other third parties whom Purchaser may employ or with whom Purchaser may work in connection with this transaction and the investigations contemplated hereunder, except that the Information may be disclosed (i) if such Information is available to the public or is a part of the public domain or (ii) upon the prior written consent of Seller or (iii) as may be required by law. If the Closing fails to occur and this

Agreement is terminated, Purchaser shall return to Seller all physical or electronic Information delivered by Seller and will destroy any copies of such physical or electronic Information made by Purchaser.

5.5. This Article 5 shall survive Closing and termination of this Agreement.

6. Apportionments.

6.1. At the Closing, the following items shall be apportioned between the parties as of 11:59 PM on the day preceding the Closing Date. Any errors in the apportionments pursuant to this Section 6 shall be corrected by appropriate re-adjustment between Seller and Purchaser after the Closing, provided that notice of any such error, with supporting calculations, shall be given by Purchaser to Seller or by Seller to Purchaser, as the case may be, no later than ninety (90) days after the Closing (if ascertainable within such period); it being understood and agreed that if any such items or errors are not ascertainable at the Closing or within ninety (90) days thereafter, the apportionment shall be made after the Closing when the charge or error is determined. All apportionments shall be made in the manner recommended by the Customs in Respect to Title Closings of the Real Estate Board of New York, Inc., and there shall be no other apportionments. The items to be apportioned are:

6.1.1. Intentionally omitted.

6.1.2. Real estate taxes, unmetered water and sewer charges and vault charges, if any, and any and all other municipal or governmental assessments of any and every nature levied or imposed upon the Property in respect of the current fiscal year of the applicable taxing authority in which the Closing Date occurs (the "Current Tax Year"), on a per diem basis based upon the number of days in the Current Tax Year prior to the Closing Date (which shall be allocated to Seller) and the number of days in the Current Tax Year on and after the Closing Date (which shall be allocated to Purchaser). If the Closing shall occur before the tax rate for the Current Tax Year is fixed, the apportionment of real estate taxes shall be upon the basis of the tax rate for the next preceding fiscal period applied to the latest assessed valuation. Promptly after the new tax rate is fixed for the fiscal period in which the Closing takes place, the apportionment of real estate taxes shall be recomputed. Upon the Closing Date and subject to the adjustment provided above, Purchaser shall be responsible for real estate taxes and assessments levied or imposed upon the Property payable in respect of the Current Tax Year and all periods after the Current Tax Year. In no event shall Seller be charged with or be responsible for any increase in the real estate taxes or assessments levied or imposed upon the Property resulting from the transfer of the Property herein contemplated or from any improvements made or for any reason. In the event that any assessments levied or imposed upon the Property are payable in installments, the installment for the Current Tax Year shall be prorated in the manner set forth above and Purchaser hereby assumes the obligation to pay any such installments due on and after the Closing Date.

6.1.3. Intentionally omitted.

6.1.4. Any charges or fees for transferable licenses and permits for the Property.

6.1.5. Fuel, if any, then stored at the Property on the basis of the Seller's last cost therefor, including sales tax, as evidenced by a current written statement of the Seller's fuel oil supplier, which statement shall be conclusive as to quantity and cost.

6.2. If there are water meters on the Property, Seller shall endeavor to furnish readings to a date not more than thirty (30) days prior to the Closing Date, and the unfixed meter charges and the unfixed sewer rents, if any, based thereon for the intervening time shall be apportioned on the basis of such last readings. If Seller fails or is unable to obtain such readings, the Closing shall nevertheless proceed and the parties shall apportion the meter charges and sewer rents for the Property on the basis of the last readings and bills received by Seller for the Property, provided that such last readings and bills are dated not more than ninety (90) days prior to the Closing Date, and the same shall be appropriately readjusted after the Closing on the basis of the next subsequent bills.

6.3. The provisions of this Section 6 shall survive the Closing; provided, however, that any re-prorations or re-apportionments shall be made as and when required under Section 6.1 above.

7. Representations and Warranties of the Parties. Certain Covenants.

7.1. Seller warrants, represents and covenants to and with Purchaser that the following are true and correct on the date hereof:

7.1.1. Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code 1986, as amended, or any regulations promulgated thereunder (collectively, the "Code").

7.1.2. Except with respect to the Service Contracts indicated on Exhibit C Seller has not caused the Company to enter into any written service contracts relating to the Property ("Service Contracts") which will be binding upon Purchaser after the Closing. Nothing herein contained shall be deemed to be a guaranty, warranty or assurance that any Service Contracts will be in effect at the Closing, and the termination of any Service Contract prior to the Closing shall not affect Purchaser's obligations hereunder.

7.1.3. Seller has not received written notice of any pending or threatened condemnation or eminent domain proceedings that would affect the Property.

7.1.4. Seller is not a Blocked Person (as hereinafter defined), it being understood that Seller makes no representation with respect to any person or entity that owns an indirect equity interest in Seller by virtue of owning publicly traded

securities. For purposes of this Agreement, a "Blocked Person" is any person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the U.S. Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action.

7.1.5. Seller has not granted any right of first refusal or option to acquire any right in or to the Property, to any person or entity.

7.1.6. To Seller's actual knowledge, there are no actions, proceedings or litigation pending or, to the best of Seller's knowledge, threatened against or involving Seller or the Property.

7.1.7. Seller is a duly organized and validly existing limited liability company under the laws of the State of New York.

7.1.8. Seller has the full right, power and authority to enter into this Agreement and to sell and convey the Property to Purchaser as provided in this Agreement and to carry out Seller's obligations hereunder. All requisite action necessary to authorize Seller to enter into this Agreement and perform its obligations hereunder have been taken. The joinder of no person or entity other than Seller will be necessary to convey the Property fully and completely to Purchaser upon Closing. This Agreement is a valid and binding obligation of Seller and is enforceable against Seller in accordance with its terms. The individual executing this Agreement on Seller's behalf has been duly authorized and empowered to bind Seller to this Agreement.

When used in this Contract or in any certificate or other document delivered pursuant hereto, the phrase "to the best of Seller's knowledge," "to Seller's knowledge," or derivations thereof shall be construed to mean the current, actual knowledge of Felix Grucci without any obligation to make investigation or inquiry regarding the Property, and without obligation to make any investigation of the files, documents or studies in the possession of other persons, and shall not include any knowledge which may be imputed to Seller or of any other person. Purchaser acknowledges that the individuals named above are named solely for the purpose of defining and narrowing the scope of Seller's knowledge and not for the purpose of imposing any liability on or creating any duties running from such individuals to Purchaser. Purchaser covenants that it will bring no action of any kind against such individuals, related to or arising out of these representations and warranties.

7.2. Purchaser warrants, represents and covenants to and with Seller that the following are true and correct on the date hereof:

7.2.1. Purchaser is not subject to any law, order, decree, restriction, or agreement which prohibits or would be violated by this Agreement or the

consummation of the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite action of Purchaser. This Agreement constitutes, and each document and instrument contemplated hereby to be executed and delivered by Purchaser, when executed and delivered, shall constitute the legal, valid and binding obligation of Purchaser enforceable against Purchaser in accordance with its respective terms (subject to bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditor's rights generally).

7.2.2. Neither the execution, delivery and performance of this Agreement nor the consummation of the transactions contemplated hereby is prohibited by, or requires Purchaser to obtain any consent, authorization, approval or registration under any law, statute, rule, regulation, judgment, order, writ, injunction or decree which is binding upon Purchaser.

7.2.3. There are no judgments, orders, or decrees of any kind against Purchaser unpaid or unsatisfied of record, nor any actions, suits or other legal or administrative proceedings pending or, to the best of Purchaser's actual knowledge, threatened against Purchaser, which would have any material adverse effect on the business or assets or the condition, financial or otherwise, of Purchaser or the ability of Purchaser to consummate the transactions contemplated by this Agreement.

7.2.4. Purchaser is not a Blocked Person, it being understood that Purchaser makes no representation with respect to any person or entity that owns an indirect equity interest in Purchaser by virtue of owning publicly traded securities.

7.3. Purchaser agrees and acknowledges that, except as specifically set forth in this Agreement, neither Seller nor any of the Seller Related Parties nor Broker nor any agent nor any representative nor any purported agent or representative of Seller or any of the Seller Related Parties or Broker have made, and neither Seller nor any of the Seller Related Parties nor Broker are liable for or bound in any manner by, any express or implied warranties, guaranties, promises, statements, inducements, representations or information pertaining to the Property or any part thereof. Without limiting the generality of the foregoing, Purchaser has not relied on any representations or warranties, and Seller, the Seller Related Parties and Broker have not made any representations or warranties other than as expressly set forth herein, in either case express or implied, as to (a) the current or future real estate tax liabilities, assessments or valuations of the Property, (b) the potential qualification of the Property for any and all benefits conferred by Federal, state or municipal laws, whether for subsidies, special real estate tax treatment, insurance, mortgages, or any other benefits, whether similar or dissimilar to those enumerated, (c) the compliance of the Property, in its current or any future state, with applicable zoning ordinances and the ability to obtain a change in the zoning or a variance with respect to the Property's non-compliance, if any, with said zoning ordinances, (d) the availability of any financing for the alteration, rehabilitation or operation of the Property from any source, including, but not limited to, any state, city or Federal government or any institutional lender, (e) the current or future use of the Property, (f) the present and future condition and operating state

of any and all machinery or equipment on the Property and the present or future structural and physical condition of the Improvements or their suitability for rehabilitation or renovation, (g) the ownership or state of title of any personal property, (h) the presence or absence of any Laws and Regulations or any Violations, (i) the layout, leases, rents, income, expenses, operation, agreements, licenses, easements, instruments, documents or Service Contracts of or in any way affecting the Property. Further, Purchaser acknowledges and agrees that neither Seller nor any of the Seller Related Parties nor Broker are liable for or bound by (and Purchaser has not relied upon) any verbal or written statements, representations or any other information respecting the Property furnished by Seller, any of the Seller Related Parties or Broker or any broker, employee, agent, consultant or other person representing or purportedly representing Seller, any of the Seller Related Parties or Broker. The provisions of this Section 7.3 shall survive the Closing.

8. Closing Deliveries.

8.1. At or prior to the Closing, Seller shall deliver to Escrow Agent the following documents (collectively, herein referred to as the "Seller's Closing Documents"):

8.1.1. A statutory form of Bargain and Sale Deed without covenants against grantors acts, sufficient to convey fee title to the Property subject to and in accordance with the provisions of this Agreement, in the form attached hereto as Exhibit D-1 and made a part hereof (the "Deed").

8.1.2. A bill of sale in the form attached hereto as Exhibit D-2.

8.1.3. All keys and codes, if any, to any portion of the Property, to the extent in Seller's possession or control.

8.1.4. A certificate, executed and acknowledged by Seller, in accordance with Section 1445 of the Code.

8.1.5. A Combined Real Estate Transfer Tax Return and Credit Line Mortgage Certificate, Form TP-584 for the Property (the "State Transfer Tax Return"), executed by Seller.

8.1.6. A State of New York Real Property Transfer Report Form RP-5217 in respect of the Property, executed by Seller ("Equalization Form").

8.1.7. An owner's title affidavit from Seller in the form attached hereto as Exhibit E.

8.2. At or prior to the Closing, Purchaser shall pay the balance of the Purchase Price pursuant to Section 3.2.2 hereof and Purchaser shall execute, acknowledge and deliver or

cause to be delivered to Escrow Agent the following documents (collectively, the "Purchaser's Closing Documents"):

8.2.1. A counterpart of the State Transfer Tax Return, executed by Purchaser.

8.2.2. A counterpart of the Equalization Form, executed by Purchaser.

8.3. Seller and Purchaser, at the Closing, shall prepare, execute and deliver to each other, subject to all the terms and provisions of this Agreement, (a) a closing statement setting forth, inter alia, the closing adjustments and material monetary terms of the transaction contemplated hereby and (b) such other instruments and documents as may be reasonably required to effectuate the consummation of the transactions described in this Agreement.

9. Conditions to the Closing Obligations.

9.1. Notwithstanding anything to the contrary contained in this Agreement, the obligation of Seller to convey the Property to Purchaser and Purchaser to purchase in accordance with this Agreement is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided that Seller, at its election, evidenced by notice delivered to Purchaser at or prior to the Closing, may waive any of such conditions:

9.1.1. Purchaser shall have delivered to Escrow Agent the Purchase Price and other funds required hereunder and shall have executed, acknowledged and delivered to Escrow Agent all of the Purchaser's Closing Documents, and such other documents and other items required pursuant to Section 8, at or prior to Closing.

9.1.2. Purchaser shall have performed in all material respects all other covenants, undertakings and obligations to comply with all conditions required by this Agreement to be performed or complied with by Purchaser at or prior to Closing.

9.1.3. All representations and warranties made by Purchaser in this Agreement shall be true and correct in all material respects as of the Closing Date.

9.2. Notwithstanding anything to the contrary contained in this Agreement, the obligation of Purchaser to acquire the Property and pay the Purchase Price in accordance with this Agreement is expressly conditioned upon the fulfillment by and as of the Closing Date of each of the conditions listed below, provided that Purchaser, at its election, evidenced by notice delivered to Seller at or prior to the Closing, may waive all or any of such conditions:

9.2.1. Seller shall have executed and delivered to Escrow Agent all of the Seller's Closing Documents, and such other documents and other items required pursuant to Section 8, at or prior to Closing.

9.2.2. All representations and warranties made by Seller in this Agreement shall be true and correct in all material respects as of the Closing Date, except to the extent the facts and circumstances underlying such representations and warranties may have changed as of the Closing. Notwithstanding the foregoing, if on the Closing Date any such representations and warranties are not true and correct in all material respects, Purchaser shall in any event be required to close hereunder and pay the Purchase Price to Seller unless the breach(es) of any representations and warranties will have, in the aggregate, a "material adverse effect" provided that in such event, Seller shall be entitled, at its option and in its sole discretion, to pay to Purchaser such amount on account of such breach(es) as will cause the same to no longer have a "material adverse effect", in which event Purchaser shall be required to close hereunder. As used herein, a "material adverse effect" shall be deemed to have occurred if by reason of such misrepresentation the fair market value of the Property is decreased by more than five percent (5%) of the Purchase Price (as the same may be adjusted).

9.2.3. The Title Company shall be willing to insure title to the Property pursuant to an ALTA 2006 Owner's Policy of Title Insurance in the amount of the Purchase Price at regular rates and without additional premium (which shall not be deemed to include the cost of any endorsements to title requested by Purchaser), subject only to the Permitted Exceptions and as otherwise provided in this Agreement (the "Title Policy").

9.3. Purchaser shall accept the Property subject to all Violations, whether or not, noted or issued prior to or after the date hereof. The Property shall be delivered vacant and free and clear of all occupants and/or tenants.

#### 10. Limitation on Liability of Parties.

10.1. If Purchaser shall default in the performance of Purchaser's obligations under this Agreement and the Closing does not occur as a result thereof (a "Purchaser Default"), Seller's sole and exclusive remedy shall be, and Seller shall be entitled, to retain the Downpayment as and for full and complete liquidated and agreed damages for Purchaser's Default, and Purchaser shall be released from any further liability to Seller hereunder, except that the provisions of Sections 5.4, 12, 23 and 26 hereof shall survive. SELLER AND PURCHASER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES WHICH SELLER MAY SUFFER UPON A PURCHASER DEFAULT AND THAT THE DOWNPAYMENT REPRESENTS A REASONABLE ESTIMATE OF THE TOTAL NET DETRIMENT THAT SELLER WOULD SUFFER UPON A PURCHASER DEFAULT. SUCH LIQUIDATED AND AGREED DAMAGES ARE NOT INTENDED AS A FORFEITURE OR A PENALTY WITHIN THE MEANING OF APPLICABLE LAW.

10.2. Subject to the provisions of Section 2.3 hereof, if Seller shall default in the performance of Seller's obligations under this Agreement and the Closing does not occur as a result thereof, Purchaser's sole and exclusive remedy shall be, and Purchaser shall be entitled, to either (a) instruct Escrow Agent to pay to Purchaser the Downpayment (a "Downpayment Return"), upon which Seller shall be released from any further liability to Purchaser hereunder, except that the provisions of Sections 5.4, 12, 23 and 26 hereof shall survive or (b) if Seller's default is the willful or intentional refusal to convey title to the Property as provided in this Agreement, (i) seek specific performance of Seller's obligations hereunder, provided that any such action for specific performance must be commenced within ninety (90) days after such default, or (ii) instruct Escrow Agent to make a Downpayment Return; in all of which events Seller shall, in no event whatsoever, be liable to Purchaser for any other damages of any other kind whatsoever.

11. Fire or Other Casualty; Condemnation.

11.1. From the Effective Date until the Closing Date, Seller agrees to (a) maintain its present property insurance policy including fire and extended coverage and (b) give Purchaser reasonably prompt notice of any fire or other casualty occurring at the Property of which Seller obtains knowledge, or of any actual or threatened condemnation of all or any part of the Property of which Seller obtains knowledge.

11.2. If prior to the Closing there shall occur (a) damage to the Property caused by fire or other casualty which would cost an amount equal to 20% of the Purchase Price or more to repair, as reasonably determined by an engineer selected by Seller which is satisfactory to Purchaser in the exercise of its reasonable judgment, or (b) a taking by condemnation of any material portion of the Property, then, and in either such event, Purchaser may elect to terminate this Agreement by notice given to Seller within ten (10) days after Purchaser has received the notice referred to in Section 11.1 hereof, or at the Closing, whichever is earlier, in which event Seller shall promptly instruct Escrow Agent, to return the Downpayment and upon Purchaser's receipt of such Downpayment, this Agreement shall thereupon be null and void and neither party hereto shall thereupon have any further obligation to the other, except that the provisions of Sections 5.4, 12, 23 and 26 hereof shall survive such termination. If Purchaser does not elect to terminate this Agreement, then the Closing shall take place as herein provided, without abatement of the Purchase Price, and Seller shall assign to Purchaser at the Closing, by written instrument in form reasonably satisfactory to Purchaser, all of Seller's interest in and to any insurance proceeds or condemnation awards which may be payable to Seller on account of any such fire, casualty or condemnation, shall deliver to Purchaser any such proceeds or awards actually theretofore paid, less any amounts (the "Reimbursable Amounts") (i) actually and reasonably expended or incurred by Seller in adjusting any insurance claim or negotiating and/or obtaining any condemnation award (including, without limitation, reasonable attorneys' fees and expenses) and/or (ii) theretofore actually and reasonably incurred or expended by or for the account of Seller for the cost of any compliance with laws, protective restoration or emergency repairs made by or on behalf of Seller (to the extent Seller has not theretofore been reimbursed by its insurance carriers for such expenditures), and Seller shall pay to Purchaser the amount of the deductible, if any, under Seller's property insurance policy(ies), less all Reimbursable

Amounts not received by Seller from any insurance proceeds or condemnation awards paid to Seller prior to the Closing.

11.3. If, prior to the Closing, there shall occur (a) damage to the Property caused by fire or other casualty which would cost less than 20% of the Purchase Price to repair, as reasonably determined by an engineer selected by Seller which is reasonably satisfactory to Purchaser in the exercise of its reasonable discretion or (b) a taking by condemnation of any part of the Property which is not material, then, and in either such event, neither party shall have the right to terminate its obligations under this Agreement by reason thereof, but Seller shall assign to Purchaser at the Closing, by written instrument in form and substance reasonably satisfactory to Purchaser, all of Seller's interest in any insurance proceeds or condemnation awards which may be payable to Seller on account of any such fire, casualty or condemnation, or shall deliver to Purchaser any such proceeds or awards actually theretofore paid, in each case less any Reimbursable Amounts, and Seller shall pay to Purchaser the amount of the deductible, if any, under Seller's property insurance policy(ies), less all Reimbursable Amounts not received by Seller from any insurance proceeds or condemnation awards paid to Seller prior to the Closing. The proceeds of rent interruption insurance, if any, shall on the Closing Date be appropriately apportioned between Purchaser and Seller.

11.4. Nothing contained in this Section 11 shall be construed to impose upon Seller any obligation to repair any damage or destruction caused by fire or other casualty or condemnation.

11.5. For purposes of this Section 11, a taking of a material part of the Property shall mean any taking which leaves remaining a balance of Property which may not be economically operated (after appropriate restoration) for the purpose for Property was operated or intended to be operated prior to such taking.

11.6. If Purchaser does not elect to terminate this Agreement in accordance with Section 11.2 above, or upon the occurrence of the events set forth in Section 11.3 (a) or (b) above, Seller shall have the exclusive right to negotiate, compromise or contest the obtaining of any insurance proceeds and/or any condemnation awards.

## 12. Broker.

Seller represents and warrants to Purchaser that it has not dealt with any broker, consultant, finder or like agent who might be entitled to a commission or compensation on account of introducing the parties hereto, the negotiation or execution of this Agreement or the closing of the transactions contemplated hereby other than Douglas Elliman and Rice Real Estate (collectively, "Broker"). Seller shall pay the commission due to Broker pursuant to a separate agreement. Purchaser represents and warrants to Seller that (i) Purchaser has not dealt with or engaged any other broker, consultant, finder or like agent who might be entitled to a commission or compensation with respect to the transaction contemplated hereby, and (ii) except for Broker, Purchaser has not dealt with any broker, consultant, finder or like agent that brought the Property to the attention of Purchaser or otherwise communicated with Purchaser with respect to the transaction contemplated hereby. Each party agrees to indemnify and hold harmless the other

party from and against all claims, losses, liabilities and expenses (including, without limitation, reasonable attorneys' fees and disbursements) caused by or arising out of (a) a breach of any of the aforesaid representations and warranties of the indemnifying party; and (b) any claim for any commission or other compensation of any person or entity (other than Broker) claiming to have dealt with, on behalf of, through or under the indemnifying party. The provisions of this Section 12 shall survive the Closing or other termination of this Agreement.

13. Closings Costs; Fees and Disbursements of Counsel, etc.

At the Closing, Seller shall pay (a) the fees necessary to satisfy and record the appropriate satisfaction or release documents with respect to Seller's mortgage, and (b) the New York State Real Estate Transfer Tax imposed pursuant to Article 31 and Section 1402 of the New York Tax Law (the "State Transfer Tax"), upon or payable in connection with the transfer of the Property. Except as otherwise expressly provided to the contrary in this Agreement, Purchaser shall pay for (a) any and all costs and expenses associated with its due diligence, including, without limitation, any searches performed by the Title Company, (b) premiums for Purchaser's and any lender's title insurance policy and all endorsements thereto, (c) a current survey or any update of any existing survey of the Property; (d) all costs and expenses incurred in connection with any financing obtained by Purchaser, including without limitation, loan fees, mortgage recording taxes, financing costs and lender's legal fees, (e) any and all escrow or closing fees, and (f) any recording fees for documentation to be recorded in connection with the transactions contemplated by this Agreement. Each of the parties hereto shall bear and pay the fees and disbursements of its own counsel, accountants and other advisors in connection with the negotiation and preparation of this Agreement and the Closing. All other Closing costs not otherwise allocated herein shall be paid in accordance with local custom. The provisions of this Section 13 shall survive the Closing.

14. Notices.

Except as otherwise provided in this Agreement, all notices, demands, requests, consents, approvals or other communications (for the purposes of this Section collectively referred to as "Notices") required or permitted to be given hereunder or which are given with respect to this Agreement, in order to constitute effective notice to the other party, shall be in writing and shall be deemed to have been given when (a) personally delivered, with signed delivery receipt obtained, (b) when transmitted by email, if followed by delivery of, pursuant to one of the other means set forth in this Section 14 before the end of the first Business Day thereafter, printed confirmation of the successful transmission to the appropriate email address listed below as obtained by the sender from the sender's email account, (c) upon receipt, when sent by prepaid reputable overnight courier or (d) three (3) days after the date so mailed if sent postage prepaid by registered or certified mail, return receipt requested, in each case addressed as follows:

If to Seller, to:                      Grucci Properties East LLC  
                                                  1 Grucci Lane  
                                                  Brookhaven, NY

with a copy to:

Ruskin Moscou Faltischek, P.C.  
East Tower, 15<sup>th</sup> Floor  
1425 RXR Plaza  
Uniondale, New York 11556-1425  
Attention: Anthony Baronci, Esq.  
Telephone No: (516) 663-6554  
Email Address: [abaronci@rmfpc.com](mailto:abaronci@rmfpc.com)

If to Purchaser, to:

Robert Lee, Jr.  
*3505 Veterans Memorial Hwy*  
*Suite 11*  
*Rockville Centre, NY 11779*

with a copy to:

Richard Chertock, Esq.  
*2043 Ripley Lane*  
*Merrick, NY 11566*  
Telephone No: 516-771-6900  
Email Address: [rchertock@aol.com](mailto:rchertock@aol.com)

If to Escrow Agent, to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Telephone No: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

Personal delivery to a party or to any officer, partner, member, agent or employee of such party or the parties' counsel set forth herein at the foregoing addresses shall constitute receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been received shall also constitute receipt. Notices may be sent by the attorneys for the respective parties and each such notice so served shall have the same force and effect as if sent by such party. Notices shall be valid only if served in the manner provided in this Section 14.

15. Survival; Governing Law; Waiver of Trial by Jury.

15.1. Except as otherwise expressly set forth in this Agreement, the provisions of this Agreement shall not survive the Closing.

