

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

and

FRAMERICA CORPORATION

LEASE AND PROJECT AGREEMENT

Dated as of February 1, 2021

Town of Brookhaven Industrial Development Agency
(Framerica Corporation 2021 Facility)

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THIS LEASE AND PROJECT AGREEMENT, dated as of February 1, 2021 (this "**Lease Agreement**"), is between the TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its office at 1 Independence Hill, 2nd Floor, Farmingville, New York 11738 (the "**Agency**"), and FRAMERICA CORPORATION, a business corporation duly organized and validly existing under the laws of the State of New York, having its principal office at 2 Todd Court, Yaphank, New York 11980 (the "**Company**").

RECITALS

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

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

WHEREAS, the aforesaid act further authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, renovate, refurbish, equip, lease, sell and dispose of land and any building or other improvement, and all real and personal property, including but not limited to machinery and equipment deemed necessary in connection therewith, whether now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, recreation or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

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

WHEREAS, the Project shall consist of (a) the acquisition of a leasehold interest in an approximately 84,156 square foot portion (the "**Demised Premises**") of an approximately 232,842 square foot building situated on an approximately 29.5 acre parcel of land located at 19 Nicholas Drive, Suite 100, Yaphank, Town of Brookhaven, New York (further identified as Tax Map No. District 0200, Section 703.00, Block 01.00, Lot 049.400) (the "**Land**"), currently owned by 1516-19 LLC, a Delaware limited liability company (the "**Landlord**"), (b) the renovation of the Demised Premises (the "**Improvements**"), and (c) the acquisition and installation therein of certain equipment including, but not limited to, office furniture, manufacturing equipment to produce and warehouse products and personal property (collectively, the "**Equipment**"); and, together with the Demised Premises and the Improvements, the "**Facility**"), which Facility will be subleased and leased by the Agency to the Company and which Facility will be used in the manufacturing, warehousing and distribution by the Company in its primary business of manufacturing picture frame moldings, architectural trims, and flooring transitions (collectively, the "**Project**"); and

WHEREAS, the Company has agreed with the Agency, on behalf of the Agency and as the Agency's agent, to complete the Project Work; and

WHEREAS, the Company has acquired a leasehold interest in the Demised Premises, pursuant to an Agreement of Lease, dated December 29, 2020 (the "**Master Lease**"), by and between the Landlord and the Company; and

WHEREAS, the Company has agreed to sublease the Demised Premises and lease the Improvements to the Agency pursuant to the terms of a certain Company Lease Agreement, dated as of February 1, 2021 (the "**Company Lease**"), by and between the Company and the Agency; and

WHEREAS, the Company has agreed to transfer title to the Equipment to the Agency pursuant to a certain Bill of Sale, dated the Closing Date (the "**Bill of Sale**"); and

WHEREAS, the Agency has agreed to sub-sublease and lease the Facility to the Company, and the Company desires to rent the Facility from the Agency, upon the terms and conditions set forth in this Lease Agreement.

AGREEMENT

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

ARTICLE I DEFINITIONS

All capitalized terms used in this Lease Agreement and not otherwise defined herein shall have the meanings assigned thereto in the Schedule of Definitions attached hereto as Schedule A and words and phrases set forth therein shall be interpreted as provided therein.

ARTICLE II REPRESENTATIONS AND COVENANTS

Section 2.1 Representations and Covenants of Agency. The Agency makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Agency is duly established and validly existing under the provisions of the Act and has full legal right, power and authority to execute, deliver and perform each of the Agency Documents and the other documents contemplated thereby. Each of the Agency Documents and the other documents contemplated thereby has been duly authorized, executed and delivered by the Agency.

(b) The Agency will acquire a subleasehold interest in the Demised Premises and Improvements, cause the Improvements to be renovated and the Equipment to be acquired and installed and will lease and sublease the Facility to the Company pursuant to this Lease Agreement, all for the Public Purposes of the State.

(c) By resolution dated February 17, 2021, the Agency determined that, based upon the review by the Agency of the materials submitted and the representations made by the Company relating to the Facility, the Facility would not have a “significant impact” or “significant effect” on the environment within the meaning of the SEQRA Act.

(d) Neither the execution and delivery of any of the Agency Documents and the other documents contemplated thereby or the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of any of the Agency Documents and the other documents contemplated thereby will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of the Act, any other law or ordinance of the State or any political subdivision thereof, the Agency’s Certificate of Establishment or By-Laws, as amended, or any corporate restriction or any agreement or instrument to which the Agency is a party or by which it is bound, or result in the creation or imposition of any Lien of any nature upon any of the Property of the Agency under the terms of the Act or any such law, ordinance, Certificate of Establishment, By-Laws, restriction, agreement or instrument, except for Permitted Encumbrances.