15.2. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with, the laws of the State of New York applicable to transactions made and to be performed in the State of New York, without giving effect to any part of such law that would result in the selection or application of the law of any other jurisdiction. The Parties hereby irrevocably submit to the *in personam* jurisdiction of the Nassau County Supreme Court, and any appellate courts related thereto, with respect to any action or proceeding between the Parties.

15.3. SELLER AND PURCHASER HEREBY EXPRESSLY WAIVE TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF, OR CONNECTED WITH, OR RELATING TO, THIS AGREEMENT OR THE RELATIONSHIP CREATED HEREBY, WITH RESPECT TO ANY MATTER FOR WHICH A JURY TRIAL CANNOT BE WAIVED, THE PARTIES AGREE NOT TO ASSERT ANY SUCH CLAIM AS A COUNTERCLAIM IN, NOR MOVE TO CONSOLIDATE SUCH CLAIM WITH, ANY ACTION OR PROCEEDING IN WHICH A JURY TRIAL IS WAIVED.

16. Counterparts; Captions.

This Agreement may be executed in counterparts, each of which shall be deemed an original. Signatures on copies of this Agreement transmitted electronically shall be deemed originals for all purposes. Facsimile and electronic signatures of the parties, and signatures transmitted in .pdf format, shall be deemed to be original signatures of the parties. The captions are for convenience of reference only and shall not affect the construction to be given any of the provisions hereof

17. Entire Agreement; No Third Party Beneficiaries.

This Agreement (including all exhibits annexed hereto) contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings, if any, with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person or entity other than the parties hereto. The provisions of this Section shall survive the Closing.

18. Waivers; Extensions.

No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

19. No Recording.

The parties hereto agree that neither this Agreement nor any memorandum or notice hereof shall be recorded. Any recordation or attempted recordation by Purchaser shall constitute a Purchaser's Default.

20. Assignment.

Purchaser shall neither assign its rights nor delegate its obligations hereunder without obtaining Seller's prior written consent, which consent may be granted or withheld in Seller's sole discretion. Notwithstanding anything to the contrary contained in this Section 20,

Purchaser may assign all of its rights and delegate all of its obligations hereunder to any Affiliate (as hereinafter defined) of Purchaser which is under the control of Purchaser. In connection with any assignment permitted or consented to hereunder, such assignee shall assume in writing all of the Purchaser's obligations under this Agreement, provided that Purchaser originally named herein shall not be relieved from its obligations under this Agreement. Any other purported or attempted assignment or delegation without obtaining Seller's prior written consent or not otherwise permitted hereunder shall be void and of no effect. For purposes of this Section 20, the capitalized term (a) "Affiliate" means (i) any corporation in which Purchaser directly or indirectly owns or controls more than fifty percent (50%) of the beneficial interest, (ii) any partnership, joint venture or limited liability company in which Purchaser is a partner, joint venturer or member, (iii) any trust in which Purchaser is a trustee or beneficiary and (b) "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the entity in question, whether through the ownership of voting stock, by contract or otherwise. No consent given by Seller to any transfer or assignment of Purchaser's rights or obligations hereunder shall be construed as a consent to any other transfer or assignment of Purchaser's rights or obligations hereunder. Purchaser shall not resell the Property or any part thereof through a "double escrow" or other similar procedure without Seller's prior written consent, which consent may be granted or withheld in Seller's sole discretion. No transfer or assignment in violation of the provisions hereof shall be valid or enforceable.

21. Pronouns; Joint and Several Liability.

All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the parties may require. If Purchaser consists of two or more parties, the liability of such parties shall be joint and several.

22. Successors and Assigns:

This Agreement shall bind and inure to the benefit of Seller, Purchaser and their respective permitted successors and assigns.

23. Escrow.

23.1. Escrow Agent shall hold and disburse the Downpayment in accordance with the following provisions:

23.1.1. The Escrow Agent shall hold the Downpayment in escrow in an account at [ ] (or as otherwise agreed in writing by Seller, Purchaser and Escrow Agent) until the Closing or sooner termination of this Agreement and shall pay over or apply such proceeds in accordance with the terms of this Section 23. All interest, if any, earned on the Downpayment shall be added to the Downpayment and become part thereof and shall be paid to the same party entitled to the Downpayment. The term "Downpayment" shall include all interest earned. A Form W-9 must be completed and executed by either Seller or Purchaser, as the case may be, concurrently with the execution of this Agreement. The failure to submit to Escrow

Agent an executed, completed Form W-9 shall stay Escrow Agent's obligation to deposit the escrow in an interest bearing account until such time that said form has been provided to Escrow Agent. The party providing the Form W-9 shall receive a 1099 for the interest on the Downpayment regardless of which party actually receives the interest on the Downpayment. If the Downpayment is held in a money market account, dividends thereon shall be treated, for purposes of this Section 23, as interest.

23.1.2. If the Closing occurs, then Escrow Agent shall deliver the Downpayment to Seller.

23.1.3. If Escrow Agent receives a notice signed by Purchaser or Seller (the "Noticing Party") stating that this Agreement has been canceled or terminated and that the Noticing Party is entitled to the Downpayment, or that the other party hereto, (the "Non-Noticing Party") has defaulted in the performance of its obligations hereunder, Escrow Agent shall deliver a copy of such notice to the Non-Noticing Party. The Non-Noticing Party shall have the right to object to such request for the Downpayment by notice of objection delivered to and received by Escrow Agent five (5) Business Days after the date of Escrow Agent's delivery of such copy to the Non-Noticing Party, but not thereafter. If Escrow Agent shall not have so received a notice of objection from the Non-Noticing Party, Escrow Agent shall deliver the Downpayment to the Noticing Party. If Escrow Agent shall have received a notice of objection from the Non-Noticing Party within the time herein prescribed, Escrow Agent shall, at its sole option, either (i) deliver to the court the Downpayment; or (ii) retain the Downpayment until one of the following events shall have occurred: (a) the Non-Noticing Party shall have failed to commence an action in a court of competent jurisdiction against the Noticing Party to resolve why the Noticing Party shall not be entitled to the payment of the Downpayment within forty-five (45) days after delivery of the Noticing Party's notice, by serving a summons and complaint on the Noticing Party and delivering to Escrow Agent a copy thereof, together with an affidavit of service within such forty-five (45) day period, in which event Escrow Agent shall pay over the Downpayment to the Noticing Party; (b) there shall have been served upon Escrow Agent an order or judgment duly entered in a court of competent jurisdiction setting forth the manner in which the Downpayment is to be paid out and delivered, in which event Escrow Agent shall deliver the Downpayment as set forth in such order or judgment; or (c) Seller and Purchaser shall have delivered to Escrow Agent a joint statement executed by both Seller and Purchaser setting forth the manner in which the Downpayment is to be paid out and delivered, in which event Escrow Agent shall deliver the Downpayment as set forth in such statement. Escrow Agent shall not be or become liable in any way or to any person for its refusal to comply with any such requests or demands by Seller and Purchaser until and unless it has received a direction of the nature described above.

23.2. Any notice to Escrow Agent shall be sufficient only if received by Escrow Agent within the applicable time period set forth herein. All mailings and notices from Escrow Agent to Seller and/or Purchaser, or from Seller and/or Purchaser to Escrow Agent, provided for in this Section 23 shall be addressed to the party to receive such notice at its notice address set

forth in Section 14 above (with copies to be similarly sent to the additional persons therein indicated).

23.3. Notwithstanding the foregoing, if Escrow Agent shall have received a notice of objection as provided for in Section 23.1.3 above within the time therein prescribed, or shall have received at any time before actual disbursement of the Downpayment a notice signed by either Seller or Purchaser disputing entitlement to the Downpayment or shall otherwise believe in good faith at any time that a disagreement or dispute has arisen between the parties hereto over entitlement to the Downpayment (whether or not litigation has been instituted), Escrow Agent shall have the right, upon notice to both Seller and Purchaser, (a) to deposit the Downpayment with the Clerk of the Court in which any litigation is pending and/or (b) to take such reasonable affirmative steps as it may, at its option, elect in order to terminate its duties as Escrow Agent, including, without limitation, the depositing of the Downpayment with a court of competent jurisdiction and the commencement of an action for interpleader, the costs thereof to be borne by whichever of Seller or Purchaser is the losing party, and thereupon Escrow Agent shall be released of and from all liability hereunder except for any previous gross negligence or willful misconduct.

23.4. Escrow Agent is acting hereunder without charge as an accommodation to Purchaser and Seller, it being understood and agreed that Escrow Agent shall not be liable for any error in judgment or any act done or omitted by it in good faith or pursuant to court order, or for any mistake of fact or law. Escrow Agent shall not incur any liability in acting upon any document or instrument believed thereby to be genuine. Escrow Agent is hereby released and exculpated from all liability hereunder, except only for willful misconduct or gross negligence. Escrow Agent may assume that any person purporting to give it any notice on behalf of any party has been authorized to do so. Escrow Agent shall not be liable for, and Purchaser and Seller hereby jointly and severally agree to indemnify Escrow Agent against, any loss, liability or expense, including reasonable attorneys' fees (either paid to retained attorneys or, representing the fair value of legal services rendered by Escrow Agent to itself), arising out of any dispute under this Agreement, including the cost and expense of defending itself against any claim arising hereunder.

23.5. All risk of loss of the Downpayment prior to Closing shall be borne by Purchaser. Purchaser and Seller shall split, 50-50, all escrow fees of Escrow Agent.

24. Tax Proceedings.

From and after the date hereof until the Closing, Seller is hereby authorized to commence or cause to be commenced any new proceeding or proceedings and/or continue any proceeding or proceedings now pending for the reduction of the assessed valuation of the Property, and in Seller's sole discretion at its sole cost and expense to litigate or settle same; provided, however, that Purchaser shall be entitled to that portion of any refund relating to the period occurring after the Closing after payment to Seller of all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Seller in obtaining such refund. Purchaser shall deliver to Seller, reasonably promptly after request therefor, receipted tax bills and canceled checks used in payment of such taxes and shall execute any and

all consents or other documents, and do any act or thing necessary for the collection of such refund by Seller. Any refunds or credits due for the periods prior to Purchaser's ownership of the Property shall remain the sole property of Seller. The provisions of this Section 24 shall survive the Closing.

25. Continued Operations.

Until the Closing or earlier termination of this Agreement, Seller shall operate and maintain Property in a manner consistent with the manner in which Seller has operated and maintained the Property prior to the Effective Date.

26. Confidentiality.

Seller and Purchaser covenant and agree not to communicate the terms or any aspect of this Agreement and the transactions contemplated hereby to any person or entity and to hold, in the strictest confidence, the content of any and all information in respect of the Property which is supplied by Seller to Purchaser or by Purchaser to Seller, without the express written consent of the other party; provided, however, that either party may, without consent, disclose the terms hereof and the transactions contemplated hereby (a) to its respective advisors, consultants, attorneys, accountants, partners, investors, and lenders (the "Transaction Parties") without the express written consent of the other party, so long as any such Transaction Parties to whom disclosure is made shall also agree to keep all such information confidential in accordance with the terms hereof and (b) if disclosure is required by law or by regulatory or judicial process or pursuant to any regulations promulgated by the New York Stock Exchange or other public exchange for the sale and purchase of securities, provided that in such event Seller or Purchaser, as applicable, shall notify the other party in writing of such required disclosure, shall exercise all commercially reasonable efforts to preserve the confidentiality of the confidential documents or information, as the case may be, including, without limitation, reasonably cooperating with the other party to obtain an appropriate order or other reliable assurance that confidential treatment will be accorded such confidential documents or information, as the case may be, by such tribunal and shall disclose only that portion of the confidential documents or information which it is legally required to disclose. If this Agreement is terminated, such confidentiality shall be maintained and Seller, Purchaser and the Transaction Parties will destroy unless the same is prohibited by law, or deliver to Seller or Purchaser, as applicable, upon request, all documents and other materials, and all copies thereof, obtained thereby in connection with this Agreement that are subject to such confidence, with any such destruction confirmed by Seller or Purchaser, as applicable, and the Transaction Parties in writing. The foregoing confidentiality obligations shall not apply to the extent that any such information is a matter of public record or is provided in other sources readily available to the real estate industry other than as a result of disclosure by Seller or Purchaser, as applicable, or the Transaction Parties. The provisions of this Section 26 shall survive the Closing or the earlier termination of this Agreement.

27. Further Assurances.

The parties each agree to do such other and further acts and things, and to execute and deliver such instruments and documents (not creating any obligations additional to those

otherwise imposed by this Agreement) as either may reasonably request from time to time, whether at or after the Closing, in furtherance of the purposes of this Agreement. The provisions of this Section 27 shall survive the Closing.

28. §1031 Exchange.

Provided that it does not delay the Closing, either party shall have the right to structure the sale of the Property as a forward or reverse exchange thereof for other real property of a like-kind to be designated by the exchanging party (including, without limitation, the ability to assign this Agreement to the individual principals of the exchanging party as tenants-in-common, an entity established in order to effectuate such exchange including a qualified intermediary, an exchange accommodation title holder or one or more limited liability companies that are owned by any of the foregoing persons), with the result that the exchange shall qualify for non-recognition of gain or loss under §1031 of the Code, the treasury regulations thereunder and IRS Revenue Procedure 2000-37. The non-exchanging party shall execute any and all documents reasonably requested by the exchanging party to effect such exchange, and otherwise assist and cooperate with the exchanging party in effecting such exchange, provided that any additional reasonable costs and expenses incurred by the non-exchanging party (other than its own attorneys' fees and costs incurred in reviewing such documents) as a result of structuring such transaction as an exchange, as opposed to an outright sale, shall be borne by the exchanging party, and the non-exchanging party shall incur no liability with respect to such structuring.

29. Miscellaneous.

29.1. Where this Agreement by its terms requires the payment of money or the performance of a condition or an act, or the giving of notice, on a day that is not a business day (as defined below), such payment may be made or condition or act performed, or notice given, on the next business day, with the same force and effect as if made or performed in accordance with the terms of this Agreement.

29.2. Purchaser shall not record this Agreement or any memorandum or notice of this Agreement, and any recordation of same shall be deemed a material default by Purchaser under this Agreement.

29.3. Purchaser agrees that notwithstanding any other provision of this Agreement, Purchaser shall look solely to the estate and property of Seller in the Property for the satisfaction of any of Purchaser's remedies in the event of any default or breach by Seller with respect to any of the terms, covenants and conditions of this Agreement, and no other property or assets of Seller, or any agent, member, manager, shareholder, director, officer, trustee, employee, partner, principal or beneficiary thereof, disclosed or undisclosed, shall be subject to levy, execution or other enforcement procedure for the satisfaction of Purchaser's remedies.

29.4. Whenever the terms "include" or "including" are used in this Agreement, such terms shall be interpreted and shall read as "include without limitation" or "including without limitation" unless the context expressly requires an interpretation and reading limited to a specific reference or example.

29.5. Time is of the essence of this Agreement and of each of its provisions. Unless otherwise expressly provided in this Agreement, any reference herein to time periods of fewer than seven (7) days will in the computation thereof exclude days that are not Business Days.

29.6. If it shall be necessary for either Purchaser or Seller to employ an attorney to enforce its rights pursuant to this Agreement, the non-prevailing party shall reimburse the prevailing party for its reasonable attorneys' fees pursuant to the terms of the Agreement. The provisions of this section shall survive the Closing or termination of the Agreement.

30. Effective Date.

As used herein, the term "Effective Date" shall mean for all purposes in this Agreement the date on which a fully executed counterpart of this Agreement is received by the Escrow Agent, as indicated by its signature below

31. IDA Inducement.

Section 1.01. Seller hereby acknowledges and agrees that Purchaser has advised Seller that Purchaser (a) intends to make application with the Town of Brookhaven Industrial Development Agency (the "TBIDA") for the granting of the Benefits (hereinafter defined) in connection with Purchaser's purchase of the Property and (b) would not have entered into this Agreement without the No Inducement Termination Option described herein. Accordingly, if the TBIDA has not issued a final inducement resolution for the prospective granting of the Benefits (an "Inducement Resolution") by the date that forty-five (45) days following the Effective Date of this Agreement (the "Inducement Deadline"), despite Purchaser having made an application therefor promptly following the Effective Date of this Agreement and thereafter having diligently pursued such issuance, then Purchaser shall have the right and option (the "No Inducement Termination Option") to terminate this Agreement (provided the Closing has not occurred) by written notice (the "No Inducement Termination Notice") given to Seller by the Inducement Deadline, **TIME BEING OF THE ESSENCE**. In the event Purchaser timely and promptly exercises the No Inducement Termination Option by the Inducement Deadline and prior to the Closing, then this Agreement shall be terminated, the Downpayment shall be refunded to Purchaser, and neither party shall have any further obligation or liability to the other under or in connection with this Agreement (except only with respect to those obligations or liabilities which, pursuant to the terms of this Agreement, would survive the termination of this Agreement). Notwithstanding anything to the contrary contained herein, if (i) the Inducement Resolution is issued by the Inducement Deadline, or (ii) Purchaser elects not to or otherwise fails to deliver to Seller the No Inducement Termination Notice by the Inducement Deadline (**TIME BEING OF THE ESSENCE**), then, in either such event, the No Inducement Termination Option shall be deemed to have lapsed and have been rendered of no further force or effect whatsoever. As used herein, the term "Benefits" shall collectively mean (x) a Payment-In-Lieu-of-Taxes ("PILOT") agreement, providing for a partial abatement and/or freeze of the real property taxes applicable to the Property for a term of years, (y) an exemption from certain sales and use taxes, and (z) an applicable exemption from mortgage recording tax, all such Benefits

being in form, substance and amounts acceptable to Purchaser. The parties acknowledge and agree that the issuance of a preliminary resolution for the Benefits will not constitute an Inducement Resolution for purposes of this Agreement if same includes any non-customary condition that would have a material adverse effect on Purchaser. By way of illustration and not limitation, the parties expressly acknowledge and agree, however, that the requirement of any or all of the following shall be considered customary conditions (i.e., not non-customary conditions) for purposes of this Agreement; a deadline for Closing; a lease or leases into and/or out of the TBIDA; a PILOT agreement; the inclusion of a "clawback" provision in the operative documents; a PILOT mortgage to secure such "clawback"; a requirement that Purchaser maintain a minimum number of full time jobs at the Property, subject to customary qualifications; a restriction against transfer of the Benefits without the prior written consent of the TBIDA. If and to the extent reasonably requested by Purchaser, Seller hereby covenants and agrees to reasonably cooperate, at no cost or expense to Seller, with Purchaser in Purchaser's application for, and pursuit of, the Inducement Resolution.

[The balance of this page is intentionally left blank. Signatures follow.]

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

**SELLER:**

Grucci Properties East LLC

By: \_\_\_\_\_  
Felix J. Grucci, Managing Member

**PURCHASER:**

\_\_\_\_\_  
Robert Lee, Jr.

RECEIPT OF DEPOSIT  
AND AGREEMENT OF ESCROW AGENT

Escrow Agent hereby acknowledges the receipt of one (1) fully signed and executed copy of this Agreement.

Upon receipt, the Escrow Agent agrees to hold the Downpayment in for the benefit of Seller and Purchaser and to dispose of the Downpayment in strict accordance with the terms and provisions of this Agreement.

[\_\_\_\_\_]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **Schedule 2.1.11**

Declaration of Covenants and Restrictions in Liber 10837 page 340.

Declaration of Covenants and Restrictions in Liber 12135 page 836.

Declaration of Covenants and Restrictions in -Groundwater Management in Liber 12188 page 914.

Covenants in Liber 12408 page 404.

Telephone Easement in Liber 12536 page 629.

Underground Electric Easement in Liber 12632 page 587.

FOR INFORMATION: Deed to Department of Public Works in Liber 12364 page 438 (Affects Horse Block Road).

Dedication and Release in Liber 12618 page 676.

Cross Easement in Liber 12444 page 507.

Certificate of Abandonment in Liber 12152 page 975 as re-recorded in Liber 12187 page 507.

Notes and Easement on Filed Map No. 10790.

Sewer Easement in Liber 11111 page 326 and Liber 11111 page 376 (Affects Streets and Common Areas).

## **EXHIBIT A**

### **Legal Description**

ALL that certain plot, piece or parcel of land, situate, lying and being at Bellport, Town of Brookhaven, County of Suffolk and State of New York being known and designated as part of Lot 2 on a certain map entitled "Map of Brookhaven Industrial Park, Section 1" which map filed in the Office of the Clerk of the County of Suffolk on July 2, 2002 as Map Number 10790; Said part of Lot 2 being bounded and described as follows:

BEGINNING at a point on the Southerly line of Pinehurst Drive distant 730.46 feet Easterly as measured along same from the extreme Easterly end of the arc of a curve which connects the Easterly line of Sawgrass Drive and the Southerly line of Pinehurst Drive;

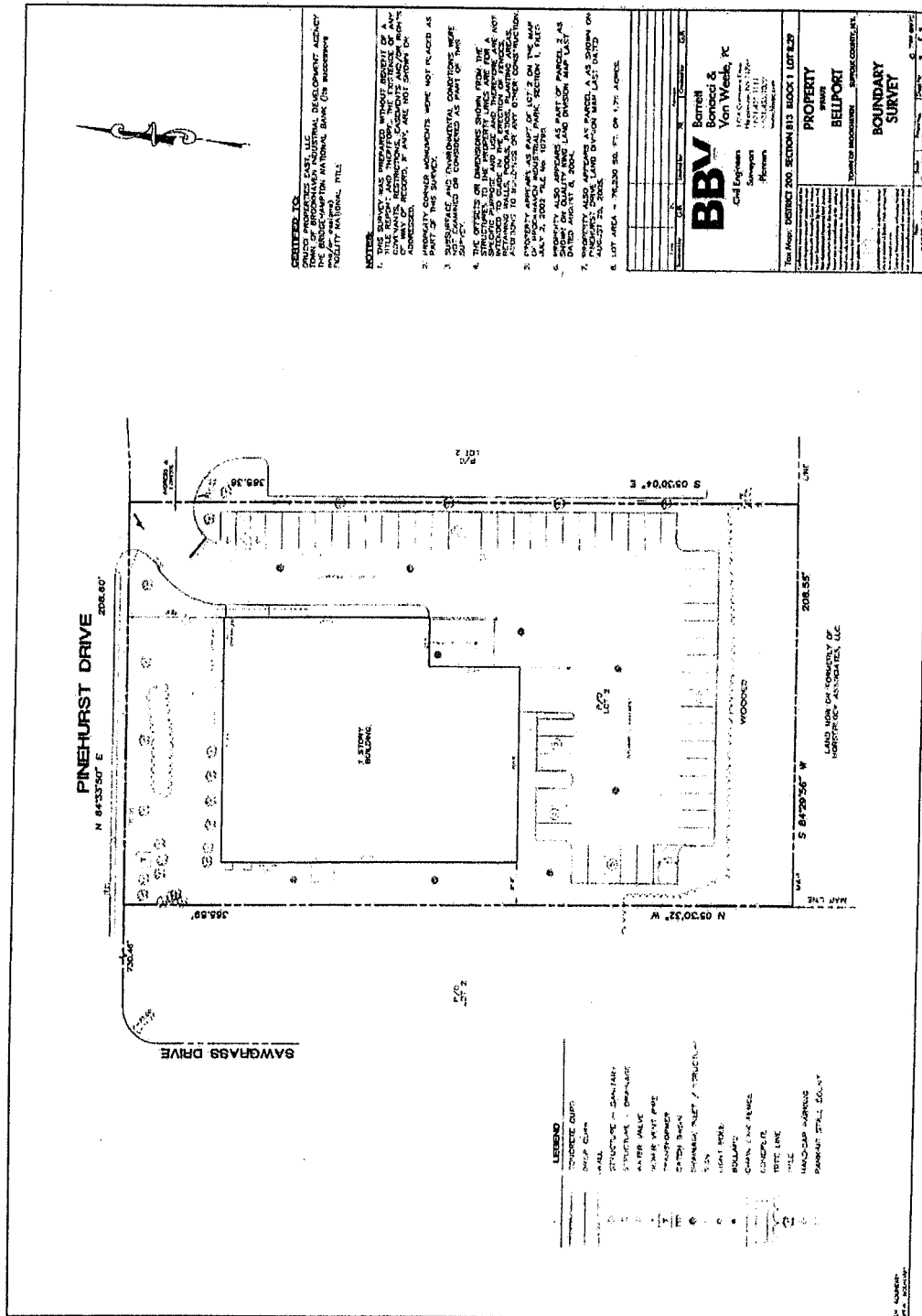
RUNNING THENCE North 84 degrees 33 minutes 50 seconds East along the Southerly line of Pinehurst Drive 208.60 feet;

THENCE South 05 degrees 30 minutes 04 seconds East 365.36 feet to land now or formerly of Horseblock Associates, LLC;

THENCE along the said last mentioned land South 84 degree 29 minutes 56 seconds West 208.55 feet;

THENCE North 05 degrees 30 minutes 32 seconds West 365.59 feet to the Southerly line of Pinehurst Drive to the point or place of BEGINNING.

## Survey



**EXHIBIT C**

**Service Contracts**

**[to be added]**

**EXHIBIT D-1**

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY.

THIS INDENTURE, made the \_\_\_\_ day of \_\_\_\_, two thousand and twenty-one

**BETWEEN**

\_\_\_\_\_, a New York \_\_\_\_\_, having an address at \_\_\_\_\_

party of the first part, and

\_\_\_\_\_, a \_\_\_\_\_ company, having an address at \_\_\_\_\_

party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of ten dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the TOWN OF BROOKHAVEN, COUNTY OF SUFFOLK AND STATE OF NEW YORK, bounded and described more particularly as set forth in Schedule A annexed hereto and made a part hereof;

See SCHEDULE A annexed hereto.