(e) Each of the Agency Documents and the other documents contemplated thereby constitutes a legal, valid and binding obligation of the Agency enforceable against the Agency in accordance with its terms.

(f) The Agency has been induced to enter into this Lease Agreement by the undertaking of the Company to utilize the Facility in the Town of Brookhaven, New York in furtherance of the Public Purposes of the Agency.

(g) The Agency will execute, acknowledge (if appropriate) and deliver from time to time such instruments and documents which are necessary or desirable to carry out the intent and purposes of this Lease Agreement.

Section 2.2 Representations and Covenants of Company. The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a business corporation, organized and existing under the laws of the State of New York, is in good standing under the laws of the State of New York, and has full legal right, power and authority to execute, deliver and perform each of the Company Documents and the other documents contemplated thereby. Each of the Company Documents and the other documents contemplated thereby has been duly authorized, executed and delivered by the Company.

(b) Neither the execution and delivery of any of the Company Documents and the other documents contemplated thereby or the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of any of the Company Documents and the other documents contemplated thereby will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of any law or ordinance of the State or any political subdivision thereof, the Company’s Organizational Documents, as amended, or any restriction or any agreement or instrument to which the Company is a party or

by which it is bound, or result in the creation or imposition of any Lien of any nature upon any of the Property of the Company under the terms of any such law, ordinance, Organizational Documents, as amended, restriction, agreement or instrument, except for Permitted Encumbrances.

(c) The Facility, the Project Work and the design, and operation of the Facility will conform with all applicable zoning, planning, building and Environmental Laws, ordinances, rules and regulations of governmental authorities having jurisdiction over the Facility. Under penalty of perjury, the Company certifies that it is in substantial compliance with all local, state, and federal tax, worker protection and environmental laws, rules and regulations.

(d) Each of the Company Documents and the other documents contemplated thereby constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms.

(e) The Facility is and will continue to be a "project" as such quoted term is defined in the Act. The Company will not take any action, or fail to take any action, which action or failure to act would cause the Facility not to constitute a "project" as such quoted term is defined in the Act.

(f) The Project and the related financial assistance is reasonably necessary to discourage the Facility occupant from removing a facility or plant of the Facility occupant located within the State to a location outside of the State.

(g) The Company agrees to take any actions reasonably deemed necessary by the Agency, or its Chairman, Vice Chairman, Chief Executive Officer, or any member or officer of the Agency, counsel to the Agency or Transaction Counsel, in order to ensure compliance with Sections 2.2(e) and (f) and 9.3 of this Lease Agreement provided that the Company receives duly acknowledged written confirmation from the Agency setting forth the reason(s) for said action(s). Without limiting the generality of the foregoing, the Company will provide the Agency with any and all information and materials describing proposed Facility occupants as necessary.

(h) The Company will sublease and lease the Facility in accordance with the provisions hereof, including, but not limited to, Section 9.3 hereof, and will cause future commercial (as opposed to residential) tenants of portions of the Facility to execute and deliver to the Agency a Tenant Agency Compliance Agreement substantially in the form attached hereto as Exhibit I, prior to the occupancy of the Facility, or a portion thereof, by such tenant, in accordance with the provisions of Section 9.3 hereof.

(i) The Company hereby represents to the Agency that facilities and property that are primarily used in making retail sales of goods and services to customers who personally visit the Facility will not constitute more than one-third (1/3) of the total costs of the Facility, except in accordance with New York General Municipal Law (the "GML") Section 862.

(j) There is no action or proceeding pending or, to the best of the Company's knowledge, after diligent inquiry, threatened, by or against the Company by or before any court

or administrative agency that would adversely affect the ability of the Company to perform its obligations under this Lease Agreement or any other Company Document.

(k) The Company has obtained all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by it as of the Closing Date in connection with the execution and delivery of this Lease Agreement and each other Company Document or in connection with the performance of its obligations hereunder and under each Company Document.

(l) The Project Application Information was true, correct and complete as of the date submitted to the Agency, and no event has occurred or failed to occur since such date of submission which could cause any of the Project Application Information to include any untrue statement of a material fact or omit to state any material fact required to be stated therein to make such statements not misleading.

(m) The Company shall not use or permit any use of the Facility for any purpose or in any manner other than as approved by the Agency pursuant to the Authorizing Resolution and described herein, unless otherwise consented to by the Agency.

(n) No representation or warranty by or on behalf of the Company herein nor any statement, certificate or application furnished or to be furnished by or on behalf of the Company to the Agency in connection herewith or in connection with the transactions contemplated hereby, contain nor will contain any untrue statement or a material fact nor will omit to state a material fact necessary to make the statements contained herein or therein not misleading.