PREMISES known as 20 Pinehurst Drive, Bellport, New York.

Being the same premises to conveyed to party of the first part by deed dated \_\_\_\_\_, recorded \_\_\_\_\_ in Liber \_\_\_\_\_, page \_\_\_\_\_.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center of the lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to the premises, including all development rights, if any; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

By: \_\_\_\_\_

STATE OF NEW YORK )

COUNTY OF \_\_\_\_\_ ) ss:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2021, before me, the undersigned a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK )

COUNTY OF \_\_\_\_\_ ) ss:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2021, before me, the undersigned a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**BARGAIN AND SALE DEED  
WITHOUT COVENANTS  
AGAINST GRANTORS ACTS**

TITLE NO.  
\_\_\_\_\_  
\_\_\_\_\_

- to -  
\_\_\_\_\_  
\_\_\_\_\_

WARD:  
BLOCK:  
LOT:  
COUNTY:  
TAX BILLING ADDRESS:

RETURN BY MAIL TO:

Record at the Request of the  
Title Co.

**EXHIBIT D-2**

**Form of Bill of Sale**

KNOW ALL MEN BY THESE PRESENTS, that \_\_\_\_\_, a  
\_\_\_\_\_ company, having an address at \_\_\_\_\_ (hereinafter  
referred to as "Seller") for and in consideration of the sum of Ten Dollars (\$10.00) and other  
good and valuable consideration, paid to Seller by \_\_\_\_\_, a \_\_\_\_\_  
company, having an address \_\_\_\_\_ (hereinafter referred to as  
"Purchaser"), the receipt of which is hereby acknowledged, has bargained and sold, and by these  
presents does grant and convey unto Purchaser, the successors and assigns thereof, all fixtures,  
building equipment and other personal property, including all appliances, to the extent owned by  
Seller and located on or used in connection with the operation of the premises known as 20  
Pinehurst Drive, Bellport, New York (the "Premises") in its "AS IS" condition, without any  
representation or warranty whatsoever, specifically excepting and reserving therefrom any  
fixtures, equipment or personal property belonging to any former tenant, subtenant or occupant  
of the Premises.

TO HAVE AND TO HOLD the same unto Purchaser, the successors and assigns  
thereof forever.

IN WITNESS WHEREOF, Seller has duly executed this Bill of Sale as of  
\_\_\_\_\_, 2021.

\_\_\_\_\_  
By: \_\_\_\_\_

**EXHIBIT E**  
**FORM OF OWNER'S CERTIFICATE**

File # \_\_\_\_\_

Title Certificate ("Certificate") made this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by [\_\_\_\_\_] ,  
as \_\_\_\_\_ of GRUCCI PROPERTIES EAST LLC (the "Company").

1. The undersigned is the \_\_\_\_\_ of the Company. The Company is the owner of the premises known as 20 Pinehurst Drive, Bellport, NY (the "Premises").
2. No work has been done upon the Premises by or at the request of the Company, which will result in liens against the Premises.
3. There are no judgments, federal or state tax liens, or other liens, judgments or claims assessed or filed against the Company constituting liens against the Premises.
4. The undersigned has no actual knowledge of any proceeding in bankruptcy that is pending by or against the Company in any court.
5. There are no outstanding mortgages made by the Company affecting the Premises.
6. The undersigned has no actual knowledge of any rights or claims of parties in possession granted by the Company that are not shown in the public record.
7. As used in this Affidavit, the term "actual knowledge" means the actual present knowledge, and not any imputed knowledge, of [\_\_\_\_\_], without investigation.
8. The undersigned is executing this Affidavit solely in his capacity as \_\_\_\_\_ of the Company and shall not have any liability or obligation in connection with this Affidavit.

[The balance of this page is intentionally left blank.]

This Affidavit is given to \_\_\_\_\_ Title Insurance Company this \_\_\_\_ day of \_\_\_\_\_, 2020, knowing that said company will rely on its truthfulness in connection with insuring title to the Premises.

\_\_\_\_\_  
By: \_\_\_\_\_

Sworn and subscribed to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Notary Public

## Exhibit B

## **COMMERCIAL LEASE**

THIS LEASE made as of JUNE , 2021 between COAST 2 COAST REAL ESTATE LLC (the "Landlord") having offices located at 3505 VETERANS MEMORIAL HIGHWAY, STE D, RONKONKOMA, NY 11779, and BOLD SYSTEMS, LLC (the "Tenant") having offices located at 20 PINEHURST DRIVE, BELLPORT, NEW YORK

**IN CONSIDERATION** of the mutual covenants contained herein, the Landlord and Tenant hereby agree as follows:

### **ARTICLE 1 INTERPRETATION**

1.1 DEFINITIONS: In this Lease the following terms shall have the following meanings:

"Additional Rent" shall mean any and all other amounts payable by the Tenant to the Landlord to be discharged as Rent under the terms of this Lease;

"Building" shall mean the building(s) located on the Land, including all alterations and additions thereto and replacements, thereto;

"Commencement Date" shall mean September 1, 2021.

"Event of Default" shall mean any event referred to in Section 10.2 hereof;

"Gross Rent" shall mean all rental payments are inclusive of water, and property taxes paid or assessed through the Commencement Date and insurance premiums.

"Land" shall mean the premises commonly known as: 20 Pinehurst Drive, Bellport, NY

"Lease" shall mean this lease and any Schedules attached hereto which are referred to herein and every executed instrument which by its terms shall amend, modify or supplement this lease:

"Lease Year" shall mean each successive period of twelve (12) calendar months during the Term and ending on an anniversary of the Commencement Date; provided that if the Landlord deems it necessary for the Landlord's accounting purposes, the Landlord may, by written notice to the Tenant, specify another day on which each subsequent lease year is to commence, and in such event, any appropriate adjustments shall be made.

"Leased Premises" shall mean the 2300 Square Feet of Office Space at the Building located at the above address.

"Occupancy Date" shall mean September 1, 2021.

"Permitted Use" shall mean the business of general office space and all uses ancillary thereto.

"Rent" means the aggregate of all amounts payable by the Tenant to the Landlord under the terms of this Lease:

"Minimum Rent" shall mean the amounts due for each Lease Year as set forth hereunder:

YEAR OF TERM	AGGREGATE ANNUAL MINIMUM RENT	MONTHLY MINIMUM RENT
YEAR 1	\$45,600.00	\$3,800.00
YEAR 2	\$46,512.00	\$3,876.00
YEAR 3	\$47,442.24	\$3,953.52
YEAR 4	\$48,391.08	\$4,032.59
YEAR 5	\$49,358.90	\$4,113.24

"Term" shall mean a period of five (5) years commencing on the Commencement Date, or any renewal period hereunder.

"Termination Date" shall mean August 31, 2026, unless earlier terminated as provided in this Lease, or unless the term is extended per any Renewal Option.

## **ARTICLE 2**

### **GRANT OF LEASE AND GENERAL COVENANTS**

- 2.1 GRANT. The Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord the Leased Premises, to have and to hold during the Term, subject to the terms and conditions of this Lease.
- 2.2 LANDLORD'S GENERAL COVENANTS. The Landlord hereby covenants with the Tenant to provide quiet enjoyment of the Leased Premises, and to observe and perform all the covenants and obligations of the Landlord as provided herein.

- 2.3 TENANT'S GENERAL COVENANTS. The Tenant covenants with the Landlord to pay all Rent, and to observe and perform all the covenants and obligations of the Tenant as provided herein.

### **ARTICLE 3**

### **TERM OF POSSESSION**

- 3.1 TERM. The Term of the Lease shall begin on the Commencement Date and end on the Termination Date, unless sooner terminated as provided herein, or extended by Renewal.
- 3.2 POSSESSION OF LEASED PREMISES. The Tenant shall have occupancy of the Leased Premises from and after the Commencement Date through the Termination Date, during which time the Tenant shall pay all Minimum Rent, Rent and Additional Rent, if any, and shall observe and perform all covenants and obligations of the Tenant herein.

### **ARTICLE 4**

### **RENT**

- 4.1 RENT. The Tenant shall pay to the Landlord as Rent for the Leased Premises the aggregate of
- (a) Minimum Rent in respect of each year of the Term or Renewal term as the case may be, payable in advance and without notice or demand in monthly installments commencing on the Commencement Date, and
  - (b) Additional Rent at the times and in the manner provided in this Lease or, if not so provided, as reasonably required by the Landlord.
- 4.2 GROSS LEASE. It is the intent of the Landlord and the Tenant that this Lease shall be fully gross to the Landlord, providing that the Tenant shall not be responsible for costs and expenses expressly excluded by the terms of this Lease, and including, but not limited to, the following:
- (a) mortgage payments of principal or interest on any mortgage affecting the Leased Premises;

- (b) any income taxes of the Landlord, except to the extent that such income taxes are imposed in lieu of real property taxes;
- (c) any ground rental;
- (d) any structural repairs or replacements;
- (e) any expenditures with respect to the Leased Premises which are of a capital nature; and
- (f) utility expenses relating to water usage.

4.3 PAYMENT OF RENT. All amounts payable by the Tenant to the Landlord pursuant to this Lease shall be deemed to be Rent and shall be payable and recoverable as Rent in the manner herein provided and the Landlord shall have all rights against the Tenant for default in any such payment as in the case of arrears of rent. Except as otherwise provided in Section 8.1 hereof, Rent shall be paid to the Landlord in lawful money of the United States of America, without deduction or set-off, at the address of the Landlord, or to such other person or other address as the Landlord may, from time to time, designate in writing. The Tenant's obligation to pay Rent shall survive the expiration or earlier termination of this Lease.

4.4 BASE YEAR TAXES. Base Year Taxes are included in the first year's Minimum Rent. The Base Year Tax for Town and School taxes commence December 1, 2020 and ends November 30, 2021. Beginning with the first day of the second year of the Lease Term, Tenant shall pay to Landlord, within 30 days of notice, as Additional Rent for each tax year, a sum equal to the Tenant's share of any increase in taxes over and above the Base Year Taxes. Landlord shall furnish Tenant with an annual Escalation Statement for each tax year detailing both the increase over the Base Year Tax and Tenant's portion of same for such Tax Year. Tenant occupies one hundred (12%) percent of the premises, and therefore shall be responsible for one hundred (12%) percent of any tax increases over the Base Year Taxes.

4.5 SECURITY. Tenant shall deposit with the Landlord the equivalent of one (1) month's Rent (\$3,800.00) no later than September 1, 2021, as Security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this Lease. In the event that Tenant defaults in respect to any terms, provisions, covenants or conditions of this lease, including but not limited to, the payment of Rent or Additional Rent, Landlord may use, apply or retain the whole or any part of the Security so deposited to the extent required for the payment of any Rent or Additional Rent, or any other sum as to which Tenant is in default, or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default.

- (a) In the event that Tenant shall fully and faithfully comply with all the terms, provisions, covenants and conditions of this lease, the Security shall be returned to Tenant after the Termination Date and after delivery of possession of the

demised premises to Landlord in vacant and broom clean condition. Security may not be used for the final payment of Rent under this lease.

- (b) Whenever the annual Rent increases, Tenant will deposit with Landlord such additional sums as are necessary to permit Landlord to have on hand throughout the term of this lease, the equivalent of one (1) month's Rent as Security at all times.

## **ARTICLE 5**

### **USE AND OCCUPANCY**

- 5.1 **USE OF LEASED PREMISES.** The Tenant shall use the Leased premises only for the Permitted Use and shall not use or permit to be used the Leased Premises or any part thereof for any other purpose or business or by any persons other than the Tenant.
- 5.2 **COMPLIANCE WITH LAWS.** The Tenant shall comply with all present and future laws, regulations, ordinances and orders relating to the occupation or use of the Leased Premises, the condition of the leasehold improvements, equipment and other property of the Tenant therein, the making by the Tenant of any repairs, changes or improvements, and the conduct of business in the Leased Premises.
- 5.3 **PROHIBITED USES.** The Tenant shall not commit, cause or permit any nuisance or any waste or injury to or in or about the Leased Premises, or to any of the leasehold improvements, merchandise or fixtures therein, or conduct any use or manner of use causing annoyance to any person. Without limiting the generality of the foregoing, the Tenant shall not use or permit the use of any portion of the Leased Premises for any dangerous, illegal, noxious, odorous or offensive trade, business or occurrence, or other use contrary to the provisions of this Lease. The Tenant shall keep the Leased Premises free of debris or anything of a dangerous, noxious, odorous, hazardous or offensive nature or which could create an environmental or a fire hazard, whether through undue load on electric circuits or other cause, or undue vibration, heat or noise. Additionally, Tenant shall not permit smoking anywhere on the premises.
- 5.4 **HAZARDOUS USE.** The Tenant shall not do, omit to do, or permit to be done anything which will cause or shall have the effect of causing the cost of the Landlord's insurance in respect of the Leased Premises to be increased at any time during the Term, or any policy of insurance on or relating to the Lease Premises to be subject to cancellation. Without waiving the foregoing prohibition, the Landlord may demand and the Tenant shall pay to the Landlord upon demand, the amount of any increase in the cost of insurance caused by anything so done, or omitted to be done. The Tenant shall, immediately upon Landlord's request, comply with the requirements of the Landlord's insurers, cease any activity complained of and make good any circumstance which has caused any increase in insurance premiums or the cancellation of any insurance policy. If any policy of insurance in respect of the

Leased Premises is cancelled or becomes subject to cancellation by reason of anything so done or omitted to be done, the Landlord may without prior notice terminate this Lease and re-enter the Lease Premises.

- 5.5 **SIGNAGE.** The Tenant shall be permitted to install and exhibit a sign or signs identifying the Tenant and/or the Tenant's business activities on the Leased Premises, in areas designated by the Landlord and subject to the Landlord's prior written consent, which consent shall not be unreasonably withheld.
- 5.6 **RULES AND REGULATIONS.** The Landlord shall be entitled from time to time to make reasonable rules and regulations for the operation, maintenance, safety and use of the Leased Premises and the Tenant shall comply with such rules and regulations and shall cause its servants, agents, employees, customers, invitees and licensees to comply with such rules and regulations. Specifically, Tenant is hereby prohibited from allowing any smoking anywhere on the premises.

## **ARTICLE 6**

### **RIGHTS AND OBLIGATIONS OF THE LANDLORD**

- 6.1 **OPERATION OF LEASED PREMISES.** The Tenant shall assume full responsibility for the operation and maintenance of the Leased Premises, and for the repair or replacement of all fixtures or chattels located therein or thereon. The Landlord shall have no responsibility whatsoever, with respect to maintenance, repairs or replacement, except as to structural items and as provided in Section 6.2 herein, provided that if the Tenant fails to do so, the Landlord may at its sole option upon fourteen (14) days prior written notice and without any obligation to the Landlord, elect to perform such maintenance, repairs or replacement as the Landlord may reasonably deem necessary or desirable. In so doing, the Landlord shall not be liable for any consequential damage, direct or indirect to any person or property, including, but without restricting the generality of the foregoing, damages for a disruption of the business of the Tenant and damage to, or loss of, the goods, chattels and equipment and other property of the Tenant, nor shall any reduction or disruption of services be construed as a breach of the Landlord's covenants, or as an eviction of the Tenant, or release the Tenant from any obligation under this Lease provided that the Tenant's business is not unreasonably interfered with.
- 6.2 **ACCESS BY LANDLORD.** The Tenant shall permit the Landlord to enter the Leased Premises at any time outside normal business hours in case of an emergency and otherwise during normal business hours where such will not unreasonably interfere with or disturb the Tenant's use of the Leased Premises, or operation of its business, to examine, inspect and show the Lease Premises for purposes of leasing, sale or financing, to provide services or make repairs, replacements, changes or alterations as provided for in this Lease and to take such steps as the Landlord may deem necessary for the safety, improvement or preservation of the Leased Premises. The Landlord

shall, whenever possible, consult with or give reasonable notice to Tenant prior to entry, but not such entry shall constitute an eviction or a breach of the Landlord's covenant for quiet enjoyment or entitle the Tenant to any abatement of Rent. The Tenant shall also permit the Landlord, its employees and agents, at any time during the six (6) months prior to the expiration or termination of this Lease to enter the Leased Premises for the purpose of showing it to any such persons as may be desirous of purchasing or leasing the Leased Premises.

- 6.3.1 MAINTENANCE. It is understood and agreed that the Tenant herein will keep the sidewalks and all surrounding areas free and clear of dirt, snow and ice for the full term of this Lease. Tenant shall maintain approved trash containers at the rear of the building, or such other place as Landlord shall from time to time designate, for Tenant's garbage disposal and shall place same for pick up on Monday and Thursday mornings only. Additionally, Tenant shall keep all hallways and its premises free from debris at all times. Landlord shall perform regular maintenance on the landscaping and parking areas. Landlord will deliver all heating and plumbing in working order.

## **ARTICLE 7**

### **TENANT'S RESPONSIBILITIES**

71. TENANT'S OBLIGATIONS. In connection with the Leased Premises, the Tenant hereby agrees that it shall be responsible for the following throughout the Term:
- (a) INSURANCE. The Tenant shall take out and maintain in the name of the Landlord its agents, and employees, the Tenant and each mortgagee of the Leased Premises as their interests may appear the following forms of insurance:
    - (i) all risks property insurance (including flood, sewer back-up and earthquake) with coverage for the full replacement cost of the Leased Premises including By-Law endorsement for demolition or replacement;
    - (ii) insurance upon property of every description owned by the Tenant or for which the Tenant is legally liable and installed or kept within the Leased Premises (including leasehold improvements) in an amount not less than the full replacement costs value;
    - (iii) comprehensive public liability and broad form property damage insurance with limits of not less than \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate with extensions including but not limited to personal injury, intentional acts,

blanket contractual, cross-liability and severability of interest, occurrence property damage, employer's liability and non-owned automobile coverage;

- (iv) any other form or forms of insurance as the Landlord or its mortgagees may reasonably require.

All insurance policies required under this provision shall provide for a waiver of subrogation against the Landlord or those for whom it is in law responsible whether any damage is caused by the acts, omission, or negligence of the Landlord or those for whom it is in law responsible. Each such insurance policy shall further contain a prohibition against cancellation or material change that reduces or restricts the insurance coverage except upon 30 days prior written notice to the Landlord. The Tenant shall provide the Landlord with certified copies of each such insurance policy on or before the Commencement Date.

- (b) TAXES. The Tenant shall promptly pay and discharge all taxes, levies, duties, assessments, and license fees whatsoever whether municipal, school, provincial, parliamentary or otherwise levied, imposed or assessed against the Leased Premises or upon the Landlord in respect thereof, or from time to time levied, imposed or assessed in the future in lieu thereof, including those levied, imposed or assessed for education, school and local improvements, or other similar taxes imposed upon the Landlord or the Tenant and including all business taxes and/or realty taxes from time to time payable by the Landlord or levied against the Landlord on account of its ownership or operation of the Leased Premises; and including all costs and expenses (including legal fees on a solicitor and client basis and other professional fees and interest and penalties on deferred payments) incurred by the Landlord in good faith in contesting, resisting or appealing any such taxes, rates, duties, levies or assessments, but excluding income or profits taxes upon the income of the Landlord; as well as any form of capital or capital gains taxes levied in respect of the Leased Premises all to be paid by the Tenant on or before the date when the same or installments for the same are due. The Tenant shall upon the request of the Landlord promptly deliver to the Landlord for examination all receipts for payment of such taxes, levies, duties, assessments and license fees. The Tenant shall also reimburse the Landlord at times and in the manner specified by the Landlord, and in the full amount of any taxes in the nature of a business transfer tax, sales tax or any other tax levied, rated, charges or assessed in respect of the Minimum Rent or Additional Rent payable under this Lease. The Tenant shall reimburse the Landlord for such taxes at the full rate applicable from time to time.

- (c) MAINTENANCE. The Tenant shall maintain the Leased Premises and all improvements therein in good order and condition, keep the Leased Premises in a clean condition, and remove from the Leased Premises any debris and garbage.
- (d) REPAIRS. The Tenant shall perform all repairs to and make all replacements of fixtures, leasehold improvements and plate glass in the Leased Premises as may be necessary.
- (e) ALL OTHER EXPENSES. The Tenant shall pay all other expenses of every nature incurred in connection with the use, maintenance and operation of the Leased Premises. The Tenant acknowledges and agrees that the Landlord is not responsible during the Term for any costs, charges, expenses or outlays of any nature whatsoever arising from, or related to, the Leased Premises, or the use and occupancy thereof, or the business carried on therein, and the Tenant shall pay all charges, impositions, costs and expenses of every nature and kind relating to the Leased Premises except as otherwise expressly stated herein.

7.2 PAYMENT OF COSTS. The Tenant shall pay all costs and expenses associated with the Tenant's obligations directly to the appropriate party as they come due and shall, at the Landlord's request, provide the Landlord with copies of receipts or other proof of payment acceptable to the Landlord. If the Tenant fails to perform any obligation under this Lease, or to pay any costs and expenses as set out herein, the Landlord may at its sole option and discretion, on seven (7) days written notice to the Tenant, perform such obligation or pay such amounts on behalf of the Tenant and the Tenant shall forthwith upon receipt of an invoice therefore reimburse the Landlord for the cost of such action or the amount of such payment.

7.3 LEASEHOLD IMPROVEMENTS. The Tenant may install in the Leased Premises its usual fixtures and personal property in a proper manner, provided that no installation or repair shall interfere with or damage the mechanical or electrical systems or the structure of the Leased Premises. If the Tenant is not then in default hereunder, the fixtures and personal property installed in the Leased Premises by the Tenant may be removed by the Tenant from time to time in the ordinary course of the Tenant's business, or in the course of reconstruction, renovation or alteration of the Leased Premises by the Tenant, provided that the Tenant promptly repairs at its own cost and expense any damage to the Leased Premises resulting from the installation and removal, reasonable wear and tear excepted. The Tenant shall, if required by the Landlord, remove any Leasehold Improvements or fixtures from the Leased Premises upon the termination of this Lease.

7.4 ALTERATIONS BY THE TENANT. The Tenant may from time to time at its own expense make changes, additions and improvements to the Leased Premises to better adapt same to its business provided that any change, addition or improvement shall be

made only after obtaining written consent of the Landlord, which consent shall not be unreasonably withheld, and shall be carried out in a workmanlike and professional manner and only by persons selected by the Tenant and reasonably approved in writing by Landlord. If any such changes, additions, or improvements require alterations to the exterior walls, roof, or other structural components of the Leased Premises or modification of the heating, ventilation or air conditioning systems in the Leased Premises, the Tenant shall be solely responsible for the cost of such modifications and the Landlord hereby reserves the right to perform any such work at the expense of the Tenant provided that the cost of such work to the Tenant is reasonable in the circumstance.

- 7.5 LIENS. The Tenant shall pay promptly when due all costs for work done or caused to be done by the Tenant in the Leased Premises which could result in any lien or encumbrance on the Landlord's interest in the property, shall keep the title to the property and every part thereof free and clear of any lien or encumbrance in respect of the work and shall indemnify and hold harmless the Landlord against any claim, loss, cost, demand and legal or other expense, whether in respect of any lien or otherwise, arising out of the supply of materials, services or labor for the work.
- 7.6 NOTIFY LANDLORD. The Tenant shall immediately notify the Landlord of any accidents or defect in the Leased Premises or any systems thereof, as well as of any matter or condition which may cause injury or damage to the Leased Premises or any person or property located therein.

## **ARTICLE 8**

### **DAMAGE AND DESTRUCTION**

- 8.1 DAMAGE AND DESTRUCTION. If during the Term the Leased Premises or any part thereof shall be damaged by fire, lightning, tempest, structural defects or acts of God, or by any additional perils defined and covered in the standard broad-coverage fire insurance policy carried by the Landlord on the Leased Premises, the following provisions shall apply:
- (a) If, as a result of such damage, the Lease Premises are rendered partially unfit for occupancy by the Tenant, the Rent shall abate in proportion to the part of the Leased Premises rendered wholly unfit for occupancy by the Tenant bears to the whole of the Leased Premises.
  - (b) Notwithstanding subsection (a) above, if in the opinion of the Landlord's architect or engineer, rendered within sixty (60) business days of any event resulting in damage to the Leased Premises, the Leased Premises shall be incapable of being rebuilt, repaired, or restored with reasonable diligence within 180 days after the occurrence of the damage then either the Landlord or the Tenant may terminate this Lease by notice in writing

to the other given within 15 days of the opinion of the Landlord's architect or engineer. If notice is given by the Landlord or Tenant under this Section, then this Lease shall terminate from the date of such damage and the Tenant shall immediately surrender the Leased Premises and all interest therein to the Landlord and the Rent shall be apportioned and shall be payable by the Tenant only to the date of the damage and the Landlord may thereafter re-enter and repossess the Leased Premises.

- (c) If the Leased Premises are capable with reasonable diligence of being rebuilt, repaired and restored within 180 days of the occurrence of such damage, then the Landlord shall proceed to rebuild, restore and repair the Leased Premises with reasonable promptness within 180 days plus any additional period due to delay caused by strikes, lock-outs, slow-downs, shortages of materials or labor, acts of God, acts of war, inclement weather or other occurrences which are beyond the control of Landlord, and the Rent shall abate in the manner provided for in subsection (a) above until the Leased Premises have been rebuilt, repaired, or restored, provided that nothing in this Section shall in any way be deemed to affect the obligation of the Tenant to repair, maintain, replace or rebuild the Leased Premises as otherwise provided by the terms of this Lease.

## **ARTICLE 9 INDEMNITY**

9.1 **INDEMNITY.** The Tenant shall indemnify and hold harmless the Landlord, its agents and employees from any and all liabilities, damages, costs, claims, suits and/or actions growing or arising out of (a) through (c) below, except for Landlord's negligence:

- (a) any breach, violation or non-performance of any covenant, condition or agreement in this Lease set forth and contained on the part of the Tenant to be fulfilled, kept, observed and performed.
- (b) any damage to property while the property is in or about the Leased Premises; and
- (c) any injury to person or persons including death resulting at any time therefrom occurring in or about the Leased Premises.

9.2 **LIMITATION OF LANDLORD'S LIABILITY.** The Landlord and its agents and employees shall not be liable for any damage to the Leased Premises, or any property located therein, caused by any latent defects, or by steam, water, rain or snow which may leak into, issue or flow from any part of the Leased Premises, or from the water,

steam, sprinkler or drainage pipes or plumbing works of the same, or from any other place or from any damage caused by or attributable to the condition or arrangement of any electrical or other wiring, or for any damage caused by anything done or omitted to be done by any person, or for damage caused by interruption or failure of any service or utility, or for damage however caused to merchandise, stock in trade, books, records, files, money, securities, negotiable instruments, papers or other valuables.

- 9.3 SURVIVAL OF OBLIGATIONS AND INDEMNITIES. All obligations of the Tenant which arise during the Term pursuant to this Lease and which have not been satisfied, and the indemnities and other obligations of the Tenant contained in Section 9.1 shall survive the expiration or other termination of this Lease.

## **ARTICLE 10 DEFAULT**

- 10.1 LATE CHARGES. In the event the Landlord fails to receive any monthly payment of Rent by the fifth (5<sup>th</sup>) day of any month in which payment by the Tenant is due, Tenant agrees to be liable for an additional one hundred dollars (\$100.00) Late Charges. Such Late Charges shall be Additional Rent, without the necessity of any billing therefore. Such Late Charges shall not authorize any rental payments after the first (1<sup>st</sup>) day of any month, and the same shall be due in addition to such other remedies Landlord has for a "Non-Payment Proceeding" on or after the second (2<sup>nd</sup>) day of each month. The Tenant shall indemnify the Landlord against all costs and charges reasonably incurred in enforcing payment of Rent hereunder and in obtaining possession of the Leased Premises should the same be necessary.
- 10.2 EVENTS OF DEFAULT. Each of the following events shall constitute an event of default (an "Event of Default");
- (a) all or any part of the Rent hereby reserved is not paid when due and upon written notice of the Landlord continues for five (5) days after notice thereof, or
  - (b) or any goods, merchandise, stock in trade, chattel or equipment of the Tenant is seized or is taken in execution or in attachment, or if a writ of execution is issued against the Tenant, or if a creditor takes possession thereof, or
  - (c) the Tenant or any person or corporation bound to perform the obligations of the Tenant hereunder, either as guarantor or indemnifier, or as one of the parties constituting the Tenant takes any steps, or suffers any order to be made, for its winding-up or other termination of its corporate existence, or becomes insolvent, or commits any act of bankruptcy or becomes

bankrupt, or takes the benefit of any statute that may be in force for bankrupt or insolvent debtors, or becomes involve in voluntary or involuntary winding-up proceedings, or if a receiver or receiver/manager shall be appointed for the business, property, affairs or revenues of the Tenant or such person or corporation; or

- (d) the Tenant makes a bulk sale of its goods or moves or commences, attempts or threatens to move its goods, chattels and/or equipment out of the Leased Premises (other than in the normal course of Tenant's business) or ceases to conduct business from the Leased Premises for in excess of 14 days; or
- (e) the Tenant fails to observe, perform and keep each and every of the covenants, agreements and conditions herein contained to be observed, performed and kept by the Tenant and persists in the failure after ten (10) days notice by the Landlord requiring Tenant to remedy, correct, desist, or comply (or if any breach would reasonable require more than ten (10) days to rectify, unless the Tenant commences rectification within the ten (10) day notice period and thereafter promptly and effectively and continuously proceeds with the rectification of the breach).

10.3 REMEDIES ON DEFAULT. Upon the occurrence of one or more Events of Default, the Landlord may, at its option, and in addition to and without prejudice to all rights and remedies of the Landlord available to it either by any other provision of this Lease or by statute or the general law:

- (a) be entitled to the full amount of the current month's and the next three (3) month's installments of Rent which shall immediately become due and payable, and the Landlord may immediately demand same, together with any arrears then unpaid;
- (b) re-enter upon and take possession of the Leased Premises or any part thereof in the name of the whole and re-let the Leased Premises or any part thereof on behalf of the Tenant or otherwise as the Landlord sees fit ;
- (c) terminate this Lease by leaving upon the Leased Premises ten (10) days written notice of the termination, and termination shall be without prejudice to the Landlord's right to damages, it being agreed that the Tenant shall pay to the Landlord, as damages, the loss of income of the Landlord to be derived from the Leased Premises for the unexpired portion of the Term had it not been terminated, provided that the Landlord shall not be entitled in any event to receive any damages greater than those damages the Landlord would be entitled to receive at law; or
- (d) re-enter into and upon the Leased Premises, or any part thereof, in the name of the whole and repossess and enjoy the same as of the Landlord's

former estate, anything herein contained to the contrary notwithstanding, and the Tenant shall pay to the Landlord forthwith upon demand all expenses of the Landlord incurred in re-entering, terminating, re-letting, collecting sums due or payable by the Tenant, including but not limited to legal fees on a solicitor and client basis and all disbursements, and the expense of keeping the Leased Premises in good order, and preparing same for re-letting.

- 10.4 WAIVER. If the Landlord shall overlook, excuse, condone or suffer any default, breach or non-observance by the Tenant of any obligation hereunder, this shall not operate as a waiver of the obligation in respect of any continuing or subsequent default, breach or non-observance and no such waiver shall be implied but shall only be affected if expressed in writing.
- 10.5 WAIVER OF EXEMPTION AND REDEMPTION. Notwithstanding anything contained in any statute now or hereafter in force limiting or abrogating the right of distress, none of the Tenant's goods, merchandise, stock in trade, chattels or trade fixtures on the Leased Premises at any time during the Term shall be exempt from levy by distress for Rent in arrears, and upon any claim being made for exemption by the Tenant, or on distress being made by the Landlord, this agreement may be pleaded as an estoppel against the Tenant in any action brought to test the right to the levying upon any such goods as are named as exempted in any such statute, the Tenant hereby waiving all and every benefit that could or might have accrued to the Tenant under and by virtue of any such statute but for this Lease. The Tenant hereby expressly waives any and all rights of redemption and relief from forfeiture granted by or under any present or future laws in the event of the Tenant being evicted or dispossessed for any cause, or in the event of the Landlord obtaining possession of the Leased Premises by reason of the violation by the Tenant of any of the terms or conditions of this Lease or otherwise.

## **ARTICLE 11**

### **ASSIGNMENT AND TRANSFERS**

- 11.1 NO ASSIGNMENT BY TENANT. The Tenant shall not assign, sublet, pledge or otherwise transfer this Lease or any interest therein, or in any way part with possession of all or any part of the Leased Premises, or permit all or any part of the Leased Premises to be used or occupied by any other person, or in any other manner, without the express written consent of the Landlord, which consent shall not be unreasonably withheld. The Tenant shall be permitted to assign this lease without prior written consent of the Landlord to an associated corporation, a parent or wholly

owned subsidiary of the Tenant, or to a corporation which results from the reorganization, consolidation, amalgamation or merger of the Tenant, provided that any such assignment or transfer, or other dealing with any of the shares of the Tenant, when taken alone or together having the effect of changing control of the Tenant, shall be deemed to be an assignment of this Lease which requires prior approval of the Landlord as set out herein.

- 11.2 **SALE, CONVEYANCE AND ASSIGNMENT BY THE LANDLORD.** Nothing in this Lease shall restrict the right of the Landlord to sell, convey, assign, pledge or otherwise deal with the Leased Premises subject only to the rights of the Tenant under this Lease. A sale, conveyance or assignment of the Leased Premises by the Landlord shall operate to release the Landlord from liability from and after the effective date thereof in respect of all of the covenants, terms and conditions of this Lease, express or implied, except as they may relate to the period prior to the effective date, and only to the extent that the Landlord's successor assumes the Landlord's obligations under the Lease and the Tenant shall thereafter look to solely to the Landlord's successor in interest and to this Lease.
- 11.3 **SUBORDINATION.** This Lease is and shall be subject and subordinate in all respects to any and all mortgages (including deeds of trust and mortgage) now or hereafter placed on the Leased Premises, and all advances thereunder, past, present or future, and to all renewals, modifications, consolidations, replacements and extensions thereof. The Tenant agrees to execute promptly after request therefore an instrument of subordination as may be requested.

## **ARTICLE 12**

### **SURRENDER AND HOLDOVER**

- 12.1 **SURRENDER.** Upon the expiration or other termination of the Term, the Tenant shall immediately quit and surrender possession of the Leased Premises and all leasehold improvements in substantially the condition in which the Tenant is required to maintain the Leased Premises, excepting only reasonable wear and tear, and upon surrender, all right, title and interest of the Tenant in the Leased Premises shall cease. It is understood that the Landlord has the right to remove and sell, or otherwise dispose of, any leasehold improvements, chattels, equipment or any other property of the Tenant left on the Leased Premises by the Tenant after the termination of this Lease, and to retain the proceeds thereof. In addition, the Tenant shall pay the Landlord upon written demand any and all of the costs incurred by the Landlord in connection with the removal of said property.
- 12.2 **HOLDOVER.** If the Tenant continues to occupy the Leased Premises after the expiration or other termination of the Term without any further written agreement, the Tenant shall be a month to month tenant at a Minimum Rent equal to two times the Minimum Rent paid by the Tenant immediately prior to the expiration or other

termination of the Term, but subject to all other provisions in this Lease to the extent that same are applicable to a month to month tenancy, and no year to year tenancy shall be created by implication of law. Nothing herein shall preclude the Landlord from exercising all of its rights set out in this Lease, including without limitation, the taking of any action for recovery or possession of the Leased Premises.

## **ARTICLE 13 MISCELLANEOUS**

- 13.1 FLOOR PLAN. Landlord has not agreed to make any alterations to the current floor plan of the premises. The premises will be delivered to the Tenant on or before the Commencement Date in its "as is" condition. After the Commencement Date maintenance of the interior of the premises becomes the sole responsibility of the Tenant, except as otherwise state in this Lease.
- 13.2 BROKER. Tenant represents to Landlord that Tenant has dealt with no Brokers, in connection with this Lease and Tenant agrees to indemnify and hold Landlord harmless from any and all claims, loss, costs, liability and expense, including but not limited to, reasonable attorney's fees, in connection with any claim by any other broker with whom Tenant dealt.
- 13.3 HOURS OF OPERATION. Tenant agrees not to open the lease premises prior to 8 a.m. and to close the Leased Premises no later than 10 p.m. on any calendar day. Tenant must abide by any and all local, municipal, state or federal codes, ordinances, rules and regulations regarding the opening and closing of the premises.

## **ARTICLE 14 GENERAL**

- 14.1 ENTIRE AGREEMENT. This agreement contains the entire agreement of the parties and no promise, representation, or undertaking is binding upon the Landlord unless expressly stated herein.
- 14.2 REGISTRATION. The Tenant agrees not to register or record this Lease. If the Tenant wishes to register a notice of this Lease, the Landlord agrees to execute at the expense of the Tenant, an acknowledgement or short form of lease sufficient for such purpose which shall preserve the confidentiality of the Rent and other financial terms of this Lease. The Tenant shall, at its own cost and expense, upon the expiration or earlier termination of the Term discharge any registration made against the Lease Premises providing notice of its interest in the Lease.

- 14.3 NOTICE. Any notice required or contemplated by any provision of this Lease shall be given in writing and shall be sufficiently given if mailed by regular or certified mail, or delivered by telecopy or similar form of immediate transmission, and if to the Landlord, addressed as set forth on page 1 herein, and if to Tenant, personally (or to a partner or officer of the Tenant) delivered to the Leased Premises (whether or not the Tenant has departed, vacated or abandoned same). Any notice shall be deemed to have been received three (3) postal delivery days after mailing, or on the day following the date of delivery or sending if by other means.
- 14.4 RELATIONSHIP OF THE PARTIES. Nothing herein shall be deemed to create any relationship between the parties hereto other than Landlord and Tenant.
- 14.5 GOVERNING LAW. This Lease shall be construed under, and enforced in accordance with, the laws of the State of New York.
- 14.6 AMENDMENT OR MODIFICATION. No amendment or modification of this Lease shall be binding or valid unless in writing and signed by both the Landlord and the Tenant.
- 14.7 SEVERABILITY. All of the provisions of this Lease are to be construed as covenants and agreements. If any provision of this Lease shall be deemed to be illegal or unenforceable it shall be considered as a separate and severable provision and the remainder of the Lease shall remain in full force and effect and be binding as though the severed provision had never been included.
- 14.8 CAPTIONS AND HEADINGS. The captions and headings of each provision are for convenience of reference only and are not intended to limit, enlarge or otherwise affect the interpretation of the Articles, Sections or parts thereof to which they apply.
- 14.9 INTERPRETATION. Wherever necessary or appropriate in this Lease, the plural shall be interpreted as singular, the masculine as feminine, and vice versa, and when there are two or more parties bound by the Tenant's covenants herein contained their obligations shall be joint and several.
- 14.10 TIME OF THE ESSENCE. Time shall be of the essence with regard to the provisions contained herein.
- 14.11 SUCCESSORS AND ASSIGNS. Subject to the specific provisions to the contrary contained in this Lease, this Lease shall inure to the benefit of and be binding upon the successors and assigns of the Landlord, his heirs, executors and administrators and the permitted successors and assigns of the Tenant.
- 14.12 PERSONAL GUARANTY. For value received, and in consideration of the Landlord entering into this Lease with Tenant, the undersigned "Guarantor" hereby unconditionally and absolutely agrees to pay to the Landlord the full, due and timely payment of all Minimum Rent, Additional Rent, and occupancy charges, and all other

sums which shall be payable by Tenant to Landlord pursuant to the terms of this Lease, for the entire period in which Tenant has a beneficial interest in, or is in possession of, the demised premises. The termination of this Lease for any reason whatsoever shall not affect the Guarantor's obligations or create in Guarantor any right of set off against such obligations, or any claim against the Landlord, and Guarantor hereby waives any and all rights to assert anything to the contrary. This guaranty and the rights and obligations of the parties hereunder shall in all respects be governed by the laws of the State of New York.

**IN WITNESS WHEREOF** the Landlord and the Tenant have executed this Lease as of the date first set forth above.

\_\_\_\_\_  
WITNESS

LANDLORD:  
COAST 2 COAST REAL ESTATE LLC

By:

\_\_\_\_\_  
Robert A. Lee, Jr. Managing Member

TENANT:

BOLD SYSTEMS LLC  
BY:

\_\_\_\_\_  
Brian Jusas, Managing Member

GUARANTOR

\_\_\_\_\_  
Brian Jusas, Individually

## **COMMERCIAL LEASE**

THIS LEASE made as of JUNE , 2021 between COAST 2 COAST REAL ESTATE LLC (the "Landlord") having offices located at 3505 VETERANS MEMORIAL HIGHWAY, STE D, RONKONKOMA, NY 11779, and TARGET MEDIA LLC, LLC (the "Tenant") having offices located at 37 RIDGEFIELD DRIVE, SHOREHAM, NEW YORK 11786

**IN CONSIDERATION** of the mutual covenants contained herein, the Landlord and Tenant hereby agree as follows:

### **ARTICLE 1 INTERPRETATION**

1.1 DEFINITIONS: In this Lease the following terms shall have the following meanings:

"Additional Rent" shall mean any and all other amounts payable by the Tenant to the Landlord to be discharged as Rent under the terms of this Lease;

"Building" shall mean the building(s) located on the Land, including all alterations and additions thereto and replacements, thereto;

"Commencement Date" shall mean September 1, 2021.

"Event of Default" shall mean any event referred to in Section 10.2 hereof;

"Gross Rent" shall mean all rental payments are inclusive of water, and property taxes paid or assessed through the Commencement Date and insurance premiums.

"Land" shall mean the premises commonly known as: 20 Pinehurst Drive, Bellport, NY

"Lease" shall mean this lease and any Schedules attached hereto which are referred to herein and every executed instrument which by its terms shall amend, modify or supplement this lease:

"Lease Year" shall mean each successive period of twelve (12) calendar months during the Term and ending on an anniversary of the Commencement Date; provided that if the Landlord deems it necessary for the Landlord's accounting purposes, the Landlord may, by written notice to the Tenant, specify another day on which each subsequent lease year is to commence, and in such event, any appropriate adjustments shall be made.

"Leased Premises" shall mean the 4000 Square Feet of Office Space at the Building located at the above address.

"Occupancy Date" shall mean September 1, 2021.

"Permitted Use" shall mean the business of general office space and all uses ancillary thereto.

"Rent" means the aggregate of all amounts payable by the Tenant to the Landlord under the terms of this Lease:

"Minimum Rent" shall mean the amounts due for each Lease Year as set forth hereunder:

YEAR OF TERM	AGGREGATE ANNUAL MINIMUM RENT	MONTHLY MINIMUM RENT
YEAR 1	\$60,000.00	\$5,000.00
YEAR 2	\$61,200.00	\$5,100.00
YEAR 3	\$62,424.00	\$5,202.00
YEAR 4	\$63,672.48	\$5,306.04
YEAR 5	\$64,925.88	\$5,410.49
YEAR 6	\$66,244.80	\$5,520.40
YEAR 7	\$67,569.72	\$5,630.81
YEAR 8	\$68,921.16	\$5,743.43
YEAR 9	\$70,299.60	\$5,858.30
YEAR 10	\$71,705.52	\$5,975.46

"Term" shall mean a period of Ten (10) years commencing on the Commencement Date, or any renewal period hereunder.

"Termination Date" shall mean August 31, 2031, unless earlier terminated as provided in this Lease, or unless the term is extended per any Renewal Option.

## **ARTICLE 2**

### **GRANT OF LEASE AND GENERAL COVENANTS**

- 2.1 GRANT. The Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord the Leased Premises, to have and to hold during the Term, subject to the terms and conditions of this Lease.

- 2.2 LANDLORD'S GENERAL COVENANTS. The Landlord hereby covenants with the Tenant to provide quiet enjoyment of the Leased Premises, and to observe and perform all the covenants and obligations of the Landlord as provided herein.
- 2.3 TENANT'S GENERAL COVENANTS. The Tenant covenants with the Landlord to pay all Rent, and to observe and perform all the covenants and obligations of the Tenant as provided herein.

### **ARTICLE 3**

### **TERM OF POSSESSION**

- 3.1 TERM. The Term of the Lease shall begin on the Commencement Date and end on the Termination Date, unless sooner terminated as provided herein, or extended by Renewal.
- 3.2 POSSESSION OF LEASED PREMISES. The Tenant shall have occupancy of the Leased Premises from and after the Commencement Date through the Termination Date, during which time the Tenant shall pay all Minimum Rent, Rent and Additional Rent, if any, and shall observe and perform all covenants and obligations of the Tenant herein.

### **ARTICLE 4**

### **RENT**

- 4.1 RENT. The Tenant shall pay to the Landlord as Rent for the Leased Premises the aggregate of
- (a) Minimum Rent in respect of each year of the Term or Renewal term as the case may be, payable in advance and without notice or demand in monthly installments commencing on the Commencement Date, and
  - (b) Additional Rent at the times and in the manner provided in this Lease or, if not so provided, as reasonably required by the Landlord.
- 4.2 GROSS LEASE. It is the intent of the Landlord and the Tenant that this Lease shall be fully gross to the Landlord, providing that the Tenant shall not be responsible for costs and expenses expressly excluded by the terms of this Lease, and including, but not limited to, the following:

- (a) mortgage payments of principal or interest on any mortgage affecting the Leased Premises;
- (b) any income taxes of the Landlord, except to the extent that such income taxes are imposed in lieu of real property taxes;
- (c) any ground rental;
- (d) any structural repairs or replacements;
- (e) any expenditures with respect to the Leased Premises which are of a capital nature; and
- (f) utility expenses relating to water usage.

4.3 PAYMENT OF RENT. All amounts payable by the Tenant to the Landlord pursuant to this Lease shall be deemed to be Rent and shall be payable and recoverable as Rent in the manner herein provided and the Landlord shall have all rights against the Tenant for default in any such payment as in the case of arrears of rent. Except as otherwise provided in Section 8.1 hereof, Rent shall be paid to the Landlord in lawful money of the United States of America, without deduction or set-off, at the address of the Landlord, or to such other person or other address as the Landlord may, from time to time, designate in writing. The Tenant's obligation to pay Rent shall survive the expiration or earlier termination of this Lease.

4.4 BASE YEAR TAXES. Base Year Taxes are included in the first year's Minimum Rent. The Base Year Tax for Town and School taxes commence December 1, 2020 and ends November 30, 2021. Beginning with the first day of the second year of the Lease Term, Tenant shall pay to Landlord, within 30 days of notice, as Additional Rent for each tax year, a sum equal to the Tenant's share of any increase in taxes over and above the Base Year Taxes. Landlord shall furnish Tenant with an annual Escalation Statement for each tax year detailing both the increase over the Base Year Tax and Tenant's portion of same for such Tax Year. Tenant occupies one hundred (12%) percent of the premises, and therefore shall be responsible for one hundred (12%) percent of any tax increases over the Base Year Taxes.

4.5 SECURITY. Tenant shall deposit with the Landlord the equivalent of one (1) month's Rent (\$5,000.00) no later than September 1, 2021, as Security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this Lease. In the event that Tenant defaults in respect to any terms, provisions, covenants or conditions of this lease, including but not limited to, the payment of Rent or Additional Rent, Landlord may use, apply or retain the whole or any part of the Security so deposited to the extent required for the payment of any Rent or Additional Rent, or any other sum as to which Tenant is in default, or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default.

- (a) In the event that Tenant shall fully and faithfully comply with all the terms, provisions, covenants and conditions of this lease, the Security shall be returned to Tenant after the Termination Date and after delivery of possession of the demised premises to Landlord in vacant and broom clean condition. Security may not be used for the final payment of Rent under this lease.
- (b) Whenever the annual Rent increases, Tenant will deposit with Landlord such additional sums as are necessary to permit Landlord to have on hand throughout the term of this lease, the equivalent of one (1) month's Rent as Security at all times.

## **ARTICLE 5**

### **USE AND OCCUPANCY**

- 5.1 **USE OF LEASED PREMISES.** The Tenant shall use the Leased premises only for the Permitted Use and shall not use or permit to be used the Leased Premises or any part thereof for any other purpose or business or by any persons other than the Tenant.
- 5.2 **COMPLIANCE WITH LAWS.** The Tenant shall comply with all present and future laws, regulations, ordinances and orders relating to the occupation or use of the Leased Premises, the condition of the leasehold improvements, equipment and other property of the Tenant therein, the making by the Tenant of any repairs, changes or improvements, and the conduct of business in the Leased Premises.
- 5.3 **PROHIBITED USES.** The Tenant shall not commit, cause or permit any nuisance or any waste or injury to or in or about the Leased Premises, or to any of the leasehold improvements, merchandise or fixtures therein, or conduct any use or manner of use causing annoyance to any person. Without limiting the generality of the foregoing, the Tenant shall not use or permit the use of any portion of the Leased Premises for any dangerous, illegal, noxious, odorous or offensive trade, business or occurrence, or other use contrary to the provisions of this Lease. The Tenant shall keep the Leased Premises free of debris or anything of a dangerous, noxious, odorous, hazardous or offensive nature or which could create an environmental or a fire hazard, whether through undue load on electric circuits or other cause, or undue vibration, heat or noise. Additionally, Tenant shall not permit smoking anywhere on the premises.
- 5.4 **HAZARDOUS USE.** The Tenant shall not do, omit to do, or permit to be done anything which will cause or shall have the effect of causing the cost of the Landlord's insurance in respect of the Leased Premises to be increased at any time during the Term, or any policy of insurance on or relating to the Lease Premises to be subject to cancellation. Without waiving the foregoing prohibition, the Landlord may demand and the Tenant shall pay to the Landlord upon demand, the amount of any increase in the cost of insurance caused by anything so done, or omitted to be done.

The Tenant shall, immediately upon Landlord's request, comply with the requirements of the Landlord's insurers, cease any activity complained of and make good any circumstance which has caused any increase in insurance premiums or the cancellation of any insurance policy. If any policy of insurance in respect of the Leased Premises is cancelled or becomes subject to cancellation by reason of anything so done or omitted to be done, the Landlord may without prior notice terminate this Lease and re-enter the Lease Premises.

- 5.5 **SIGNAGE.** The Tenant shall be permitted to install and exhibit a sign or signs identifying the Tenant and/or the Tenant's business activities on the Leased Premises, in areas designated by the Landlord and subject to the Landlord's prior written consent, which consent shall not be unreasonably withheld.
- 5.6 **RULES AND REGULATIONS.** The Landlord shall be entitled from time to time to make reasonable rules and regulations for the operation, maintenance, safety and use of the Leased Premises and the Tenant shall comply with such rules and regulations and shall cause its servants, agents, employees, customers, invitees and licensees to comply with such rules and regulations. Specifically, Tenant is hereby prohibited from allowing any smoking anywhere on the premises.