ARTICLE III CONVEYANCE OF FACILITY SITE; PROJECT WORK AND COMPLETION

Section 3.1 Agreement to Convey to Agency. The Company has conveyed or has caused to be conveyed to the Agency (i) a subleasehold interest in the Demised Premises, and (ii) lien-free title to the Equipment, and will convey or cause to be conveyed to the Agency lien-free title to or a leasehold interest in the Equipment and Improvements acquired after the date hereof, in each case except for Permitted Encumbrances.

Section 3.2 Title Report and Survey. The Company has obtained and delivered to the Agency a title report (in form and substance acceptable to the Agency) reflecting all matters of record with respect to the Land and existing Improvements, including municipal searches.

Section 3.3 Public Authorities Law Representations. The parties hereto hereby acknowledge and agree that the Facility and the interest therein to be conveyed by this Lease Agreement are not "Property" as defined in Article 9, Title 5-A of the Public Authorities Law of the State because the Facility and the subleasehold interests therein are securing the financial obligations of the Company. The Facility and the leasehold interests therein secure the obligations of the Company to the Agency under this Lease Agreement, including the Company's obligation to acquire and maintain the Facility and complete the Project Work on behalf of the Agency and the Company's obligation to indemnify and hold harmless the Agency.

Section 3.4 Project Work.

(a) The Company agrees that, on behalf of the Agency, it will complete the Project Work in accordance with the Plans and Specifications and pay all costs and expenses therefor.

(b) The Company may revise the Plans and Specifications from time to time without the consent or approval of the Agency; provided that the Facility shall retain its overall configuration and intended purposes and shall remain a "project" as defined in the Act.

(c) Except as set forth in Section 6.2 hereof, fee or leasehold title, as applicable, to all materials, equipment, machinery and other items of Property incorporated or installed in or placed in, upon, or under the Facility shall vest in the Agency immediately upon the Company's obtaining an interest in or to the materials, equipment, machinery and other items of Property. The Company shall execute, deliver and record or file all instruments necessary or appropriate so to vest such title in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third Persons.

(d) The Agency shall enter into, and accept the assignment of, in form and substance reasonably acceptable to the Agency and containing such exculpatory provisions as the Agency may require, such contracts as the Company may request in order to effectuate the purposes of this Section 3.4.

(e) The Company, as agent for the Agency, shall comply with all provisions of the Labor Law, the Executive Law and the Civil Rights Law of the State applicable to the completion of the Project Work and shall include in all construction contracts all provisions that shall be required to be inserted therein by such provisions. The Company shall comply with the relevant policies of the Agency with respect to such laws, which are set forth as Exhibit G attached hereto. Except as provided in the preceding two sentences, the provisions of this subsection do not create any obligations or duties not created by applicable law outside of the terms of this Lease Agreement.

Section 3.5 Identification of Equipment. All Equipment which is or may become the Property of the Agency pursuant to the provisions of this Lease Agreement shall be properly identified by the Company by such appropriate records, including computerized records, as may be approved by the Agency. The Agency may request, and the Company shall deliver to the Agency within ten (10) days of such request, a schedule listing all such Equipment. All Property of whatever nature affixed or attached to the Demised Premises or used or to be used by the Company in connection with the Demised Premises or the Improvements shall be deemed presumptively to be owned by the Agency, rather than the Company, unless the same were installed by the Company and title thereto was retained by the Company as provided in Section 6.2 of this Lease Agreement and such Property was properly identified by such appropriate records as were approved by the Agency.

Section 3.6 Certificates of Completion. To establish the Completion Date, the Company shall deliver to the Agency (i) a certificate signed by an Authorized Representative of the Company in the form set forth in Exhibit J-1 attached hereto, together with all attachments required thereunder stating (a) that the Project Work has been completed in accordance with the Plans and Specifications therefor, and (b) that payment for all labor, services, materials and supplies used in such Project Work has been made or provided for; (ii) the Final Project Cost

Budget, which budget will include a comparison with the project cost budget information listed in the Project Application Information and shall include all costs paid or incurred by the Company in connection with the Facility, (iii) a completed Form ST-340 Annual Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority (IDA), a form of which is attached hereto as Exhibit J-2; and (iv) such other certificates and information as may be reasonably satisfactory to the Agency. The Company agrees to pay to the Agency, within ten (10) days of written request, any additional fees owed to the Agency as a result of an increase in the final costs of the Project Work, as evidenced by the Final Project Cost Budget, and not accounted for in the Agency's fee collected on the Closing Date. The Company shall not be entitled to any refund or credit of the Agency's fee in the Final Project Cost Budget is lower than provided in the Project Application Information. The Company agrees that the Completion Date shall be no later than April 1, 2021.