## **ARTICLE 6**

### **RIGHTS AND OBLIGATIONS OF THE LANDLORD**

- 6.1 **OPERATION OF LEASED PREMISES.** The Tenant shall assume full responsibility for the operation and maintenance of the Leased Premises, and for the repair or replacement of all fixtures or chattels located therein or thereon. The Landlord shall have no responsibility whatsoever, with respect to maintenance, repairs or replacement, except as to structural items and as provided in Section 6.2 herein, provided that if the Tenant fails to do so, the Landlord may at its sole option upon fourteen (14) days prior written notice and without any obligation to the Landlord, elect to perform such maintenance, repairs or replacement as the Landlord may reasonably deem necessary or desirable. In so doing, the Landlord shall not be liable for any consequential damage, direct or indirect to any person or property, including, but without restricting the generality of the foregoing, damages for a disruption of the business of the Tenant and damage to, or loss of, the goods, chattels and equipment and other property of the Tenant, nor shall any reduction or disruption of services be construed as a breach of the Landlord's covenants, or as an eviction of the Tenant, or release the Tenant from any obligation under this Lease provided that the Tenant's business is not unreasonably interfered with.
- 6.2 **ACCESS BY LANDLORD.** The Tenant shall permit the Landlord to enter the Leased Premises at any time outside normal business hours in case of an emergency and otherwise during normal business hours where such will not unreasonably interfere with or disturb the Tenant's use of the Leased Premises, or operation of its business,

to examine, inspect and show the Lease Premises for purposes of leasing, sale or financing, to provide services or make repairs, replacements, changes or alterations as provided for in this Lease and to take such steps as the Landlord may deem necessary for the safety, improvement or preservation of the Leased Premises. The Landlord shall, whenever possible, consult with or give reasonable notice to Tenant prior to entry, but not such entry shall constitute an eviction or a breach of the Landlord's covenant for quiet enjoyment or entitle the Tenant to any abatement of Rent. The Tenant shall also permit the Landlord, its employees and agents, at any time during the six (6) months prior to the expiration or termination of this Lease to enter the Leased Premises for the purpose of showing it to any such persons as may be desirous of purchasing or leasing the Leased Premises.

- 6.3.1 MAINTENANCE. It is understood and agreed that the Tenant herein will keep the sidewalks and all surrounding areas free and clear of dirt, snow and ice for the full term of this Lease. Tenant shall maintain approved trash containers at the rear of the building, or such other place as Landlord shall from time to time designate, for Tenant's garbage disposal and shall place same for pick up on Monday and Thursday mornings only. Additionally, Tenant shall keep all hallways and its premises free from debris at all times. Landlord shall perform regular maintenance on the landscaping and parking areas. Landlord will deliver all heating and plumbing in working order.

## **ARTICLE 7**

### **TENANT'S RESPONSIBILITIES**

71. TENANT'S OBLIGATIONS. In connection with the Leased Premises, the Tenant hereby agrees that it shall be responsible for the following throughout the Term:
- (a) INSURANCE. The Tenant shall take out and maintain in the name of the Landlord its agents, and employees, the Tenant and each mortgagee of the Leased Premises as their interests may appear the following forms of insurance:
    - (i) all risks property insurance (including flood, sewer back-up and earthquake) with coverage for the full replacement cost of the Leased Premises including By-Law endorsement for demolition or replacement;
    - (ii) insurance upon property of every description owned by the Tenant or for which the Tenant is legally liable and installed or kept within the Leased Premises (including leasehold improvements) in an amount not less than the full replacement costs value;

- (iii) comprehensive public liability and broad form property damage insurance with limits of not less than \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate with extensions including but not limited to personal injury, intentional acts, blanket contractual, cross-liability and severability of interest, occurrence property damage, employer's liability and non-owned automobile coverage;
- (iv) any other form or forms of insurance as the Landlord or its mortgagees may reasonably require.

All insurance policies required under this provision shall provide for a waiver of subrogation against the Landlord or those for whom it is in law responsible whether any damage is caused by the acts, omission, or negligence of the Landlord or those for whom it is in law responsible. Each such insurance policy shall further contain a prohibition against cancellation or material change that reduces or restricts the insurance coverage except upon 30 days prior written notice to the Landlord. The Tenant shall provide the Landlord with certified copies of each such insurance policy on or before the Commencement Date.

- (b) TAXES. The Tenant shall promptly pay and discharge all taxes, levies, duties, assessments, and license fees whatsoever whether municipal, school, provincial, parliamentary or otherwise levied, imposed or assessed against the Leased Premises or upon the Landlord in respect thereof, or from time to time levied, imposed or assessed in the future in lieu thereof, including those levied, imposed or assessed for education, school and local improvements, or other similar taxes imposed upon the Landlord or the Tenant and including all business taxes and/or realty taxes from time to time payable by the Landlord or levied against the Landlord on account of its ownership or operation of the Leased Premises; and including all costs and expenses (including legal fees on a solicitor and client basis and other professional fees and interest and penalties on deferred payments) incurred by the Landlord in good faith in contesting, resisting or appealing any such taxes, rates, duties, levies or assessments, but excluding income or profits taxes upon the income of the Landlord; as well as any form of capital or capital gains taxes levied in respect of the Leased Premises all to be paid by the Tenant on or before the date when the same or installments for the same are due. The Tenant shall upon the request of the Landlord promptly deliver to the Landlord for examination all receipts for payment of such taxes, levies, duties, assessments and license fees. The Tenant shall also reimburse the Landlord at times and in the manner specified by the Landlord, and in the full amount of any taxes in the nature of a business transfer tax, sales tax or any other tax levied, rated, charges or assessed in respect of the Minimum Rent or Additional Rent payable

under this Lease. The Tenant shall reimburse the Landlord for such taxes at the full rate applicable from time to time.

- (c) MAINTENANCE. The Tenant shall maintain the Leased Premises and all improvements therein in good order and condition, keep the Leased Premises in a clean condition, and remove from the Leased Premises any debris and garbage.
- (d) REPAIRS. The Tenant shall perform all repairs to and make all replacements of fixtures, leasehold improvements and plate glass in the Leased Premises as may be necessary.
- (e) ALL OTHER EXPENSES. The Tenant shall pay all other expenses of every nature incurred in connection with the use, maintenance and operation of the Leased Premises. The Tenant acknowledges and agrees that the Landlord is not responsible during the Term for any costs, charges, expenses or outlays of any nature whatsoever arising from, or related to, the Leased Premises, or the use and occupancy thereof, or the business carried on therein, and the Tenant shall pay all charges, impositions, costs and expenses of every nature and kind relating to the Leased Premises except as otherwise expressly stated herein.

7.2 PAYMENT OF COSTS. The Tenant shall pay all costs and expenses associated with the Tenant's obligations directly to the appropriate party as they come due and shall, at the Landlord's request, provide the Landlord with copies of receipts or other proof of payment acceptable to the Landlord. If the Tenant fails to perform any obligation under this Lease, or to pay any costs and expenses as set out herein, the Landlord may at its sole option and discretion, on seven (7) days written notice to the Tenant, perform such obligation or pay such amounts on behalf of the Tenant and the Tenant shall forthwith upon receipt of an invoice therefore reimburse the Landlord for the cost of such action or the amount of such payment.

7.3 LEASEHOLD IMPROVEMENTS. The Tenant may install in the Leased Premises its usual fixtures and personal property in a proper manner, provided that no installation or repair shall interfere with or damage the mechanical or electrical systems or the structure of the Leased Premises. If the Tenant is not then in default hereunder, the fixtures and personal property installed in the Leased Premises by the Tenant may be removed by the Tenant from time to time in the ordinary course of the Tenant's business, or in the course of reconstruction, renovation or alteration of the Leased Premises by the Tenant, provided that the Tenant promptly repairs at its own cost and expense any damage to the Leased Premises resulting from the installation and removal, reasonable wear and tear excepted. The Tenant shall, if required by the Landlord, remove any Leasehold Improvements or fixtures from the Leased Premises upon the termination of this Lease.

- 7.4 **ALTERATIONS BY THE TENANT.** The Tenant may from time to time at its own expense make changes, additions and improvements to the Leased Premises to better adapt same to its business provided that any change, addition or improvement shall be made only after obtaining written consent of the Landlord, which consent shall not be unreasonably withheld, and shall be carried out in a workmanlike and professional manner and only by persons selected by the Tenant and reasonably approved in writing by Landlord. If any such changes, additions, or improvements require alterations to the exterior walls, roof, or other structural components of the Leased Premises or modification of the heating, ventilation or air conditioning systems in the Leased Premises, the Tenant shall be solely responsible for the cost of such modifications and the Landlord hereby reserves the right to perform any such work at the expense of the Tenant provided that the cost of such work to the Tenant is reasonable in the circumstance.
- 7.5 **LIENS.** The Tenant shall pay promptly when due all costs for work done or caused to be done by the Tenant in the Leased Premises which could result in any lien or encumbrance on the Landlord's interest in the property, shall keep the title to the property and every part thereof free and clear of any lien or encumbrance in respect of the work and shall indemnify and hold harmless the Landlord against any claim, loss, cost, demand and legal or other expense, whether in respect of any lien or otherwise, arising out of the supply of materials, services or labor for the work.
- 7.6 **NOTIFY LANDLORD.** The Tenant shall immediately notify the Landlord of any accidents or defect in the Leased Premises or any systems thereof, as well as of any matter or condition which may cause injury or damage to the Leased Premises or any person or property located therein.

## **ARTICLE 8**

### **DAMAGE AND DESTRUCTION**

- 8.1 **DAMAGE AND DESTRUCTION.** If during the Term the Leased Premises or any part thereof shall be damaged by fire, lightning, tempest, structural defects or acts of God, or by any additional perils defined and covered in the standard broad-coverage fire insurance policy carried by the Landlord on the Leased Premises, the following provisions shall apply:
- (a) If, as a result of such damage, the Lease Premises are rendered partially unfit for occupancy by the Tenant, the Rent shall abate in proportion to the part of the Leased Premises rendered wholly unfit for occupancy by the Tenant bears to the whole of the Leased Premises.
  - (b) Notwithstanding subsection (a) above, if in the opinion of the Landlord's architect or engineer, rendered within sixty (60) business days of any

event resulting in damage to the Leased Premises, the Leased Premises shall be incapable of being rebuilt, repaired, or restored with reasonable diligence within 180 days after the occurrence of the damage then either the Landlord or the Tenant may terminate this Lease by notice in writing to the other given within 15 days of the opinion of the Landlord's architect or engineer. If notice is given by the Landlord or Tenant under this Section, then this Lease shall terminate from the date of such damage and the Tenant shall immediately surrender the Leased Premises and all interest therein to the Landlord and the Rent shall be apportioned and shall be payable by the Tenant only to the date of the damage and the Landlord may thereafter re-enter and repossess the Leased Premises.

- (c) If the Leased Premises are capable with reasonable diligence of being rebuilt, repaired and restored within 180 days of the occurrence of such damage, then the Landlord shall proceed to rebuild, restore and repair the Leased Premises with reasonable promptness within 180 days plus any additional period due to delay caused by strikes, lock-outs, slow-downs, shortages of materials or labor, acts of God, acts of war, inclement weather or other occurrences which are beyond the control of Landlord, and the Rent shall abate in the manner provided for in subsection (a) above until the Leased Premises have been rebuilt, repaired, or restored, provided that nothing in this Section shall in any way be deemed to affect the obligation of the Tenant to repair, maintain, replace or rebuild the Leased Premises as otherwise provided by the terms of this Lease.

## **ARTICLE 9 INDEMNITY**

9.1 INDEMNITY. The Tenant shall indemnify and hold harmless the Landlord, its agents and employees from any and all liabilities, damages, costs, claims, suits and/or actions growing or arising out of (a) through (c) below, except for Landlord's negligence:

- (a) any breach, violation or non-performance of any covenant, condition or agreement in this Lease set forth and contained on the part of the Tenant to be fulfilled, kept, observed and performed.
- (b) any damage to property while the property is in or about the Leased Premises; and
- (c) any injury to person or persons including death resulting at any time therefrom occurring in or about the Leased Premises.

- 9.2 **LIMITATION OF LANDLORD'S LIABILITY.** The Landlord and its agents and employees shall not be liable for any damage to the Leased Premises, or any property located therein, caused by any latent defects, or by steam, water, rain or snow which may leak into, issue or flow from any part of the Leased Premises, or from the water, steam, sprinkler or drainage pipes or plumbing works of the same, or from any other place or from any damage caused by or attributable to the condition or arrangement of any electrical or other wiring, or for any damage caused by anything done or omitted to be done by any person, or for damage caused by interruption or failure of any service or utility, or for damage however caused to merchandise, stock in trade, books, records, files, money, securities, negotiable instruments, papers or other valuables.
- 9.3 **SURVIVAL OF OBLIGATIONS AND INDEMNITIES.** All obligations of the Tenant which arise during the Term pursuant to this Lease and which have not been satisfied, and the indemnities and other obligations of the Tenant contained in Section 9.1 shall survive the expiration or other termination of this Lease.

## **ARTICLE 10**

### **DEFAULT**

- 10.1 **LATE CHARGES.** In the event the Landlord fails to receive any monthly payment of Rent by the fifth (5<sup>th</sup>) day of any month in which payment by the Tenant is due, Tenant agrees to be liable for an additional one hundred dollars (\$100.00) Late Charges. Such Late Charges shall be Additional Rent, without the necessity of any billing therefore. Such Late Charges shall not authorize any rental payments after the first (1<sup>st</sup>) day of any month, and the same shall be due in addition to such other remedies Landlord has for a "Non-Payment Proceeding" on or after the second (2<sup>nd</sup>) day of each month. The Tenant shall indemnify the Landlord against all costs and charges reasonably incurred in enforcing payment of Rent hereunder and in obtaining possession of the Leased Premises should the same be necessary.
- 10.2 **EVENTS OF DEFAULT.** Each of the following events shall constitute an event of default (an "Event of Default");
- (a) all or any part of the Rent hereby reserved is not paid when due and upon written notice of the Landlord continues for five (5) days after notice thereof, or
  - (b) or any goods, merchandise, stock in trade, chattel or equipment of the Tenant is seized or is taken in execution or in attachment, or if a writ of execution is issued against the Tenant, or if a creditor takes possession thereof, or

- (c) the Tenant or any person or corporation bound to perform the obligations of the Tenant hereunder, either as guarantor or indemnifier, or as one of the parties constituting the Tenant takes any steps, or suffers any order to be made, for its winding-up or other termination of its corporate existence, or becomes insolvent, or commits any act of bankruptcy or becomes bankrupt, or takes the benefit of any statute that may be in force for bankrupt or insolvent debtors, or becomes involve in voluntary or involuntary winding-up proceedings, or if a receiver or receiver/manager shall be appointed for the business, property, affairs or revenues of the Tenant or such person or corporation; or
- (d) the Tenant makes a bulk sale of its goods or moves or commences, attempts or threatens to move its goods, chattels and/or equipment out of the Leased Premises (other than in the normal course of Tenant's business) or ceases to conduct business from the Leased Premises for in excess of 14 days; or
- (e) the Tenant fails to observe, perform and keep each and every of the covenants, agreements and conditions herein contained to be observed, performed and kept by the Tenant and persists in the failure after ten (10) days notice by the Landlord requiring Tenant to remedy, correct, desist, or comply (or if any breach would reasonable require more than ten (10) days to rectify, unless the Tenant commences rectification within the ten (10) day notice period and thereafter promptly and effectively and continuously proceeds with the rectification of the breach).

10.3 REMEDIES ON DEFAULT. Upon the occurrence of one or more Events of Default, the Landlord may, at its option, and in addition to and without prejudice to all rights and remedies of the Landlord available to it either by any other provision of this Lease or by statute or the general law:

- (a) be entitled to the full amount of the current month's and the next three (3) month's installments of Rent which shall immediately become due and payable, and the Landlord may immediately demand same, together with any arrears then unpaid;
- (b) re-enter upon and take possession of the Leased Premises or any part thereof in the name of the whole and re-let the Leased Premises or any part thereof on behalf of the Tenant or otherwise as the Landlord sees fit ;
- (c) terminate this Lease by leaving upon the Leased Premises ten (10) days written notice of the termination, and termination shall be without prejudice to the Landlord's right to damages, it being agreed that the Tenant shall pay to the Landlord, as damages, the loss of income of the Landlord to be derived from the Leased Premises for the unexpired portion of the Term had it not been terminated, provided that the Landlord

shall not be entitled in any event to receive any damages greater than those damages the Landlord would be entitled to receive at law; or

- (d) re-enter into and upon the Leased Premises, or any part thereof, in the name of the whole and repossess and enjoy the same as of the Landlord's former estate, anything herein contained to the contrary notwithstanding, and the Tenant shall pay to the Landlord forthwith upon demand all expenses of the Landlord incurred in re-entering, terminating, re-letting, collecting sums due or payable by the Tenant, including but not limited to legal fees on a solicitor and client basis and all disbursements, and the expense of keeping the Leased Premises in good order, and preparing same for re-letting.

- 10.4 WAIVER. If the Landlord shall overlook, excuse, condone or suffer any default, breach or non-observance by the Tenant of any obligation hereunder, this shall not operate as a waiver of the obligation in respect of any continuing or subsequent default, breach or non-observance and no such waiver shall be implied but shall only be affected if expressed in writing.
- 10.5 WAIVER OF EXEMPTION AND REDEMPTION. Notwithstanding anything contained in any statute now or hereafter in force limiting or abrogating the right of distress, none of the Tenant's goods, merchandise, stock in trade, chattels or trade fixtures on the Leased Premises at any time during the Term shall be exempt from levy by distress for Rent in arrears, and upon any claim being made for exemption by the Tenant, or on distress being made by the Landlord, this agreement may be pleaded as an estoppel against the Tenant in any action brought to test the right to the levying upon any such goods as are named as exempted in any such statute, the Tenant hereby waiving all and every benefit that could or might have accrued to the Tenant under and by virtue of any such statute but for this Lease. The Tenant hereby expressly waives any and all rights of redemption and relief from forfeiture granted by or under any present or future laws in the event of the Tenant being evicted or dispossessed for any cause, or in the event of the Landlord obtaining possession of the Leased Premises by reason of the violation by the Tenant of any of the terms or conditions of this Lease or otherwise.

## **ARTICLE 11**

### **ASSIGNMENT AND TRANSFERS**

- 11.1 NO ASSIGNMENT BY TENANT. The Tenant shall not assign, sublet, pledge or otherwise transfer this Lease or any interest therein, or in any way part with

possession of all or any part of the Leased Premises, or permit all or any part of the Leased Premises to be used or occupied by any other person, or in any other manner, without the express written consent of the Landlord, which consent shall not be unreasonably withheld. The Tenant shall be permitted to assign this lease without prior written consent of the Landlord to an associated corporation, a parent or wholly owned subsidiary of the Tenant, or to a corporation which results from the reorganization, consolidation, amalgamation or merger of the Tenant, provided that any such assignment or transfer, or other dealing with any of the shares of the Tenant, when taken alone or together having the effect of changing control of the Tenant, shall be deemed to be an assignment of this Lease which requires prior approval of the Landlord as set out herein.

- 11.2 **SALE, CONVEYANCE AND ASSIGNMENT BY THE LANDLORD.** Nothing in this Lease shall restrict the right of the Landlord to sell, convey, assign, pledge or otherwise deal with the Leased Premises subject only to the rights of the Tenant under this Lease. A sale, conveyance or assignment of the Leased Premises by the Landlord shall operate to release the Landlord from liability from and after the effective date thereof in respect of all of the covenants, terms and conditions of this Lease, express or implied, except as they may relate to the period prior to the effective date, and only to the extent that the Landlord's successor assumes the Landlord's obligations under the Lease and the Tenant shall thereafter look to solely to the Landlord's successor in interest and to this Lease.
- 11.3 **SUBORDINATION.** This Lease is and shall be subject and subordinate in all respects to any and all mortgages (including deeds of trust and mortgage) now or hereafter placed on the Leased Premises, and all advances thereunder, past, present or future, and to all renewals, modifications, consolidations, replacements and extensions thereof. The Tenant agrees to execute promptly after request therefore an instrument of subordination as may be requested.

## **ARTICLE 12**

### **SURRENDER AND HOLDOVER**

- 12.1 **SURRENDER.** Upon the expiration or other termination of the Term, the Tenant shall immediately quit and surrender possession of the Leased Premises and all leasehold improvements in substantially the condition in which the Tenant is required to maintain the Leased Premises, excepting only reasonable wear and tear, and upon surrender, all right, title and interest of the Tenant in the Leased Premises shall cease. It is understood that the Landlord has the right to remove and sell, or otherwise dispose of, any leasehold improvements, chattels, equipment or any other property of the Tenant left on the Leased Premises by the Tenant after the termination of this Lease, and to retain the proceeds thereof. In addition, the Tenant shall pay the Landlord upon written demand any and all of the costs incurred by the Landlord in connection with the removal of said property.

- 12.2 **HOLDOVER.** If the Tenant continues to occupy the Leased Premises after the expiration or other termination of the Term without any further written agreement, the Tenant shall be a month to month tenant at a Minimum Rent equal to two times the Minimum Rent paid by the Tenant immediately prior to the expiration or other termination of the Term, but subject to all other provisions in this Lease to the extent that same are applicable to a month to month tenancy, and no year to year tenancy shall be created by implication of law. Nothing herein shall preclude the Landlord from exercising all of its rights set out in this Lease, including without limitation, the taking of any action for recovery or possession of the Leased Premises.

## **ARTICLE 13 MISCELLANEOUS**

- 13.1 **FLOOR PLAN.** Landlord has not agreed to make any alterations to the current floor plan of the premises. The premises will be delivered to the Tenant on or before the Commencement Date in its "as is" condition. After the Commencement Date maintenance of the interior of the premises becomes the sole responsibility of the Tenant, except as otherwise state in this Lease.
- 13.2 **BROKER.** Tenant represents to Landlord that Tenant has dealt with no Brokers, in connection with this Lease and Tenant agrees to indemnify and hold Landlord harmless from any and all claims, loss, costs, liability and expense, including but not limited to, reasonable attorney's fees, in connection with any claim by any other broker with whom Tenant dealt.
- 13.3 **HOURS OF OPERATION.** Tenant agrees not to open the lease premises prior to 8 a.m. and to close the Leased Premises no later than 10 p.m. on any calendar day. Tenant must abide by any and all local, municipal, state or federal codes, ordinances, rules and regulations regarding the opening and closing of the premises.

## **ARTICLE 14 GENERAL**

- 14.1 **ENTIRE AGREEMENT.** This agreement contains the entire agreement of the parties and no promise, representation, or undertaking is binding upon the Landlord unless expressly stated herein.
- 14.2 **REGISTRATION.** The Tenant agrees not to register or record this Lease. If the Tenant wishes to register a notice of this Lease, the Landlord agrees to execute at the expense of the Tenant, an acknowledgement or short form of lease sufficient for such

purpose which shall preserve the confidentiality of the Rent and other financial terms of this Lease. The Tenant shall, at its own cost and expense, upon the expiration or earlier termination of the Term discharge any registration made against the Lease Premises providing notice of its interest in the Lease.

- 14.3 NOTICE. Any notice required or contemplated by any provision of this Lease shall be given in writing and shall be sufficiently given if mailed by regular or certified mail, or delivered by telecopy or similar form of immediate transmission, and if to the Landlord, addressed as set forth on page 1 herein, and if to Tenant, personally (or to a partner or officer of the Tenant) delivered to the Leased Premises (whether or not the Tenant has departed, vacated or abandoned same). Any notice shall be deemed to have been received three (3) postal delivery days after mailing, or on the day following the date of delivery or sending if by other means.
- 14.4 RELATIONSHIP OF THE PARTIES. Nothing herein shall be deemed to create any relationship between the parties hereto other than Landlord and Tenant.
- 14.5 GOVERNING LAW. This Lease shall be construed under, and enforced in accordance with, the laws of the State of New York.
- 14.6 AMENDMENT OR MODIFICATION. No amendment or modification of this Lease shall be binding or valid unless in writing and signed by both the Landlord and the Tenant.
- 14.7 SEVERABILITY. All of the provisions of this Lease are to be construed as covenants and agreements. If any provision of this Lease shall be deemed to be illegal or unenforceable it shall be considered as a separate and severable provision and the remainder of the Lease shall remain in full force and effect and be binding as though the severed provision had never been included.
- 14.8 CAPTIONS AND HEADINGS. The captions and headings of each provision are for convenience of reference only and are not intended to limit, enlarge or otherwise affect the interpretation of the Articles, Sections or parts thereof to which they apply.
- 14.9 INTERPRETATION. Wherever necessary or appropriate in this Lease, the plural shall be interpreted as singular, the masculine as feminine, and vice versa, and when there are two or more parties bound by the Tenant's covenants herein contained their obligations shall be joint and several.
- 14.10 TIME OF THE ESSENCE. Time shall be of the essence with regard to the provisions contained herein.
- 14.11 SUCCESSORS AND ASSIGNS. Subject to the specific provisions to the contrary contained in this Lease, this Lease shall inure to the benefit of and be binding upon the successors and assigns of the Landlord, his heirs, executors and administrators and the permitted successors and assigns of the Tenant.