Section 3.7 Remedies to Be Pursued Against Contractors, Subcontractors, Materialmen and Their Sureties. In the event of a default by any contractor, subcontractor, materialman or other Person under any contract made by it in connection with the Facility or in the event of a breach of warranty or other liability with respect to any materials, workmanship or performance guaranty, the Company at its expense, either separately or in conjunction with others, may pursue any and all remedies available to it and the Agency, as appropriate, against the contractor, subcontractor, materialman or other Person so in default and against any surety for the performance of such contract. The Company, in its own name or in the name of the Agency, may prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, materialman, surety or other Person which the Company deems reasonably necessary, and in such event the Agency, at the Company's sole cost and expense, hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the Agency in any such action or proceeding provided that the Agency, its members, officers, directors, employees and agents shall not thereby be subjected to risk of loss, liability or expense. The Net Proceeds of any recovery from a contractor or subcontractor or materialman or other person shall be paid to the Company. The Net Proceeds of any recovery from a contractor or subcontractor or materialman or other person shall be paid to the Company.

Section 3.8 Publicity. The Company hereby authorizes the Agency, without further notice or consent, to use the Company's name and 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.

ARTICLE IV LEASE OF FACILITY RENTAL PROVISIONS

Section 4.1 Lease of Facility. The Agency hereby sub-subleases and leases the Facility, consisting of the Demised Premises, shown on Exhibit A-1, attached hereto and located on the Land as more particularly described in Exhibit A-2 attached hereto Improvements and the Equipment as more particularly described in Exhibit B attached hereto, to the Company and the

Company hereby takes the Facility from the Agency upon the terms and conditions of this Lease Agreement.

Section 4.2 Duration of Lease Term; Quiet Enjoyment.

(a) The Agency shall deliver to the Company sole and exclusive possession of the Facility (subject to Sections 8.1 and 10.2 hereof), and the leasehold and sub-subleasehold estate created hereby shall commence, and the Company shall accept possession of the Facility on the Closing Date.

(b) Except as provided in Sections 10.2 and 11.1 hereof, the estate created hereby shall terminate at 11:58 p.m. on November 30, 2026, unless extended, for a five (5) year term, which extension shall expire on November 30, 2031 (the "**Lease Term**"). The Company shall provide the Agency with written notice of its intent to exercise its right to extend under the Master Lease for a five (5) year term. Notwithstanding anything to the contrary herein, upon the termination of expiration of the Master Lease, the Company Lease and this Lease Agreement shall automatically terminate.

(c) Except as provided in Sections 8.1 and 10.2 hereof, the Agency shall neither take nor suffer or permit any action to prevent the Company during the Lease Term from having quiet and peaceable possession and enjoyment of the Facility and will, at the request of the Company and at the Company's sole cost and expense, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Facility as hereinabove provided.

Section 4.3 Rents and Other Amounts Payable.

(a) The Company shall pay to the Agency on the Closing Date the balance of the Agency's administrative fee in the amount of \$50,904.00 (equal to the administrative fee of \$49,410.00, plus the public hearing notice and transcript costs of \$744.00 plus insurance review costs of \$750.00). The Company shall pay to the Agency such additional administrative fees determined by the Agency in connection with the Final Project Cost Budget as provided in Section 3.6 hereof. The Company shall pay basic rent for the Facility as follows: One Dollar (\$1.00) per year commencing on the Closing Date and on each and every January 1 thereafter during the term of this Lease Agreement. In addition, the Company shall pay to the Agency an annual compliance fee of \$2,000 on or before January 1 of each year commencing January 1, 2022 and continuing through the Lease Term.

(b) In addition to the payments of basic rent pursuant to Section 4.3(a) hereof, throughout the Lease Term, the Company shall pay to the Agency as additional rent, within ten (10) days of receipt of demand therefor, an amount equal to the sum of the expenses of the Agency and the members thereof, including attorneys' fees, incurred (i) by reason of the Agency's ownership, leasing, subleasing, or financing of the Facility, or (ii) in connection with the carrying out of the Agency's duties and obligations under the Agency Documents, the payment of which is not otherwise provided for under this Lease Agreement. The foregoing shall be in addition to any annual or continuing administrative or management fee imposed by the Agency now or hereafter.

(c) The Company, under the provisions of this Section 4.3, agrees to make the above-mentioned payments and all other payments due to the Agency, without set-off or deduction, in immediately available funds and without any further notice in lawful money of the United States of America. In the event the Company shall fail to timely make any payment required in Section 4.3(a) or 4.3(b), the Company shall pay the same together with interest on such payment at a rate equal to two percent (2%) plus the Prime Rate, but in no event at a rate higher than the maximum lawful prevailing rate, from the date on which such payment was due until the date on which such payment is made.

Section 4.4 Obligations of Company Hereunder Unconditional. The obligations of the Company to make the payments required in Section 4.3 hereof, and to perform and observe any and all of the other covenants and agreements on its part contained herein, shall be general obligations of the Company, and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it may otherwise have against the Agency. The Company agrees it will not (i) suspend, discontinue or abate any payment required hereunder, or (ii) fail to observe any of its other covenants or agreements in this Lease Agreement.

Section 4.5 No Warranty of Condition or Suitability by Agency. THE AGENCY HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE FACILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE FACILITY, OR THE SUITABILITY OF THE FACILITY FOR THE PURPOSES OR NEEDS OF THE COMPANY OR THE EXTENT TO WHICH FUNDS AVAILABLE TO THE COMPANY WILL BE SUFFICIENT TO PAY THE COST OF COMPLETION OF THE PROJECT WORK. THE COMPANY ACKNOWLEDGES THAT THE AGENCY IS NOT THE MANUFACTURER OF THE EQUIPMENT NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN. THE COMPANY, ON BEHALF OF ITSELF, IS SATISFIED THAT THE FACILITY IS SUITABLE AND FIT FOR PURPOSES OF THE COMPANY. THE AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE COMPANY OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OF THE FACILITY OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

ARTICLE V

PILOT PAYMENTS; SALES TAX EXEMPTION; MORTGAGE RECORDING TAX EXEMPTION AND RECAPTURE OF BENEFITS

Section 5.1 PILOT Payments.

(a) As long as this Lease Agreement is in effect, the Company agrees to make payments in lieu of all real estate taxes and assessments (the “**PILOT Payments**”) (in addition to paying all special ad valorem levies, special assessments or Special District Taxes and service charges against real property located in the Town of Brookhaven, Longwood Central School District, Suffolk County (including any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is or may be wholly or partially located) (the “**Taxing Authorities**”) which are or may be imposed for special improvements or special district improvements) which would be levied upon or with respect to the Facility if the Facility were owned by the Company exclusive of the Agency’s subleasehold interest (the “**Taxes on the Facility**”). The amounts of such PILOT Payments are set forth in Exhibit C attached hereto. PILOT Payments shall be allocated among the Taxing Authorities in proportion to the amount of real property tax and other taxes which would have been received by each Taxing Authority if the Facility was owned by the Company exclusive of the Agency’s leasehold interest.

(b) After the effective date of this Lease Agreement and until the provisions of paragraph 5.1(c) become effective, the Company shall pay, as payments in lieu of taxes and assessments, one hundred percent (100%) of the taxes and assessments that would be levied upon the Facility by the respective Taxing Authorities if the Facility were owned by the Company exclusive of the Agency’s subleasehold interest.

(c) Commencing with the 2021/2022 Tax Year, the Company shall pay, as PILOT Payments, the amounts set forth on Exhibit C attached hereto and made a part hereof; provided, however, that after the provisions of paragraph 5.1(c) become effective, it is intended that the receiver of taxes shall continue to bill the Landlord for real property taxes and assessments for the Landlord Facility.

(d) The Company shall pay, or cause to be paid, the amounts set forth in subsections (a), (b) and (c) above, as applicable, after receipt of tax bills from the Agency or the Taxing Authorities, as the case may be. Failure to receive a tax bill shall not relieve the Company of its obligation to make all payments provided for hereunder. If, for any reason, the Company does not receive an appropriate tax bill, the Company shall have the responsibility and obligation to make all reasonable inquiries to the Agency and the Taxing Authorities and to have such a bill issued, and thereafter to make payment of the same no later than the due dates provided therein. PILOT Payments shall be made directly to the Agency. PILOT Payments made after the due date(s) as set forth in the applicable tax bills shall accrue interest (and penalties) at the rates applicable to late payments of taxes for the respective Taxing Authorities and as further provided in the GML, including Section 874(5) thereof, which currently provides for an initial penalty of five percent (5%) of the amount due and an additional penalty of one percent (1%) per month on payments more than one-month delinquent. In addition, for any PILOT Payment made after the date due, the Company shall pay to the Agency a late fee in accordance with the policy of the Agency then in effect. Anything contained in this paragraph (d) to the contrary notwithstanding, the Company shall have the obligation to make all annual payments required by this paragraph (other than payments of penalties, if any) in two equal semi-annual installments on or prior to January 10 and May 31 of each year of the Lease Term or on such other due dates as may be established from time to time during the Lease Term.