14.12 PERSONAL GUARANTY. For value received, and in consideration of the Landlord entering into this Lease with Tenant, the undersigned "Guarantor" hereby unconditionally and absolutely agrees to pay to the Landlord the full, due and timely payment of all Minimum Rent, Additional Rent, and occupancy charges, and all other sums which shall be payable by Tenant to Landlord pursuant to the terms of this Lease, for the entire period in which Tenant has a beneficial interest in, or is in possession of, the demised premises. The termination of this Lease for any reason whatsoever shall not affect the Guarantor's obligations or create in Guarantor any right of set off against such obligations, or any claim against the Landlord, and Guarantor hereby waives any and all rights to assert anything to the contrary. This guaranty and the rights and obligations of the parties hereunder shall in all respects be governed by the laws of the State of New York.

**IN WITNESS WHEREOF** the Landlord and the Tenant have executed this Lease as of the date first set forth above.

\_\_\_\_\_  
WITNESS

LANDLORD:  
COAST 2 COAST REAL ESTATE LLC

By:

\_\_\_\_\_  
Robert A. Lee, Jr. Managing Member

TENANT:

\_\_\_\_\_  
WITNESS

TARGET MEDIA LLC  
BY:

\_\_\_\_\_  
Anthony Aceto, Managing Member

GUARANTOR

\_\_\_\_\_  
Anthony Aceto, Individually

## **COMMERCIAL LEASE**

THIS LEASE made as of JUNE , 2021 between COAST 2 COAST REAL ESTATE LLC (the "Landlord") having offices located at 3505 VETERANS MEMORIAL HIGHWAY, STE D, RONKONKOMA, NY 11779, and 1 800 PLUMBER, LLC (the "Tenant") having offices located at 3505 VETERANS MEMORIAL HIGHWAY, STE E, RONKONKOMA, NEW YORK 11779.

**IN CONSIDERATION** of the mutual covenants contained herein, the Landlord and Tenant hereby agree as follows:

### **ARTICLE 1 INTERPRETATION**

1.1 DEFINITIONS: In this Lease the following terms shall have the following meanings:

"Additional Rent" shall mean any and all other amounts payable by the Tenant to the Landlord to be discharged as Rent under the terms of this Lease;

"Building" shall mean the building(s) located on the Land, including all alterations and additions thereto and replacements, thereto;

"Commencement Date" shall mean September 1, 2021.

"Event of Default" shall mean any event referred to in Section 10.2 hereof;

"Gross Rent" shall mean all rental payments are inclusive of water, and property taxes paid or assessed through the Commencement Date and insurance premiums.

"Land" shall mean the premises commonly known as: 20 Pinchurst Drive, Bellport, NY

"Lease" shall mean this lease and any Schedules attached hereto which are referred to herein and every executed instrument which by its terms shall amend, modify or supplement this lease:

"Lease Year" shall mean each successive period of twelve (12) calendar months during the Term and ending on an anniversary of the Commencement Date; provided that if the Landlord deems it necessary for the Landlord's accounting purposes, the Landlord may, by written notice to the Tenant, specify another day on which each subsequent lease year is to commence, and in such event, any appropriate adjustments shall be made.

"Leased Premises" shall mean the 6436 Square Feet of Office Space at the Building located at the above address.

"Occupancy Date" shall mean September 1, 2021.

"Permitted Use" shall mean the business of general office space and all uses ancillary thereto.

"Rent" means the aggregate of all amounts payable by the Tenant to the Landlord under the terms of this Lease:

"Minimum Rent" shall mean the amounts due for each Lease Year as set forth hereunder:

YEAR OF TERM	AGGREGATE ANNUAL MINIMUM RENT	MONTHLY MINIMUM RENT
YEAR 1	\$180,000.00	\$15,000.00
YEAR 2	\$180,000.00	\$15,000.00
YEAR 3	\$180,000.00	\$15,000.00
YEAR 4	\$180,000.00	\$15,000.00
YEAR 5	\$183,600.00	\$15,300.00
YEAR 6	\$187,272.00	\$15,606.00
YEAR 7	\$191,017.44	\$15,918.12
YEAR 8	\$194,837.76	\$16,236.48
YEAR 9	\$198,746.52	\$16,561.21
YEAR 10	\$202,721.40	\$16,893.45
YEAR 11	\$206,775.84	\$17,231.32
YEAR 12	\$210,911.40	\$17,575.95
YEAR 13	\$215,129.64	\$17,927.47
YEAR 14	\$219,432.24	\$18,286.02
YEAR 15	\$223,820.88	\$18,651.74

"Term" shall mean a period of Fifteen (15) years commencing on the Commencement Date, or any renewal period hereunder.

"Termination Date" shall mean August 31, 2036, unless earlier terminated as provided in this Lease, or unless the term is extended per any Renewal Option.

## **ARTICLE 2**

### **GRANT OF LEASE AND GENERAL COVENANTS**

- 2.1 GRANT. The Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord the Leased Premises, to have and to hold during the Term, subject to the terms and conditions of this Lease.
- 2.2 LANDLORD'S GENERAL COVENANTS. The Landlord hereby covenants with the Tenant to provide quiet enjoyment of the Leased Premises, and to observe and perform all the covenants and obligations of the Landlord as provided herein.
- 2.3 TENANT'S GENERAL COVENANTS. The Tenant covenants with the Landlord to pay all Rent, and to observe and perform all the covenants and obligations of the Tenant as provided herein.

## **ARTICLE 3**

### **TERM OF POSSESSION**

- 3.1 TERM. The Term of the Lease shall begin on the Commencement Date and end on the Termination Date, unless sooner terminated as provided herein, or extended by Renewal.
- 3.2 POSSESSION OF LEASED PREMISES. The Tenant shall have occupancy of the Leased Premises from and after the Commencement Date through the Termination Date, during which time the Tenant shall pay all Minimum Rent, Rent and Additional Rent, if any, and shall observe and perform all covenants and obligations of the Tenant herein.

## **ARTICLE 4**

### **RENT**

- 4.1 RENT. The Tenant shall pay to the Landlord as Rent for the Leased Premises the aggregate of
  - (a) Minimum Rent in respect of each year of the Term or Renewal term as the case may be, payable in advance and without notice or demand in monthly installments commencing on the Commencement Date, and

- (b) Additional Rent at the times and in the manner provided in this Lease or, if not so provided, as reasonably required by the Landlord.

4.2 GROSS LEASE. It is the intent of the Landlord and the Tenant that this Lease shall be fully gross to the Landlord, providing that the Tenant shall not be responsible for costs and expenses expressly excluded by the terms of this Lease, and including, but not limited to, the following:

- (a) mortgage payments of principal or interest on any mortgage affecting the Leased Premises;
- (b) any income taxes of the Landlord, except to the extent that such income taxes are imposed in lieu of real property taxes;
- (c) any ground rental;
- (d) any structural repairs or replacements;
- (e) any expenditures with respect to the Leased Premises which are of a capital nature; and
- (f) utility expenses relating to water usage.

4.3 PAYMENT OF RENT. All amounts payable by the Tenant to the Landlord pursuant to this Lease shall be deemed to be Rent and shall be payable and recoverable as Rent in the manner herein provided and the Landlord shall have all rights against the Tenant for default in any such payment as in the case of arrears of rent. Except as otherwise provided in Section 8.1 hereof, Rent shall be paid to the Landlord in lawful money of the United States of America, without deduction or set-off, at the address of the Landlord, or to such other person or other address as the Landlord may, from time to time, designate in writing. The Tenant's obligation to pay Rent shall survive the expiration or earlier termination of this Lease.

4.4 BASE YEAR TAXES. Base Year Taxes are included in the first year's Minimum Rent. The Base Year Tax for Town and School taxes commence December 1, 2020 and ends November 30, 2021. Beginning with the first day of the second year of the Lease Term, Tenant shall pay to Landlord, within 30 days of notice, as Additional Rent for each tax year, a sum equal to the Tenant's share of any increase in taxes over and above the Base Year Taxes. Landlord shall furnish Tenant with an annual Escalation Statement for each tax year detailing both the increase over the Base Year Tax and Tenant's portion of same for such Tax Year. Tenant occupies one hundred (12%) percent of the premises, and therefore shall be responsible for one hundred (12%) percent of any tax increases over the Base Year Taxes.

- 4.5 SECURITY. Tenant shall deposit with the Landlord the equivalent of one (1) month's Rent (\$5,000.00) no later than September 1, 2021, as Security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this Lease. In the event that Tenant defaults in respect to any terms, provisions, covenants or conditions of this lease, including but not limited to, the payment of Rent or Additional Rent, Landlord may use, apply or retain the whole or any part of the Security so deposited to the extent required for the payment of any Rent or Additional Rent, or any other sum as to which Tenant is in default, or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default.
- (a) In the event that Tenant shall fully and faithfully comply with all the terms, provisions, covenants and conditions of this lease, the Security shall be returned to Tenant after the Termination Date and after delivery of possession of the demised premises to Landlord in vacant and broom clean condition. Security may not be used for the final payment of Rent under this lease.
- (b) Whenever the annual Rent increases, Tenant will deposit with Landlord such additional sums as are necessary to permit Landlord to have on hand throughout the term of this lease, the equivalent of one (1) month's Rent as Security at all times.

## **ARTICLE 5**

### **USE AND OCCUPANCY**

- 5.1 USE OF LEASED PREMISES. The Tenant shall use the Leased premises only for the Permitted Use and shall not use or permit to be used the Leased Premises or any part thereof for any other purpose or business or by any persons other than the Tenant.
- 5.2 COMPLIANCE WITH LAWS. The Tenant shall comply with all present and future laws, regulations, ordinances and orders relating to the occupation or use of the Leased Premises, the condition of the leasehold improvements, equipment and other property of the Tenant therein, the making by the Tenant of any repairs, changes or improvements, and the conduct of business in the Leased Premises.
- 5.3 PROHIBITED USES. The Tenant shall not commit, cause or permit any nuisance or any waste or injury to or in or about the Leased Premises, or to any of the leasehold improvements, merchandise or fixtures therein, or conduct any use or manner of use causing annoyance to any person. Without limiting the generality of the foregoing, the Tenant shall not use or permit the use of any portion of the Leased Premises for any dangerous, illegal, noxious, odorous or offensive trade, business or occurrence, or other use contrary to the provisions of this Lease. The Tenant shall keep the Leased Premises free of debris or anything of a dangerous, noxious, odorous, hazardous or offensive nature or which could create an environmental or a fire hazard, whether

through undue load on electric circuits or other cause, or undue vibration, heat or noise. Additionally, Tenant shall not permit smoking anywhere on the premises.

- 5.4 **HAZARDOUS USE.** The Tenant shall not do, omit to do, or permit to be done anything which will cause or shall have the effect of causing the cost of the Landlord's insurance in respect of the Leased Premises to be increased at any time during the Term, or any policy of insurance on or relating to the Lease Premises to be subject to cancellation. Without waiving the foregoing prohibition, the Landlord may demand and the Tenant shall pay to the Landlord upon demand, the amount of any increase in the cost of insurance caused by anything so done, or omitted to be done. The Tenant shall, immediately upon Landlord's request, comply with the requirements of the Landlord's insurers, cease any activity complained of and make good any circumstance which has caused any increase in insurance premiums or the cancellation of any insurance policy. If any policy of insurance in respect of the Leased Premises is cancelled or becomes subject to cancellation by reason of anything so done or omitted to be done, the Landlord may without prior notice terminate this Lease and re-enter the Lease Premises.
- 5.5 **SIGNAGE.** The Tenant shall be permitted to install and exhibit a sign or signs identifying the Tenant and/or the Tenant's business activities on the Leased Premises, in areas designated by the Landlord and subject to the Landlord's prior written consent, which consent shall not be unreasonably withheld.
- 5.6 **RULES AND REGULATIONS.** The Landlord shall be entitled from time to time to make reasonable rules and regulations for the operation, maintenance, safety and use of the Leased Premises and the Tenant shall comply with such rules and regulations and shall cause its servants, agents, employees, customers, invitees and licensees to comply with such rules and regulations. Specifically, Tenant is hereby prohibited from allowing any smoking anywhere on the premises.

## **ARTICLE 6**

### **RIGHTS AND OBLIGATIONS OF THE LANDLORD**

- 6.1 **OPERATION OF LEASED PREMISES.** The Tenant shall assume full responsibility for the operation and maintenance of the Leased Premises, and for the repair or replacement of all fixtures or chattels located therein or thereon. The Landlord shall have no responsibility whatsoever, with respect to maintenance, repairs or replacement, except as to structural items and as provided in Section 6.2 herein, provided that if the Tenant fails to do so, the Landlord may at its sole option upon fourteen (14) days prior written notice and without any obligation to the Landlord, elect to perform such maintenance, repairs or replacement as the Landlord may reasonably deem necessary or desirable. In so doing, the Landlord shall not be liable for any consequential damage, direct or indirect to any person or property, including, but without restricting the generality of the foregoing, damages for a disruption of the

business of the Tenant and damage to, or loss of, the goods, chattels and equipment and other property of the Tenant, nor shall any reduction or disruption of services be construed as a breach of the Landlord's covenants, or as an eviction of the Tenant, or release the Tenant from any obligation under this Lease provided that the Tenant's business is not unreasonably interfered with.

6.2 ACCESS BY LANDLORD. The Tenant shall permit the Landlord to enter the Leased Premises at any time outside normal business hours in case of an emergency and otherwise during normal business hours where such will not unreasonably interfere with or disturb the Tenant's use of the Leased Premises, or operation of its business, to examine, inspect and show the Lease Premises for purposes of leasing, sale or financing, to provide services or make repairs, replacements, changes or alterations as provided for in this Lease and to take such steps as the Landlord may deem necessary for the safety, improvement or preservation of the Leased Premises. The Landlord shall, whenever possible, consult with or give reasonable notice to Tenant prior to entry, but not such entry shall constitute an eviction or a breach of the Landlord's covenant for quiet enjoyment or entitle the Tenant to any abatement of Rent. The Tenant shall also permit the Landlord, its employees and agents, at any time during the six (6) months prior to the expiration or termination of this Lease to enter the Leased Premises for the purpose of showing it to any such persons as may be desirous of purchasing or leasing the Leased Premises.

6.3.1 MAINTENANCE. It is understood and agreed that the Tenant herein will keep the sidewalks and all surrounding areas free and clear of dirt, snow and ice for the full term of this Lease. Tenant shall maintain approved trash containers at the rear of the building, or such other place as Landlord shall from time to time designate, for Tenant's garbage disposal and shall place same for pick up on Monday and Thursday mornings only. Additionally, Tenant shall keep all hallways and its premises free from debris at all times. Landlord shall perform regular maintenance on the landscaping and parking areas. Landlord will deliver all heating and plumbing in working order.

## **ARTICLE 7**

### **TENANT'S RESPONSIBILITIES**

71. TENANT'S OBLIGATIONS. In connection with the Leased Premises, the Tenant hereby agrees that it shall be responsible for the following throughout the Term:

- (a) INSURANCE. The Tenant shall take out and maintain in the name of the Landlord its agents, and employees, the Tenant and each mortgagee of the Leased Premises as their interests may appear the following forms of insurance:

- (i) all risks property insurance (including flood, sewer back-up and earthquake) with coverage for the full replacement cost of the Leased Premises including By-Law endorsement for demolition or replacement;
- (ii) insurance upon property of every description owned by the Tenant or for which the Tenant is legally liable and installed or kept within the Leased Premises (including leasehold improvements) in an amount not less than the full replacement costs value;
- (iii) comprehensive public liability and broad form property damage insurance with limits of not less than \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate with extensions including but not limited to personal injury, intentional acts, blanket contractual, cross-liability and severability of interest, occurrence property damage, employer's liability and non-owned automobile coverage;
- (iv) any other form or forms of insurance as the Landlord or its mortgagees may reasonably require.

All insurance policies required under this provision shall provide for a waiver of subrogation against the Landlord or those for whom it is in law responsible whether any damage is caused by the acts, omission, or negligence of the Landlord or those for whom it is in law responsible. Each such insurance policy shall further contain a prohibition against cancellation or material change that reduces or restricts the insurance coverage except upon 30 days prior written notice to the Landlord. The Tenant shall provide the Landlord with certified copies of each such insurance policy on or before the Commencement Date.

- (b) TAXES. The Tenant shall promptly pay and discharge all taxes, levies, duties, assessments, and license fees whatsoever whether municipal, school, provincial, parliamentary or otherwise levied, imposed or assessed against the Leased Premises or upon the Landlord in respect thereof, or from time to time levied, imposed or assessed in the future in lieu thereof, including those levied, imposed or assessed for education, school and local improvements, or other similar taxes imposed upon the Landlord or the Tenant and including all business taxes and/or realty taxes from time to time payable by the Landlord or levied against the Landlord on account of its ownership or operation of the Leased Premises; and including all costs and expenses (including legal fees on a solicitor and client basis and other professional fees and interest and penalties on deferred payments) incurred by the Landlord in good faith in contesting, resisting or appealing any such taxes, rates, duties, levies or assessments, but excluding income or

profits taxes upon the income of the Landlord; as well as any form of capital or capital gains taxes levied in respect of the Leased Premises all to be paid by the Tenant on or before the date when the same or installments for the same are due. The Tenant shall upon the request of the Landlord promptly deliver to the Landlord for examination all receipts for payment of such taxes, levies, duties, assessments and license fees. The Tenant shall also reimburse the Landlord at times and in the manner specified by the Landlord, and in the full amount of any taxes in the nature of a business transfer tax, sales tax or any other tax levied, rated, charges or assessed in respect of the Minimum Rent or Additional Rent payable under this Lease. The Tenant shall reimburse the Landlord for such taxes at the full rate applicable from time to time.

- (c) MAINTENANCE. The Tenant shall maintain the Leased Premises and all improvements therein in good order and condition, keep the Leased Premises in a clean condition, and remove from the Leased Premises any debris and garbage.
- (d) REPAIRS. The Tenant shall perform all repairs to and make all replacements of fixtures, leasehold improvements and plate glass in the Leased Premises as may be necessary.
- (e) ALL OTHER EXPENSES. The Tenant shall pay all other expenses of every nature incurred in connection with the use, maintenance and operation of the Leased Premises. The Tenant acknowledges and agrees that the Landlord is not responsible during the Term for any costs, charges, expenses or outlays of any nature whatsoever arising from, or related to, the Leased Premises, or the use and occupancy thereof, or the business carried on therein, and the Tenant shall pay all charges, impositions, costs and expenses of every nature and kind relating to the Leased Premises except as otherwise expressly stated herein.

7.2 PAYMENT OF COSTS. The Tenant shall pay all costs and expenses associated with the Tenant's obligations directly to the appropriate party as they come due and shall, at the Landlord's request, provide the Landlord with copies of receipts or other proof of payment acceptable to the Landlord. If the Tenant fails to perform any obligation under this Lease, or to pay any costs and expenses as set out herein, the Landlord may at its sole option and discretion, on seven (7) days written notice to the Tenant, perform such obligation or pay such amounts on behalf of the Tenant and the Tenant shall forthwith upon receipt of an invoice therefore reimburse the Landlord for the cost of such action or the amount of such payment.

7.3 LEASEHOLD IMPROVEMENTS. The Tenant may install in the Leased Premises its usual fixtures and personal property in a proper manner, provided that no installation

or repair shall interfere with or damage the mechanical or electrical systems or the structure of the Leased Premises. If the Tenant is not then in default hereunder, the fixtures and personal property installed in the Leased Premises by the Tenant may be removed by the Tenant from time to time in the ordinary course of the Tenant's business, or in the course of reconstruction, renovation or alteration of the Leased Premises by the Tenant, provided that the Tenant promptly repairs at its own cost and expense any damage to the Leased Premises resulting from the installation and removal, reasonable wear and tear excepted. The Tenant shall, if required by the Landlord, remove any Leasehold Improvements or fixtures from the Leased Premises upon the termination of this Lease.

- 7.4 **ALTERATIONS BY THE TENANT.** The Tenant may from time to time at its own expense make changes, additions and improvements to the Leased Premises to better adapt same to its business provided that any change, addition or improvement shall be made only after obtaining written consent of the Landlord, which consent shall not be unreasonably withheld, and shall be carried out in a workmanlike and professional manner and only by persons selected by the Tenant and reasonably approved in writing by Landlord. If any such changes, additions, or improvements require alterations to the exterior walls, roof, or other structural components of the Leased Premises or modification of the heating, ventilation or air conditioning systems in the Leased Premises, the Tenant shall be solely responsible for the cost of such modifications and the Landlord hereby reserves the right to perform any such work at the expense of the Tenant provided that the cost of such work to the Tenant is reasonable in the circumstance.
- 7.5 **LIENS.** The Tenant shall pay promptly when due all costs for work done or caused to be done by the Tenant in the Leased Premises which could result in any lien or encumbrance on the Landlord's interest in the property, shall keep the title to the property and every part thereof free and clear of any lien or encumbrance in respect of the work and shall indemnify and hold harmless the Landlord against any claim, loss, cost, demand and legal or other expense, whether in respect of any lien or otherwise, arising out of the supply of materials, services or labor for the work.
- 7.6 **NOTIFY LANDLORD.** The Tenant shall immediately notify the Landlord of any accidents or defect in the Leased Premises or any systems thereof, as well as of any matter or condition which may cause injury or damage to the Leased Premises or any person or property located therein.

## **ARTICLE 8**

### **DAMAGE AND DESTRUCTION**

- 8.1 **DAMAGE AND DESTRUCTION.** If during the Term the Leased Premises or any part thereof shall be damaged by fire, lightning, tempest, structural defects or acts of God, or by any additional perils defined and covered in the standard broad-coverage

fire insurance policy carried by the Landlord on the Leased Premises, the following provisions shall apply:

- (a) If, as a result of such damage, the Lease Premises are rendered partially unfit for occupancy by the Tenant, the Rent shall abate in proportion to the part of the Leased Premises rendered wholly unfit for occupancy by the Tenant bears to the whole of the Leased Premises.
- (b) Notwithstanding subsection (a) above, if in the opinion of the Landlord's architect or engineer, rendered within sixty (60) business days of any event resulting in damage to the Leased Premises, the Leased Premises shall be incapable of being rebuilt, repaired, or restored with reasonable diligence within 180 days after the occurrence of the damage then either the Landlord or the Tenant may terminate this Lease by notice in writing to the other given within 15 days of the opinion of the Landlord's architect or engineer. If notice is given by the Landlord or Tenant under this Section, then this Lease shall terminate from the date of such damage and the Tenant shall immediately surrender the Leased Premises and all interest therein to the Landlord and the Rent shall be apportioned and shall be payable by the Tenant only to the date of the damage and the Landlord may thereafter re-enter and repossess the Leased Premises.
- (c) If the Leased Premises are capable with reasonable diligence of being rebuilt, repaired and restored within 180 days of the occurrence of such damage, then the Landlord shall proceed to rebuild, restore and repair the Leased Premises with reasonable promptness within 180 days plus any additional period due to delay caused by strikes, lock-outs, slow-downs, shortages of materials or labor, acts of God, acts of war, inclement weather or other occurrences which are beyond the control of Landlord, and the Rent shall abate in the manner provided for in subsection (a) above until the Leased Premises have been rebuilt, repaired, or restored, provided that nothing in this Section shall in any way be deemed to affect the obligation of the Tenant to repair, maintain, replace or rebuild the Leased Premises as otherwise provided by the terms of this Lease.

## **ARTICLE 9**

### **INDEMNITY**

- 9.1 INDEMNITY. The Tenant shall indemnify and hold harmless the Landlord, its agents and employees from any and all liabilities, damages, costs, claims, suits and/or actions growing or arising out of (a) through (c) below, except for Landlord's negligence:

- (a) any breach, violation or non-performance of any covenant, condition or agreement in this Lease set forth and contained on the part of the Tenant to be fulfilled, kept, observed and performed.
- (b) any damage to property while the property is in or about the Leased Premises; and
- (c) any injury to person or persons including death resulting at any time therefrom occurring in or about the Leased Premises.

9.2 **LIMITATION OF LANDLORD'S LIABILITY.** The Landlord and its agents and employees shall not be liable for any damage to the Leased Premises, or any property located therein, caused by any latent defects, or by steam, water, rain or snow which may leak into, issue or flow from any part of the Leased Premises, or from the water, steam, sprinkler or drainage pipes or plumbing works of the same, or from any other place or from any damage caused by or attributable to the condition or arrangement of any electrical or other wiring, or for any damage caused by anything done or omitted to be done by any person, or for damage caused by interruption or failure of any service or utility, or for damage however caused to merchandise, stock in trade, books, records, files, money, securities, negotiable instruments, papers or other valuables.

9.3 **SURVIVAL OF OBLIGATIONS AND INDEMNITIES.** All obligations of the Tenant which arise during the Term pursuant to this Lease and which have not been satisfied, and the indemnities and other obligations of the Tenant contained in Section 9.1 shall survive the expiration or other termination of this Lease.

## **ARTICLE 10 DEFAULT**

10.1 **LATE CHARGES.** In the event the Landlord fails to receive any monthly payment of Rent by the fifth (5<sup>th</sup>) day of any month in which payment by the Tenant is due, Tenant agrees to be liable for an additional one hundred dollars (\$100.00) Late Charges. Such Late Charges shall be Additional Rent, without the necessity of any billing therefore. Such Late Charges shall not authorize any rental payments after the first (1<sup>st</sup>) day of any month, and the same shall be due in addition to such other remedies Landlord has for a "Non-Payment Proceeding" on or after the second (2<sup>nd</sup>) day of each month. The Tenant shall indemnify the Landlord against all costs and charges reasonably incurred in enforcing payment of Rent hereunder and in obtaining possession of the Leased Premises should the same be necessary.