(e) During the Lease Term, the Company shall continue to pay all special ad valorem levies, special assessments, special district taxes, and service charges levied (or would be levied except for the Agency's leasehold interest) against the Facility for special improvements or special district improvements.

(f) In the event that any structural addition shall be made to the building or buildings included in the Facility subsequent to the Completion Date, or any additional building or improvement shall be constructed on the Land by the Company (such structural additions, buildings and improvements being referred to hereinafter as "**Additional Facilities**"), the Company agrees to make additional PILOT Payments to the Taxing Authorities in amounts equal to the product of the then current ad valorem tax rates which would be levied upon or with respect to the Additional Facilities by the Taxing Authorities if the Additional Facilities were owned by the Company exclusive of the Agency's subleasehold interest times the assessment or assessments established for that tax year by the respective Taxing Authorities having appropriate assessing jurisdiction. All other provisions of this Section 5.1 shall apply to this obligation for additional PILOT Payments.

(g) In the event that the Agency's subleasehold interest in the Facility or any part thereof terminates or expires at such time in reference to any taxable status date as to make it impossible to place such Facility or part thereof on the tax rolls of the Taxing Authorities, or appropriate special districts, as the case may be, by such taxable status date, the Company hereby agrees to pay, at the first time taxes or assessments are due following the taxable status date on which such Facility or part thereof is placed on the tax rolls, an amount equal to the taxes or assessments which would have been levied on such Facility or part thereof had it been on the tax rolls from the time of the termination of the Agency's subleasehold interest until the date of the tax rolls following the taxable status date as of which such Facility or part thereof is placed on the tax rolls. There shall be deducted from such amount any amounts previously paid pursuant to this Section 5.1 by the Agency or the Company to the respective Taxing Authorities relating to any period of time after the date of termination of the Agency's interest. The provisions of this subsection (g) shall survive the termination or expiration of the Lease Agreement. Any rights the Company may have against its respective designees are separate and apart from the terms of this subsection (g), and this subsection (g) shall survive any transfer from the Agency to the Company.

(h) In the event the Facility or any part thereof is declared to be subject to taxation for taxes or assessments by an amendment to the Act or other legislative change or by a final judgment of a court of competent jurisdiction, the obligations of the Company under this Section 5.1 shall, to such extent, be null and void.

(i) In the event the Company shall enter into a subsequent payment-in-lieu-of-tax agreement or agreements with respect to the Taxes on the Facility directly with any or all Taxing Authorities in the jurisdiction of which the Facility is located, the obligations of the Company under this Section 5.1, which are inconsistent with such future agreement or agreements, shall be superseded and shall, to such extent, be null and void.

(j) As long as this Lease Agreement is in effect, the Agency and the Company agree that (i) the Company shall be deemed to be the owner of the Facility and of the Additional

Facilities for purposes of instituting, and shall have the right to institute, administrative or judicial review of an assessment of the real estate with respect to the Facility and of the Additional Facilities pursuant to the provisions of Article 7 of the Real Property Tax Law or any other applicable law, as the same may be amended from time to time, and (ii) the Agency, at the request of the Company, shall request the Assessor of the Town of Brookhaven, or any other assessor having jurisdiction to assess the Facility, to take into consideration the value of surrounding properties of like character when assessing the Facility. Notwithstanding the foregoing, in the event that the assessment of the real estate with respect to the Facility and the Additional Facilities is reduced as a result of any such administrative or judicial review so that such complaining party would be entitled to receive a refund or refunds of taxes paid to the respective Taxing Authorities, if such complaining party were the owner of the Facility and the Additional Facilities exclusive of the Agency's leasehold interest therein, such complaining party shall not be entitled to receive a refund or refunds of the PILOT Payments paid pursuant to this Lease Agreement and the PILOT Payments set forth on Exhibit C hereto shall not be reduced. In no event shall the Agency be required to remit to the Company or any Taxing Authority any moneys otherwise due as a result of a reduction in the assessment of the Facility (or any part thereof) due to a certiorari review. If the Company receives a reduction in assessment in the last year of the Lease Agreement after it has made its final PILOT Payment, the Company acknowledges that it shall look solely to the Taxing Authorities for repayment or for a credit against the first payment(s) of Taxes on the Facility which will be due after the Facility is returned to the tax rolls. The Company hereby agrees that it will notify the Agency if the Company shall have requested a reassessment of the Facility or a reduction in the taxes on the Facility or shall have instituted any tax certiorari proceedings with respect to the Facility. The Company shall deliver to the Agency copies of all notices, correspondence, claims, actions and/or proceedings brought by or against the Company in connection with any reassessment of the Facility, reduction of taxes with respect to the Facility or tax certiorari proceedings with respect to the Facility.

(k) The Company, in recognition of the benefits provided under the terms hereof, including, but not limited to, the PILOT Payments set forth in Exhibit C hereto, and for as long as the Lease Agreement is in effect, expressly waives any rights it may have for any exemption under Section 485-b of the Real Property Tax Law or any other exemption under any other law or regulation (except, however, for the exemption provided by Title 1 of Article 18-A of the GML) with respect to the Facility. The Company, however, reserves any such rights with respect to the Additional Facilities as referred to in subsection (f) hereof and with respect to the assessment and/or exemption of the Additional Facilities.

Section 5.2 Sales Tax Exemption.

(a) The Agency hereby appoints the Company its true and lawful agent, and the Company hereby accepts such agency (i) to complete the Project Work in accordance with the Plans and Specifications, (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other Persons, and in general to do all things which may be requisite or proper, all for the Project Work with the same powers and with the same validity as the Agency could do if acting on its own behalf, (iii) to pay all fees, costs and expenses incurred in connection with the Project Work, (iv) to ask, demand, sue for, levy, recover and receive all such sums of money, debts, dues and other demands whatsoever which

may be due, owing and payable to the Agency under the terms of any contract, order, receipt or writing in connection with the Project Work, and (v) to enforce the provisions of any contract, agreement, obligation, bond or other performance security. This agency appointment expressly excludes the Company from purchasing any motor vehicle, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets.

(b) Agency's Exempt Status. The Agency constitutes a corporate governmental agency and a public benefit corporation under the laws of the State of New York, and therefore, in the exercise of its governmental functions, is exempt from the imposition of Sales and Use Taxes. As an exempt governmental entity, no exempt organization identification number has been issued to the Agency nor is one required. Notwithstanding the foregoing, the Agency makes no representation to the Company, any Agent or any third party that any Sales Tax Exemption is available under this Lease Agreement.

(c) Scope of Authorization of Sales Tax Exemption. The Agency hereby authorizes the Company, subject to the terms and conditions of this Lease Agreement, to act as its agent in connection with the Facility for the purpose of effecting purchases and leases of Eligible Items so that such purchases and leases are exempt from the imposition of Sales and Use Taxes. The Agency's authorization with respect to such Sales Tax Exemption provided to the Company and its Agents pursuant to this Lease Agreement and any Sales Tax Agent Authorization Letters issued hereunder shall be subject to the following limitations:

- (i) The Sales Tax Exemption shall be effective only for a term commencing on the Closing Date and expiring upon the earliest of (A) the termination of this Lease Agreement, (B) the Completion Date, (C) the failure of the Company to file Form ST-340, as described in Section 5.2(g) below, (D) the termination of the Sales Tax Exemption authorization pursuant to Section 10.2 hereof, or (E) the date upon which the Company receives the Maximum Company Sales Tax Savings Amount.
- (ii) The Sales Tax Exemption authorization set forth herein shall automatically be suspended upon written notice to the Company that the Company is in default under this Lease Agreement until such default is cured to the satisfaction of the Agency.
- (iii) The Sales Tax Exemption authorization shall be subject to all of the terms, conditions and provisions of this Lease Agreement.
- (iv) The Sales Tax Exemption shall only be utilized for Eligible Items which shall be purchased, incorporated, completed or installed for use only by the Company at the Facility (and not with any intention to sell, transfer or otherwise dispose of any such Eligible Item to a Person as shall not constitute the Company), it being the intention of the Agency and the Company that the Sales Tax Exemption shall not be made available with respect to any Eligible Item unless such item is used solely by the Company at the Facility.

- (v) The Sales Tax Exemption shall not be used for any Ineligible Item.
- (vi) The Sales Tax Exemption shall not be used to benefit any person or entity, including any tenant or subtenant located at the Facility, other than the Company, without the prior written consent of the Agency.
- (vii) By execution by the Company of this Lease Agreement, the Company agrees to accept the terms hereof and represents and warrants to the Agency that the use of the Sales Tax Exemption by the Company or by any Agent is strictly for the purposes stated herein.
- (viii) Upon the Termination Date, the Company and each Agent (as hereinafter defined) shall cease being agents of the Agency, and the Company shall immediately notify each Agent in writing of such termination and that the Sales Tax Agent Authorization Letter issued to any such Agent pursuant to subsection (d) below is likewise terminated.
- (ix) The Company agrees that the aggregate amount of Company Sales Tax Savings realized by the Company and by all Agents of the Company, if any, in connection with the Facility shall not exceed in the aggregate the Maximum Company Sales Tax Savings Amount.