10.2 **EVENTS OF DEFAULT.** Each of the following events shall constitute an event of default (an "Event of Default");

- (a) all or any part of the Rent hereby reserved is not paid when due and upon written notice of the Landlord continues for five (5) days after notice thereof, or
- (b) or any goods, merchandise, stock in trade, chattel or equipment of the Tenant is seized or is taken in execution or in attachment, or if a writ of execution is issued against the Tenant, or if a creditor takes possession thereof, or
- (c) the Tenant or any person or corporation bound to perform the obligations of the Tenant hereunder, either as guarantor or indemnifier, or as one of the parties constituting the Tenant takes any steps, or suffers any order to be made, for its winding-up or other termination of its corporate existence, or becomes insolvent, or commits any act of bankruptcy or becomes bankrupt, or takes the benefit of any statute that may be in force for bankrupt or insolvent debtors, or becomes involve in voluntary or involuntary winding-up proceedings, or if a receiver or receiver/manager shall be appointed for the business, property, affairs or revenues of the Tenant or such person or corporation; or
- (d) the Tenant makes a bulk sale of its goods or moves or commences, attempts or threatens to move its goods, chattels and/or equipment out of the Leased Premises (other than in the normal course of Tenant's business) or ceases to conduct business from the Leased Premises for in excess of 14 days; or
- (e) the Tenant fails to observe, perform and keep each and every of the covenants, agreements and conditions herein contained to be observed, performed and kept by the Tenant and persists in the failure after ten (10) days notice by the Landlord requiring Tenant to remedy, correct, desist, or comply (or if any breach would reasonable require more than ten (10) days to rectify, unless the Tenant commences rectification within the ten (10) day notice period and thereafter promptly and effectively and continuously proceeds with the rectification of the breach).

10.3 REMEDIES ON DEFAULT. Upon the occurrence of one or more Events of Default, the Landlord may, at its option, and in addition to and without prejudice to all rights and remedies of the Landlord available to it either by any other provision of this Lease or by statute or the general law:

- (a) be entitled to the full amount of the current month's and the next three (3) month's installments of Rent which shall immediately become due and payable, and the Landlord may immediately demand same, together with any arrears then unpaid;

- (b) re-enter upon and take possession of the Leased Premises or any part thereof in the name of the whole and re-let the Leased Premises or any part thereof on behalf of the Tenant or otherwise as the Landlord sees fit ;
- (c) terminate this Lease by leaving upon the Leased Premises ten (10) days written notice of the termination, and termination shall be without prejudice to the Landlord's right to damages, it being agreed that the Tenant shall pay to the Landlord, as damages, the loss of income of the Landlord to be derived from the Leased Premises for the unexpired portion of the Term had it not been terminated, provided that the Landlord shall not be entitled in any event to receive any damages greater than those damages the Landlord would be entitled to receive at law; or
- (d) re-enter into and upon the Leased Premises, or any part thereof, in the name of the whole and repossess and enjoy the same as of the Landlord's former estate, anything herein contained to the contrary notwithstanding, and the Tenant shall pay to the Landlord forthwith upon demand all expenses of the Landlord incurred in re-entering, terminating, re-letting, collecting sums due or payable by the Tenant, including but not limited to legal fees on a solicitor and client basis and all disbursements, and the expense of keeping the Leased Premises in good order, and preparing same for re-letting.

10.4 WAIVER. If the Landlord shall overlook, excuse, condone or suffer any default, breach or non-observance by the Tenant of any obligation hereunder, this shall not operate as a waiver of the obligation in respect of any continuing or subsequent default, breach or non-observance and no such waiver shall be implied but shall only be affected if expressed in writing.

10.5 WAIVER OF EXEMPTION AND REDEMPTION. Notwithstanding anything contained in any statute now or hereafter in force limiting or abrogating the right of distress, none of the Tenant's goods, merchandise, stock in trade, chattels or trade fixtures on the Leased Premises at any time during the Term shall be exempt from levy by distress for Rent in arrears, and upon any claim being made for exemption by the Tenant, or on distress being made by the Landlord, this agreement may be pleaded as an estoppel against the Tenant in any action brought to test the right to the levying upon any such goods as are named as exempted in any such statute, the Tenant hereby waiving all and every benefit that could or might have accrued to the Tenant under and by virtue of any such statute but for this Lease. The Tenant hereby expressly waives any and all rights of redemption and relief from forfeiture granted by or under any present or future laws in the event of the Tenant being evicted or dispossessed for any cause, or in the event of the Landlord obtaining possession of the Leased Premises by reason of the violation by the Tenant of any of the terms or conditions of this Lease or otherwise.

## **ARTICLE 11**

### **ASSIGNMENT AND TRANSFERS**

- 11.1 **NO ASSIGNMENT BY TENANT.** The Tenant shall not assign, sublet, pledge or otherwise transfer this Lease or any interest therein, or in any way part with possession of all or any part of the Leased Premises, or permit all or any part of the Leased Premises to be used or occupied by any other person, or in any other manner, without the express written consent of the Landlord, which consent shall not be unreasonably withheld. The Tenant shall be permitted to assign this lease without prior written consent of the Landlord to an associated corporation, a parent or wholly owned subsidiary of the Tenant, or to a corporation which results from the reorganization, consolidation, amalgamation or merger of the Tenant, provided that any such assignment or transfer, or other dealing with any of the shares of the Tenant, when taken alone or together having the effect of changing control of the Tenant, shall be deemed to be an assignment of this Lease which requires prior approval of the Landlord as set out herein.
- 11.2 **SALE, CONVEYANCE AND ASSIGNMENT BY THE LANDLORD.** Nothing in this Lease shall restrict the right of the Landlord to sell, convey, assign, pledge or otherwise deal with the Leased Premises subject only to the rights of the Tenant under this Lease. A sale, conveyance or assignment of the Leased Premises by the Landlord shall operate to release the Landlord from liability from and after the effective date thereof in respect of all of the covenants, terms and conditions of this Lease, express or implied, except as they may relate to the period prior to the effective date, and only to the extent that the Landlord's successor assumes the Landlord's obligations under the Lease and the Tenant shall thereafter look to solely to the Landlord's successor in interest and to this Lease.
- 11.3 **SUBORDINATION.** This Lease is and shall be subject and subordinate in all respects to any and all mortgages (including deeds of trust and mortgage) now or hereafter placed on the Leased Premises, and all advances thereunder, past, present or future, and to all renewals, modifications, consolidations, replacements and extensions thereof. The Tenant agrees to execute promptly after request therefore an instrument of subordination as may be requested.

## **ARTICLE 12**

### **SURRENDER AND HOLDOVER**

- 12.1 **SURRENDER.** Upon the expiration or other termination of the Term, the Tenant shall immediately quit and surrender possession of the Leased Premises and all leasehold improvements in substantially the condition in which the Tenant is required to maintain the Leased Premises, excepting only reasonable wear and tear, and upon surrender, all right, title and interest of the Tenant in the Leased Premises shall cease. It is understood that the Landlord has the right to remove and sell, or otherwise dispose of, any leasehold improvements, chattels, equipment or any other property of the Tenant left on the Leased Premises by the Tenant after the termination of this Lease, and to retain the proceeds thereof. In addition, the Tenant shall pay the Landlord upon written demand any and all of the costs incurred by the Landlord in connection with the removal of said property.
- 12.2 **HOLDOVER.** If the Tenant continues to occupy the Leased Premises after the expiration or other termination of the Term without any further written agreement, the Tenant shall be a month to month tenant at a Minimum Rent equal to two times the Minimum Rent paid by the Tenant immediately prior to the expiration or other termination of the Term, but subject to all other provisions in this Lease to the extent that same are applicable to a month to month tenancy, and no year to year tenancy shall be created by implication of law. Nothing herein shall preclude the Landlord from exercising all of its rights set out in this Lease, including without limitation, the taking of any action for recovery or possession of the Leased Premises.

## **ARTICLE 13**

### **MISCELLANEOUS**

- 13.1 **FLOOR PLAN.** Landlord has not agreed to make any alterations to the current floor plan of the premises. The premises will be delivered to the Tenant on or before the Commencement Date in its "as is" condition. After the Commencement Date maintenance of the interior of the premises becomes the sole responsibility of the Tenant, except as otherwise state in this Lease.
- 13.2 **BROKER.** Tenant represents to Landlord that Tenant has dealt with no Brokers, in connection with this Lease and Tenant agrees to indemnify and hold Landlord harmless from any and all claims, loss, costs, liability and expense, including but not limited to, reasonable attorney's fees, in connection with any claim by any other broker with whom Tenant dealt.
- 13.3 **HOURS OF OPERATION.** Tenant agrees not to open the lease premises prior to 8 a.m. and to close the Leased Premises no later than 10 p.m. on any calendar day.

Tenant must abide by any and all local, municipal, state or federal codes, ordinances, rules and regulations regarding the opening and closing of the premises.

## **ARTICLE 14**

### **GENERAL**

- 14.1 ENTIRE AGREEMENT. This agreement contains the entire agreement of the parties and no promise, representation, or undertaking is binding upon the Landlord unless expressly stated herein.
- 14.2 REGISTRATION. The Tenant agrees not to register or record this Lease. If the Tenant wishes to register a notice of this Lease, the Landlord agrees to execute at the expense of the Tenant, an acknowledgement or short form of lease sufficient for such purpose which shall preserve the confidentiality of the Rent and other financial terms of this Lease. The Tenant shall, at its own cost and expense, upon the expiration or earlier termination of the Term discharge any registration made against the Lease Premises providing notice of its interest in the Lease.
- 14.3 NOTICE. Any notice required or contemplated by any provision of this Lease shall be given in writing and shall be sufficiently given if mailed by regular or certified mail, or delivered by telecopy or similar form of immediate transmission, and if to the Landlord, addressed as set forth on page 1 herein, and if to Tenant, personally (or to a partner or officer of the Tenant) delivered to the Leased Premises (whether or not the Tenant has departed, vacated or abandoned same). Any notice shall be deemed to have been received three (3) postal delivery days after mailing, or on the day following the date of delivery or sending if by other means.
- 14.4 RELATIONSHIP OF THE PARTIES. Nothing herein shall be deemed to create any relationship between the parties hereto other than Landlord and Tenant.
- 14.5 GOVERNING LAW. This Lease shall be construed under, and enforced in accordance with, the laws of the State of New York.
- 14.6 AMENDMENT OR MODIFICATION. No amendment or modification of this Lease shall be binding or valid unless in writing and signed by both the Landlord and the Tenant.
- 14.7 SEVERABILITY. All of the provisions of this Lease are to be construed as covenants and agreements. If any provision of this Lease shall be deemed to be illegal or unenforceable it shall be considered as a separate and severable provision and the remainder of the Lease shall remain in full force and effect and be binding as though the severed provision had never been included.

- 14.8 CAPTIONS AND HEADINGS. The captions and headings of each provision are for convenience of reference only and are not intended to limit, enlarge or otherwise affect the interpretation of the Articles, Sections or parts thereof to which they apply.
- 14.9 INTERPRETATION. Wherever necessary or appropriate in this Lease, the plural shall be interpreted as singular, the masculine as feminine, and vice versa, and when there are two or more parties bound by the Tenant's covenants herein contained their obligations shall be joint and several.
- 14.10 TIME OF THE ESSENCE. Time shall be of the essence with regard to the provisions contained herein.
- 14.11 SUCCESSORS AND ASSIGNS. Subject to the specific provisions to the contrary contained in this Lease, this Lease shall inure to the benefit of and be binding upon the successors and assigns of the Landlord, his heirs, executors and administrators and the permitted successors and assigns of the Tenant.
- 14.12 PERSONAL GUARANTY. For value received, and in consideration of the Landlord entering into this Lease with Tenant, the undersigned "Guarantor" hereby unconditionally and absolutely agrees to pay to the Landlord the full, due and timely payment of all Minimum Rent, Additional Rent, and occupancy charges, and all other sums which shall be payable by Tenant to Landlord pursuant to the terms of this Lease, for the entire period in which Tenant has a beneficial interest in, or is in possession of, the demised premises. The termination of this Lease for any reason whatsoever shall not affect the Guarantor's obligations or create in Guarantor any right of set off against such obligations, or any claim against the Landlord, and Guarantor hereby waives any and all rights to assert anything to the contrary. This guaranty and the rights and obligations of the parties hereunder shall in all respects be governed by the laws of the State of New York.

**IN WITNESS WHEREOF** the Landlord and the Tenant have executed this Lease as of the date first set forth above.

\_\_\_\_\_  
WITNESS

LANDLORD:  
COAST 2 COAST REAL ESTATE LLC  
By:

\_\_\_\_\_  
Robert A. Lee, Jr. Managing Member

\_\_\_\_\_  
WITNESS

TENANT:  
1 800 PLUMBER LLC  
BY:

\_\_\_\_\_  
Anthony Aceto, Managing Member

GUARANTOR

---

Anthony Aceto, Individually

## **COMMERCIAL LEASE**

THIS LEASE made as of JUNE , 2021 between COAST 2 COAST REAL ESTATE LLC (the "Landlord") having offices located at 3505 VETERANS MEMORIAL HIGHWAY, STE D, RONKONKOMA, NY 11779, and RESTORATION 1, LLC (the "Tenant") having offices located at 3505 VETERANS MEMORIAL HIGHWAY, STE E, RONKONKOMA, NEW YORK 11779.

**IN CONSIDERATION** of the mutual covenants contained herein, the Landlord and Tenant hereby agree as follows:

### **ARTICLE 1 INTERPRETATION**

1.1 DEFINITIONS: In this Lease the following terms shall have the following meanings:

"Additional Rent" shall mean any and all other amounts payable by the Tenant to the Landlord to be discharged as Rent under the terms of this Lease;

"Building" shall mean the building(s) located on the Land, including all alterations and additions thereto and replacements, thereto;

"Commencement Date" shall mean September 1, 2021.

"Event of Default" shall mean any event referred to in Section 10.2 hereof;

"Gross Rent" shall mean all rental payments are inclusive of water, and property taxes paid or assessed through the Commencement Date and insurance premiums.

"Land" shall mean the premises commonly known as: 20 Pinehurst Drive, Bellport, NY

"Lease" shall mean this lease and any Schedules attached hereto which are referred to herein and every executed instrument which by its terms shall amend, modify or supplement this lease:

"Lease Year" shall mean each successive period of twelve (12) calendar months during the Term and ending on an anniversary of the Commencement Date; provided that if the Landlord deems it necessary for the Landlord's accounting purposes, the Landlord may, by written notice to the Tenant, specify another day on which each subsequent lease year is to commence, and in such event, any appropriate adjustments shall be made.

"Leased Premises" shall mean the 6436 Square Feet of Office Space at the Building located at the above address.

"Occupancy Date" shall mean September 1, 2021.

"Permitted Use" shall mean the business of general office space and all uses ancillary thereto.

"Rent" means the aggregate of all amounts payable by the Tenant to the Landlord under the terms of this Lease:

"Minimum Rent" shall mean the amounts due for each Lease Year as set forth hereunder:

YEAR OF TERM	AGGREGATE ANNUAL MINIMUM RENT	MONTHLY MINIMUM RENT
YEAR 1	\$180,000.00	\$15,000.00
YEAR 2	\$180,000.00	\$15,000.00
YEAR 3	\$180,000.00	\$15,000.00
YEAR 4	\$180,000.00	\$15,000.00
YEAR 5	\$183,600.00	\$15,300.00
YEAR 6	\$187,272.00	\$15,606.00
YEAR 7	\$191,017.44	\$15,918.12
YEAR 8	\$194,837.76	\$16,236.48
YEAR 9	\$198,746.52	\$16,561.21
YEAR 10	\$202,721.40	\$16,893.45
YEAR 11	\$206,775.84	\$17,231.32
YEAR 12	\$210,911.40	\$17,575.95
YEAR 13	\$215,129.64	\$17,927.47
YEAR 14	\$219,432.24	\$18,286.02
YEAR 15	\$223,820.88	\$18,651.74

"Term" shall mean a period of Fifteen (15) years commencing on the Commencement Date, or any renewal period hereunder.

"Termination Date" shall mean August 31, 2036, unless earlier terminated as provided in this Lease, or unless the term is extended per any Renewal Option.

## **ARTICLE 2**

### **GRANT OF LEASE AND GENERAL COVENANTS**

- 2.1 GRANT. The Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord the Leased Premises, to have and to hold during the Term, subject to the terms and conditions of this Lease.
- 2.2 LANDLORD'S GENERAL COVENANTS. The Landlord hereby covenants with the Tenant to provide quiet enjoyment of the Leased Premises, and to observe and perform all the covenants and obligations of the Landlord as provided herein.
- 2.3 TENANT'S GENERAL COVENANTS. The Tenant covenants with the Landlord to pay all Rent, and to observe and perform all the covenants and obligations of the Tenant as provided herein.

## **ARTICLE 3**

### **TERM OF POSSESSION**

- 3.1 TERM. The Term of the Lease shall begin on the Commencement Date and end on the Termination Date, unless sooner terminated as provided herein, or extended by Renewal.
- 3.2 POSSESSION OF LEASED PREMISES. The Tenant shall have occupancy of the Leased Premises from and after the Commencement Date through the Termination Date, during which time the Tenant shall pay all Minimum Rent, Rent and Additional Rent, if any, and shall observe and perform all covenants and obligations of the Tenant herein.

## **ARTICLE 4**

### **RENT**

- 4.1 RENT. The Tenant shall pay to the Landlord as Rent for the Leased Premises the aggregate of
  - (a) Minimum Rent in respect of each year of the Term or Renewal term as the case may be, payable in advance and without notice or demand in monthly installments commencing on the Commencement Date, and

- (b) Additional Rent at the times and in the manner provided in this Lease or, if not so provided, as reasonably required by the Landlord.

4.2 GROSS LEASE. It is the intent of the Landlord and the Tenant that this Lease shall be fully gross to the Landlord, providing that the Tenant shall not be responsible for costs and expenses expressly excluded by the terms of this Lease, and including, but not limited to, the following:

- (a) mortgage payments of principal or interest on any mortgage affecting the Leased Premises;
- (b) any income taxes of the Landlord, except to the extent that such income taxes are imposed in lieu of real property taxes;
- (c) any ground rental;
- (d) any structural repairs or replacements;
- (e) any expenditures with respect to the Leased Premises which are of a capital nature; and
- (f) utility expenses relating to water usage.

4.3 PAYMENT OF RENT. All amounts payable by the Tenant to the Landlord pursuant to this Lease shall be deemed to be Rent and shall be payable and recoverable as Rent in the manner herein provided and the Landlord shall have all rights against the Tenant for default in any such payment as in the case of arrears of rent. Except as otherwise provided in Section 8.1 hereof, Rent shall be paid to the Landlord in lawful money of the United States of America, without deduction or set-off, at the address of the Landlord, or to such other person or other address as the Landlord may, from time to time, designate in writing. The Tenant's obligation to pay Rent shall survive the expiration or earlier termination of this Lease.

4.4 BASE YEAR TAXES. Base Year Taxes are included in the first year's Minimum Rent. The Base Year Tax for Town and School taxes commence December 1, 2020 and ends November 30, 2021. Beginning with the first day of the second year of the Lease Term, Tenant shall pay to Landlord, within 30 days of notice, as Additional Rent for each tax year, a sum equal to the Tenant's share of any increase in taxes over and above the Base Year Taxes. Landlord shall furnish Tenant with an annual Escalation Statement for each tax year detailing both the increase over the Base Year Tax and Tenant's portion of same for such Tax Year. Tenant occupies one hundred (12%) percent of the premises, and therefore shall be responsible for one hundred (12%) percent of any tax increases over the Base Year Taxes.

- 4.5 SECURITY. Tenant shall deposit with the Landlord the equivalent of one (1) month's Rent (\$5,000.00) no later than September 1, 2021, as Security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this Lease. In the event that Tenant defaults in respect to any terms, provisions, covenants or conditions of this lease, including but not limited to, the payment of Rent or Additional Rent, Landlord may use, apply or retain the whole or any part of the Security so deposited to the extent required for the payment of any Rent or Additional Rent, or any other sum as to which Tenant is in default, or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default.
- (a) In the event that Tenant shall fully and faithfully comply with all the terms, provisions, covenants and conditions of this lease, the Security shall be returned to Tenant after the Termination Date and after delivery of possession of the demised premises to Landlord in vacant and broom clean condition. Security may not be used for the final payment of Rent under this lease.
- (b) Whenever the annual Rent increases, Tenant will deposit with Landlord such additional sums as are necessary to permit Landlord to have on hand throughout the term of this lease, the equivalent of one (1) month's Rent as Security at all times.

## **ARTICLE 5**

### **USE AND OCCUPANCY**

- 5.1 USE OF LEASED PREMISES. The Tenant shall use the Leased premises only for the Permitted Use and shall not use or permit to be used the Leased Premises or any part thereof for any other purpose or business or by any persons other than the Tenant.
- 5.2 COMPLIANCE WITH LAWS. The Tenant shall comply with all present and future laws, regulations, ordinances and orders relating to the occupation or use of the Leased Premises, the condition of the leasehold improvements, equipment and other property of the Tenant therein, the making by the Tenant of any repairs, changes or improvements, and the conduct of business in the Leased Premises.
- 5.3 PROHIBITED USES. The Tenant shall not commit, cause or permit any nuisance or any waste or injury to or in or about the Leased Premises, or to any of the leasehold improvements, merchandise or fixtures therein, or conduct any use or manner of use causing annoyance to any person. Without limiting the generality of the foregoing, the Tenant shall not use or permit the use of any portion of the Leased Premises for any dangerous, illegal, noxious, odorous or offensive trade, business or occurrence, or other use contrary to the provisions of this Lease. The Tenant shall keep the Leased Premises free of debris or anything of a dangerous, noxious, odorous, hazardous or offensive nature or which could create an environmental or a fire hazard, whether

through undue load on electric circuits or other cause, or undue vibration, heat or noise. Additionally, Tenant shall not permit smoking anywhere on the premises.

- 5.4 **HAZARDOUS USE.** The Tenant shall not do, omit to do, or permit to be done anything which will cause or shall have the effect of causing the cost of the Landlord's insurance in respect of the Leased Premises to be increased at any time during the Term, or any policy of insurance on or relating to the Lease Premises to be subject to cancellation. Without waiving the foregoing prohibition, the Landlord may demand and the Tenant shall pay to the Landlord upon demand, the amount of any increase in the cost of insurance caused by anything so done, or omitted to be done. The Tenant shall, immediately upon Landlord's request, comply with the requirements of the Landlord's insurers, cease any activity complained of and make good any circumstance which has caused any increase in insurance premiums or the cancellation of any insurance policy. If any policy of insurance in respect of the Leased Premises is cancelled or becomes subject to cancellation by reason of anything so done or omitted to be done, the Landlord may without prior notice terminate this Lease and re-enter the Lease Premises.
- 5.5 **SIGNAGE.** The Tenant shall be permitted to install and exhibit a sign or signs identifying the Tenant and/or the Tenant's business activities on the Leased Premises, in areas designated by the Landlord and subject to the Landlord's prior written consent, which consent shall not be unreasonably withheld.
- 5.6 **RULES AND REGULATIONS.** The Landlord shall be entitled from time to time to make reasonable rules and regulations for the operation, maintenance, safety and use of the Leased Premises and the Tenant shall comply with such rules and regulations and shall cause its servants, agents, employees, customers, invitees and licensees to comply with such rules and regulations. Specifically, Tenant is hereby prohibited from allowing any smoking anywhere on the premises.

## **ARTICLE 6**

### **RIGHTS AND OBLIGATIONS OF THE LANDLORD**

- 6.1 **OPERATION OF LEASED PREMISES.** The Tenant shall assume full responsibility for the operation and maintenance of the Leased Premises, and for the repair or replacement of all fixtures or chattels located therein or thereon. The Landlord shall have no responsibility whatsoever, with respect to maintenance, repairs or replacement, except as to structural items and as provided in Section 6.2 herein, provided that if the Tenant fails to do so, the Landlord may at its sole option upon fourteen (14) days prior written notice and without any obligation to the Landlord, elect to perform such maintenance, repairs or replacement as the Landlord may reasonably deem necessary or desirable. In so doing, the Landlord shall not be liable for any consequential damage, direct or indirect to any person or property, including, but without restricting the generality of the foregoing, damages for a disruption of the

business of the Tenant and damage to, or loss of, the goods, chattels and equipment and other property of the Tenant, nor shall any reduction or disruption of services be construed as a breach of the Landlord's covenants, or as an eviction of the Tenant, or release the Tenant from any obligation under this Lease provided that the Tenant's business is not unreasonably interfered with.

6.2 ACCESS BY LANDLORD. The Tenant shall permit the Landlord to enter the Leased Premises at any time outside normal business hours in case of an emergency and otherwise during normal business hours where such will not unreasonably interfere with or disturb the Tenant's use of the Leased Premises, or operation of its business, to examine, inspect and show the Lease Premises for purposes of leasing, sale or financing, to provide services or make repairs, replacements, changes or alterations as provided for in this Lease and to take such steps as the Landlord may deem necessary for the safety, improvement or preservation of the Leased Premises. The Landlord shall, whenever possible, consult with or give reasonable notice to Tenant prior to entry, but not such entry shall constitute an eviction or a breach of the Landlord's covenant for quiet enjoyment or entitle the Tenant to any abatement of Rent. The Tenant shall also permit the Landlord, its employees and agents, at any time during the six (6) months prior to the expiration or termination of this Lease to enter the Leased Premises for the purpose of showing it to any such persons as may be desirous of purchasing or leasing the Leased Premises.

6.3.1 MAINTENANCE. It is understood and agreed that the Tenant herein will keep the sidewalks and all surrounding areas free and clear of dirt, snow and ice for the full term of this Lease. Tenant shall maintain approved trash containers at the rear of the building, or such other place as Landlord shall from time to time designate, for Tenant's garbage disposal and shall place same for pick up on Monday and Thursday mornings only. Additionally, Tenant shall keep all hallways and its premises free from debris at all times. Landlord shall perform regular maintenance on the landscaping and parking areas. Landlord will deliver all heating and plumbing in working order.

## **ARTICLE 7**

### **TENANT'S RESPONSIBILITIES**

71. TENANT'S OBLIGATIONS. In connection with the Leased Premises, the Tenant hereby agrees that it shall be responsible for the following throughout the Term:

(a) INSURANCE. The Tenant shall take out and maintain in the name of the Landlord its agents, and employees, the Tenant and each mortgagee of the Leased Premises as their interests may appear the following forms of insurance:

- (i) all risks property insurance (including flood, sewer back-up and earthquake) with coverage for the full replacement cost of the Leased Premises including By-Law endorsement for demolition or replacement;
- (ii) insurance upon property of every description owned by the Tenant or for which the Tenant is legally liable and installed or kept within the Leased Premises (including leasehold improvements) in an amount not less than the full replacement costs value;
- (iii) comprehensive public liability and broad form property damage insurance with limits of not less than \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate with extensions including but not limited to personal injury, intentional acts, blanket contractual, cross-liability and severability of interest, occurrence property damage, employer's liability and non-owned automobile coverage;
- (iv) any other form or forms of insurance as the Landlord or its mortgagees may reasonably require.

All insurance policies required under this provision shall provide for a waiver of subrogation against the Landlord or those for whom it is in law responsible whether any damage is caused by the acts, omission, or negligence of the Landlord or those for whom it is in law responsible. Each such insurance policy shall further contain a prohibition against cancellation or material change that reduces or restricts the insurance coverage except upon 30 days prior written notice to the Landlord. The Tenant shall provide the Landlord with certified copies of each such insurance policy on or before the Commencement Date.

- (b) TAXES. The Tenant shall promptly pay and discharge all taxes, levies, duties, assessments, and license fees whatsoever whether municipal, school, provincial, parliamentary or otherwise levied, imposed or assessed against the Leased Premises or upon the Landlord in respect thereof, or from time to time levied, imposed or assessed in the future in lieu thereof, including those levied, imposed or assessed for education, school and local improvements, or other similar taxes imposed upon the Landlord or the Tenant and including all business taxes and/or realty taxes from time to time payable by the Landlord or levied against the Landlord on account of its ownership or operation of the Leased Premises; and including all costs and expenses (including legal fees on a solicitor and client basis and other professional fees and interest and penalties on deferred payments) incurred by the Landlord in good faith in contesting, resisting or appealing any such taxes, rates, duties, levies or assessments, but excluding income or

profits taxes upon the income of the Landlord; as well as any form of capital or capital gains taxes levied in respect of the Leased Premises all to be paid by the Tenant on or before the date when the same or installments for the same are due. The Tenant shall upon the request of the Landlord promptly deliver to the Landlord for examination all receipts for payment of such taxes, levies, duties, assessments and license fees. The Tenant shall also reimburse the Landlord at times and in the manner specified by the Landlord, and in the full amount of any taxes in the nature of a business transfer tax, sales tax or any other tax levied, rated, charges or assessed in respect of the Minimum Rent or Additional Rent payable under this Lease. The Tenant shall reimburse the Landlord for such taxes at the full rate applicable from time to time.

- (c) MAINTENANCE. The Tenant shall maintain the Leased Premises and all improvements therein in good order and condition, keep the Leased Premises in a clean condition, and remove from the Leased Premises any debris and garbage.
- (d) REPAIRS. The Tenant shall perform all repairs to and make all replacements of fixtures, leasehold improvements and plate glass in the Leased Premises as may be necessary.
- (e) ALL OTHER EXPENSES. The Tenant shall pay all other expenses of every nature incurred in connection with the use, maintenance and operation of the Leased Premises. The Tenant acknowledges and agrees that the Landlord is not responsible during the Term for any costs, charges, expenses or outlays of any nature whatsoever arising from, or related to, the Leased Premises, or the use and occupancy thereof, or the business carried on therein, and the Tenant shall pay all charges, impositions, costs and expenses of every nature and kind relating to the Leased Premises except as otherwise expressly stated herein.

7.2 PAYMENT OF COSTS. The Tenant shall pay all costs and expenses associated with the Tenant's obligations directly to the appropriate party as they come due and shall, at the Landlord's request, provide the Landlord with copies of receipts or other proof of payment acceptable to the Landlord. If the Tenant fails to perform any obligation under this Lease, or to pay any costs and expenses as set out herein, the Landlord may at its sole option and discretion, on seven (7) days written notice to the Tenant, perform such obligation or pay such amounts on behalf of the Tenant and the Tenant shall forthwith upon receipt of an invoice therefore reimburse the Landlord for the cost of such action or the amount of such payment.

7.3 LEASEHOLD IMPROVEMENTS. The Tenant may install in the Leased Premises its usual fixtures and personal property in a proper manner, provided that no installation

or repair shall interfere with or damage the mechanical or electrical systems or the structure of the Leased Premises. If the Tenant is not then in default hereunder, the fixtures and personal property installed in the Leased Premises by the Tenant may be removed by the Tenant from time to time in the ordinary course of the Tenant's business, or in the course of reconstruction, renovation or alteration of the Leased Premises by the Tenant, provided that the Tenant promptly repairs at its own cost and expense any damage to the Leased Premises resulting from the installation and removal, reasonable wear and tear excepted. The Tenant shall, if required by the Landlord, remove any Leasehold Improvements or fixtures from the Leased Premises upon the termination of this Lease.

- 7.4 **ALTERATIONS BY THE TENANT.** The Tenant may from time to time at its own expense make changes, additions and improvements to the Leased Premises to better adapt same to its business provided that any change, addition or improvement shall be made only after obtaining written consent of the Landlord, which consent shall not be unreasonably withheld, and shall be carried out in a workmanlike and professional manner and only by persons selected by the Tenant and reasonably approved in writing by Landlord. If any such changes, additions, or improvements require alterations to the exterior walls, roof, or other structural components of the Leased Premises or modification of the heating, ventilation or air conditioning systems in the Leased Premises, the Tenant shall be solely responsible for the cost of such modifications and the Landlord hereby reserves the right to perform any such work at the expense of the Tenant provided that the cost of such work to the Tenant is reasonable in the circumstance.
- 7.5 **LIENS.** The Tenant shall pay promptly when due all costs for work done or caused to be done by the Tenant in the Leased Premises which could result in any lien or encumbrance on the Landlord's interest in the property, shall keep the title to the property and every part thereof free and clear of any lien or encumbrance in respect of the work and shall indemnify and hold harmless the Landlord against any claim, loss, cost, demand and legal or other expense, whether in respect of any lien or otherwise, arising out of the supply of materials, services or labor for the work.
- 7.6 **NOTIFY LANDLORD.** The Tenant shall immediately notify the Landlord of any accidents or defect in the Leased Premises or any systems thereof, as well as of any matter or condition which may cause injury or damage to the Leased Premises or any person or property located therein.

## **ARTICLE 8**

### **DAMAGE AND DESTRUCTION**

- 8.1 **DAMAGE AND DESTRUCTION.** If during the Term the Leased Premises or any part thereof shall be damaged by fire, lightning, tempest, structural defects or acts of God, or by any additional perils defined and covered in the standard broad-coverage

fire insurance policy carried by the Landlord on the Leased Premises, the following provisions shall apply:

- (a) If, as a result of such damage, the Lease Premises are rendered partially unfit for occupancy by the Tenant, the Rent shall abate in proportion to the part of the Leased Premises rendered wholly unfit for occupancy by the Tenant bears to the whole of the Leased Premises.
- (b) Notwithstanding subsection (a) above, if in the opinion of the Landlord's architect or engineer, rendered within sixty (60) business days of any event resulting in damage to the Leased Premises, the Leased Premises shall be incapable of being rebuilt, repaired, or restored with reasonable diligence within 180 days after the occurrence of the damage then either the Landlord or the Tenant may terminate this Lease by notice in writing to the other given within 15 days of the opinion of the Landlord's architect or engineer. If notice is given by the Landlord or Tenant under this Section, then this Lease shall terminate from the date of such damage and the Tenant shall immediately surrender the Leased Premises and all interest therein to the Landlord and the Rent shall be apportioned and shall be payable by the Tenant only to the date of the damage and the Landlord may thereafter re-enter and repossess the Leased Premises.
- (c) If the Leased Premises are capable with reasonable diligence of being rebuilt, repaired and restored within 180 days of the occurrence of such damage, then the Landlord shall proceed to rebuild, restore and repair the Leased Premises with reasonable promptness within 180 days plus any additional period due to delay caused by strikes, lock-outs, slow-downs, shortages of materials or labor, acts of God, acts of war, inclement weather or other occurrences which are beyond the control of Landlord, and the Rent shall abate in the manner provided for in subsection (a) above until the Leased Premises have been rebuilt, repaired, or restored, provided that nothing in this Section shall in any way be deemed to affect the obligation of the Tenant to repair, maintain, replace or rebuild the Leased Premises as otherwise provided by the terms of this Lease.

## **ARTICLE 9**

### **INDEMNITY**

- 9.1 INDEMNITY. The Tenant shall indemnify and hold harmless the Landlord, its agents and employees from any and all liabilities, damages, costs, claims, suits and/or actions growing or arising out of (a) through (c) below, except for Landlord's negligence:

- (a) any breach, violation or non-performance of any covenant, condition or agreement in this Lease set forth and contained on the part of the Tenant to be fulfilled, kept, observed and performed.
- (b) any damage to property while the property is in or about the Leased Premises; and
- (c) any injury to person or persons including death resulting at any time therefrom occurring in or about the Leased Premises.

9.2 **LIMITATION OF LANDLORD'S LIABILITY.** The Landlord and its agents and employees shall not be liable for any damage to the Leased Premises, or any property located therein, caused by any latent defects, or by steam, water, rain or snow which may leak into, issue or flow from any part of the Leased Premises, or from the water, steam, sprinkler or drainage pipes or plumbing works of the same, or from any other place or from any damage caused by or attributable to the condition or arrangement of any electrical or other wiring, or for any damage caused by anything done or omitted to be done by any person, or for damage caused by interruption or failure of any service or utility, or for damage however caused to merchandise, stock in trade, books, records, files, money, securities, negotiable instruments, papers or other valuables.

9.3 **SURVIVAL OF OBLIGATIONS AND INDEMNITIES.** All obligations of the Tenant which arise during the Term pursuant to this Lease and which have not been satisfied, and the indemnities and other obligations of the Tenant contained in Section 9.1 shall survive the expiration or other termination of this Lease.

## **ARTICLE 10 DEFAULT**

10.1 **LATE CHARGES.** In the event the Landlord fails to receive any monthly payment of Rent by the fifth (5<sup>th</sup>) day of any month in which payment by the Tenant is due, Tenant agrees to be liable for an additional one hundred dollars (\$100.00) Late Charges. Such Late Charges shall be Additional Rent, without the necessity of any billing therefore. Such Late Charges shall not authorize any rental payments after the first (1<sup>st</sup>) day of any month, and the same shall be due in addition to such other remedies Landlord has for a "Non-Payment Proceeding" on or after the second (2<sup>nd</sup>) day of each month. The Tenant shall indemnify the Landlord against all costs and charges reasonably incurred in enforcing payment of Rent hereunder and in obtaining possession of the Leased Premises should the same be necessary.

10.2 **EVENTS OF DEFAULT.** Each of the following events shall constitute an event of default (an "Event of Default");

- (a) all or any part of the Rent hereby reserved is not paid when due and upon written notice of the Landlord continues for five (5) days after notice thereof, or
- (b) or any goods, merchandise, stock in trade, chattel or equipment of the Tenant is seized or is taken in execution or in attachment, or if a writ of execution is issued against the Tenant, or if a creditor takes possession thereof, or
- (c) the Tenant or any person or corporation bound to perform the obligations of the Tenant hereunder, either as guarantor or indemnifier, or as one of the parties constituting the Tenant takes any steps, or suffers any order to be made, for its winding-up or other termination of its corporate existence, or becomes insolvent, or commits any act of bankruptcy or becomes bankrupt, or takes the benefit of any statute that may be in force for bankrupt or insolvent debtors, or becomes involve in voluntary or involuntary winding-up proceedings, or if a receiver or receiver/manager shall be appointed for the business, property, affairs or revenues of the Tenant or such person or corporation; or
- (d) the Tenant makes a bulk sale of its goods or moves or commences, attempts or threatens to move its goods, chattels and/or equipment out of the Leased Premises (other than in the normal course of Tenant's business) or ceases to conduct business from the Leased Premises for in excess of 14 days; or
- (e) the Tenant fails to observe, perform and keep each and every of the covenants, agreements and conditions herein contained to be observed, performed and kept by the Tenant and persists in the failure after ten (10) days notice by the Landlord requiring Tenant to remedy, correct, desist, or comply (or if any breach would reasonable require more than ten (10) days to rectify, unless the Tenant commences rectification within the ten (10) day notice period and thereafter promptly and effectively and continuously proceeds with the rectification of the breach).

10.3 REMEDIES ON DEFAULT. Upon the occurrence of one or more Events of Default, the Landlord may, at its option, and in addition to and without prejudice to all rights and remedies of the Landlord available to it either by any other provision of this Lease or by statute or the general law:

- (a) be entitled to the full amount of the current month's and the next three (3) month's installments of Rent which shall immediately become due and payable, and the Landlord may immediately demand same, together with any arrears then unpaid;

- (b) re-enter upon and take possession of the Leased Premises or any part thereof in the name of the whole and re-let the Leased Premises or any part thereof on behalf of the Tenant or otherwise as the Landlord sees fit ;
- (c) terminate this Lease by leaving upon the Leased Premises ten (10) days written notice of the termination, and termination shall be without prejudice to the Landlord's right to damages, it being agreed that the Tenant shall pay to the Landlord, as damages, the loss of income of the Landlord to be derived from the Leased Premises for the unexpired portion of the Term had it not been terminated, provided that the Landlord shall not be entitled in any event to receive any damages greater than those damages the Landlord would be entitled to receive at law; or
- (d) re-enter into and upon the Leased Premises, or any part thereof, in the name of the whole and repossess and enjoy the same as of the Landlord's former estate, anything herein contained to the contrary notwithstanding, and the Tenant shall pay to the Landlord forthwith upon demand all expenses of the Landlord incurred in re-entering, terminating, re-letting, collecting sums due or payable by the Tenant, including but not limited to legal fees on a solicitor and client basis and all disbursements, and the expense of keeping the Leased Premises in good order, and preparing same for re-letting.

10.4 WAIVER. If the Landlord shall overlook, excuse, condone or suffer any default, breach or non-observance by the Tenant of any obligation hereunder, this shall not operate as a waiver of the obligation in respect of any continuing or subsequent default, breach or non-observance and no such waiver shall be implied but shall only be affected if expressed in writing.

10.5 WAIVER OF EXEMPTION AND REDEMPTION. Notwithstanding anything contained in any statute now or hereafter in force limiting or abrogating the right of distress, none of the Tenant's goods, merchandise, stock in trade, chattels or trade fixtures on the Leased Premises at any time during the Term shall be exempt from levy by distress for Rent in arrears, and upon any claim being made for exemption by the Tenant, or on distress being made by the Landlord, this agreement may be pleaded as an estoppel against the Tenant in any action brought to test the right to the levying upon any such goods as are named as exempted in any such statute, the Tenant hereby waiving all and every benefit that could or might have accrued to the Tenant under and by virtue of any such statute but for this Lease. The Tenant hereby expressly waives any and all rights of redemption and relief from forfeiture granted by or under any present or future laws in the event of the Tenant being evicted or dispossessed for any cause, or in the event of the Landlord obtaining possession of the Leased Premises by reason of the violation by the Tenant of any of the terms or conditions of this Lease or otherwise.

## **ARTICLE 11**

### **ASSIGNMENT AND TRANSFERS**

- 11.1 **NO ASSIGNMENT BY TENANT.** The Tenant shall not assign, sublet, pledge or otherwise transfer this Lease or any interest therein, or in any way part with possession of all or any part of the Leased Premises, or permit all or any part of the Leased Premises to be used or occupied by any other person, or in any other manner, without the express written consent of the Landlord, which consent shall not be unreasonably withheld. The Tenant shall be permitted to assign this lease without prior written consent of the Landlord to an associated corporation, a parent or wholly owned subsidiary of the Tenant, or to a corporation which results from the reorganization, consolidation, amalgamation or merger of the Tenant, provided that any such assignment or transfer, or other dealing with any of the shares of the Tenant, when taken alone or together having the effect of changing control of the Tenant, shall be deemed to be an assignment of this Lease which requires prior approval of the Landlord as set out herein.
- 11.2 **SALE, CONVEYANCE AND ASSIGNMENT BY THE LANDLORD.** Nothing in this Lease shall restrict the right of the Landlord to sell, convey, assign, pledge or otherwise deal with the Leased Premises subject only to the rights of the Tenant under this Lease. A sale, conveyance or assignment of the Leased Premises by the Landlord shall operate to release the Landlord from liability from and after the effective date thereof in respect of all of the covenants, terms and conditions of this Lease, express or implied, except as they may relate to the period prior to the effective date, and only to the extent that the Landlord's successor assumes the Landlord's obligations under the Lease and the Tenant shall thereafter look to solely to the Landlord's successor in interest and to this Lease.
- 11.3 **SUBORDINATION.** This Lease is and shall be subject and subordinate in all respects to any and all mortgages (including deeds of trust and mortgage) now or hereafter placed on the Leased Premises, and all advances thereunder, past, present or future, and to all renewals, modifications, consolidations, replacements and extensions thereof. The Tenant agrees to execute promptly after request therefore an instrument of subordination as may be requested.

## **ARTICLE 12**

### **SURRENDER AND HOLDOVER**

- 12.1 **SURRENDER.** Upon the expiration or other termination of the Term, the Tenant shall immediately quit and surrender possession of the Leased Premises and all leasehold improvements in substantially the condition in which the Tenant is required to maintain the Leased Premises, excepting only reasonable wear and tear, and upon surrender, all right, title and interest of the Tenant in the Leased Premises shall cease. It is understood that the Landlord has the right to remove and sell, or otherwise dispose of, any leasehold improvements, chattels, equipment or any other property of the Tenant left on the Leased Premises by the Tenant after the termination of this Lease, and to retain the proceeds thereof. In addition, the Tenant shall pay the Landlord upon written demand any and all of the costs incurred by the Landlord in connection with the removal of said property.
- 12.2 **HOLDOVER.** If the Tenant continues to occupy the Leased Premises after the expiration or other termination of the Term without any further written agreement, the Tenant shall be a month to month tenant at a Minimum Rent equal to two times the Minimum Rent paid by the Tenant immediately prior to the expiration or other termination of the Term, but subject to all other provisions in this Lease to the extent that same are applicable to a month to month tenancy, and no year to year tenancy shall be created by implication of law. Nothing herein shall preclude the Landlord from exercising all of its rights set out in this Lease, including without limitation, the taking of any action for recovery or possession of the Leased Premises.

## **ARTICLE 13**

### **MISCELLANEOUS**

- 13.1 **FLOOR PLAN.** Landlord has not agreed to make any alterations to the current floor plan of the premises. The premises will be delivered to the Tenant on or before the Commencement Date in its "as is" condition. After the Commencement Date maintenance of the interior of the premises becomes the sole responsibility of the Tenant, except as otherwise state in this Lease.
- 13.2 **BROKER.** Tenant represents to Landlord that Tenant has dealt with no Brokers, in connection with this Lease and Tenant agrees to indemnify and hold Landlord harmless from any and all claims, loss, costs, liability and expense, including but not limited to, reasonable attorney's fees, in connection with any claim by any other broker with whom Tenant dealt.
- 13.3 **HOURS OF OPERATION.** Tenant agrees not to open the lease premises prior to 8 a.m. and to close the Leased Premises no later than 10 p.m. on any calendar day.

Tenant must abide by any and all local, municipal, state or federal codes, ordinances, rules and regulations regarding the opening and closing of the premises.

## **ARTICLE 14**

### **GENERAL**

- 14.1 ENTIRE AGREEMENT. This agreement contains the entire agreement of the parties and no promise, representation, or undertaking is binding upon the Landlord unless expressly stated herein.
- 14.2 REGISTRATION. The Tenant agrees not to register or record this Lease. If the Tenant wishes to register a notice of this Lease, the Landlord agrees to execute at the expense of the Tenant, an acknowledgement or short form of lease sufficient for such purpose which shall preserve the confidentiality of the Rent and other financial terms of this Lease. The Tenant shall, at its own cost and expense, upon the expiration or earlier termination of the Term discharge any registration made against the Lease Premises providing notice of its interest in the Lease.
- 14.3 NOTICE. Any notice required or contemplated by any provision of this Lease shall be given in writing and shall be sufficiently given if mailed by regular or certified mail, or delivered by telecopy or similar form of immediate transmission, and if to the Landlord, addressed as set forth on page 1 herein, and if to Tenant, personally (or to a partner or officer of the Tenant) delivered to the Leased Premises (whether or not the Tenant has departed, vacated or abandoned same). Any notice shall be deemed to have been received three (3) postal delivery days after mailing, or on the day following the date of delivery or sending if by other means.
- 14.4 RELATIONSHIP OF THE PARTIES. Nothing herein shall be deemed to create any relationship between the parties hereto other than Landlord and Tenant.
- 14.5 GOVERNING LAW. This Lease shall be construed under, and enforced in accordance with, the laws of the State of New York.
- 14.6 AMENDMENT OR MODIFICATION. No amendment or modification of this Lease shall be binding or valid unless in writing and signed by both the Landlord and the Tenant.
- 14.7 SEVERABILITY. All of the provisions of this Lease are to be construed as covenants and agreements. If any provision of this Lease shall be deemed to be illegal or unenforceable it shall be considered as a separate and severable provision and the remainder of the Lease shall remain in full force and effect and be binding as though the severed provision had never been included.

- 14.8 CAPTIONS AND HEADINGS. The captions and headings of each provision are for convenience of reference only and are not intended to limit, enlarge or otherwise affect the interpretation of the Articles, Sections or parts thereof to which they apply.
- 14.9 INTERPRETATION. Wherever necessary or appropriate in this Lease, the plural shall be interpreted as singular, the masculine as feminine, and vice versa, and when there are two or more parties bound by the Tenant's covenants herein contained their obligations shall be joint and several.
- 14.10 TIME OF THE ESSENCE. Time shall be of the essence with regard to the provisions contained herein.
- 14.11 SUCCESSORS AND ASSIGNS. Subject to the specific provisions to the contrary contained in this Lease, this Lease shall inure to the benefit of and be binding upon the successors and assigns of the Landlord, his heirs, executors and administrators and the permitted successors and assigns of the Tenant.
- 14.12 PERSONAL GUARANTY. For value received, and in consideration of the Landlord entering into this Lease with Tenant, the undersigned "Guarantor" hereby unconditionally and absolutely agrees to pay to the Landlord the full, due and timely payment of all Minimum Rent, Additional Rent, and occupancy charges, and all other sums which shall be payable by Tenant to Landlord pursuant to the terms of this Lease, for the entire period in which Tenant has a beneficial interest in, or is in possession of, the demised premises. The termination of this Lease for any reason whatsoever shall not affect the Guarantor's obligations or create in Guarantor any right of set off against such obligations, or any claim against the Landlord, and Guarantor hereby waives any and all rights to assert anything to the contrary. This guaranty and the rights and obligations of the parties hereunder shall in all respects be governed by the laws of the State of New York.

**IN WITNESS WHEREOF** the Landlord and the Tenant have executed this Lease as of the date first set forth above.

\_\_\_\_\_  
WITNESS

LANDLORD:  
COAST 2 COAST REAL ESTATE LLC  
By:

\_\_\_\_\_  
Robert A. Lee, Jr. Managing Member

\_\_\_\_\_  
WITNESS

TENANT:  
RESTORATION 1 LLC  
BY:

\_\_\_\_\_  
Anthony Aceto, Managing Member

GUARANTOR

---

Anthony Aceto, Individually

## Exhibit C

**LEASE INFORMATION****(Response to Part III, Section 5(C) of IDA Application)**

<b>ENTITY</b>	<b>LEASED AREA (IN SQUARE FEET)</b>	<b>PROPOSED USE</b>
Bold Systems, LLC	2,300 SF	Office
Target Media Group Corp.	4,000 SF	Office
Coast 2 Coast Restoration, LLC	6,436 SF	Office
Coast 2 Coast Plumbing and HVAC, LLC	6,436 SF	Office