(d) Procedures for Appointing Agents. If the Company desires to seek the appointment of the Sublessee, or a contractor, a subcontractor or other party to act as the Agency's agent (an "Agent") for the purpose of effecting purchases which are eligible for the Sales Tax Exemption pursuant to authority of this Lease Agreement, it must complete the following steps:

- (i) For each Agent, the Company must complete and submit Form ST-60 to the Agency. The foregoing is required pursuant to the GML Section 874(9) and Form ST-60 and the regulations relating thereto which require that within thirty (30) days of the date that the Agency appoints a project operator or other person or entity to act as agent of the Agency for purposes of extending a sales or use tax exemption to such person or entity, the Agency must file a completed Form ST-60 with respect to such person or entity.
- (ii) Following receipt by the Agency of the completed Form ST-60, such Agent must be appointed as Agent by the Agency, by execution by the Agency and the Agent of a Sales Tax Agent Authorization Letter in the form attached hereto as Exhibit E. The determination whether to approve the appointment of an Agent shall be made by the Agency, in its sole discretion. If executed, a completed copy of the Sales Tax Agent Authorization Letter shall be sent to the Company. The Company must also provide a copy of an executed Sales Tax Agent Authorization Letter together with a copy of this Lease Agreement to the Agent within five (5) Business Days after receipt thereof by the Company.

- (iii) The Company shall ensure that each Agent shall observe and comply with the terms and conditions of its Sales Tax Agent Authorization Letter and this Lease Agreement.

(e) Form ST-60 Not an Exemption Certificate. The Company acknowledges that the executed Form ST-60 designating the Company or any Agent as an agent of the Agency shall not serve as a sales or use tax exemption certificate or document. Neither the Company nor any other Agent may tender a copy of the executed Form ST-60 to any person required to collect sales tax as a basis to make such purchases exempt from tax. No such person required to collect sales or use taxes may accept the executed Form ST-60 in lieu of collecting any tax required to be collected. THE CIVIL AND CRIMINAL PENALTIES FOR MISUSE OF A COPY OF FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT OR FOR FAILURE TO PAY OR COLLECT TAX SHALL BE AS PROVIDED IN THE TAX LAW. IN ADDITION, THE USE BY AN AGENT, THE COMPANY, OR OTHER PERSON OR ENTITY OF SUCH FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT SHALL BE DEEMED TO BE, UNDER ARTICLES TWENTY-EIGHT AND THIRTY-SEVEN OF THE TAX LAW, THE ISSUANCE OF A FALSE OR FRAUDULENT EXEMPTION CERTIFICATE OR DOCUMENT WITH THE INTENT TO EVADE TAX.

(f) Form ST-123 Requirement. As an agent of the Agency, the Company agrees that it will, and will cause each Agent to, present to each seller or vendor a completed and signed Form ST-123 for each contract, agreement, invoice, bill or purchase order entered into by the Company or by any Agent, as agent for the Agency, for the Project Work. Form ST-123 requires that each seller or vendor accepting Form ST-123 identify the Facility on each bill or invoice for purchases and indicate on the bill or invoice that the Agency or Agent or Company, as project operator of the Agency, was the purchaser. For the purposes of indicating who the purchaser is, each bill or invoice should state, "I, [Company/Agent], certify that I am duly appointed agent of the Town of Brookhaven Industrial Development Agency and that I am purchasing the tangible personal property or services for use in the Framerica Corporation 2021 Facility located at 19 Nichols Road, Suite 100, Yaphank, Suffolk County, New York, IDA Project Number 4702-21-3A." The Company shall retain copies of all such contracts, agreements, invoices, bills and purchase orders for a period of not less than six (6) years from the date thereof. For each Agent the Form ST-123 shall be completed as follows: (i) the "Project information" section of Form ST-123 should be completed using the name and address of the Facility as indicated on the Form ST-60 used to appoint the Agent; (ii) the date that the Agent was appointed as an agent should be completed using the date of the Agent's Sales Tax Agent Authorization Letter; and (iii) the "Exempt purchases" section of Form ST-123 should be completed by marking "X" in box "A" only.

(g) The Company shall annually (currently, by each February 28th with respect to the prior calendar year) file a Form ST-340 with NYSDTF, after first filing such ST-340 with the Agency on February 1st, in a manner consistent with such regulations as is or may be prescribed by the Commissioner of NYSDTF (the "**Commissioner**"), of the value of all Company Sales Tax Savings claimed by the Company and each Agent in connection with the Facility during the previous calendar year. Should the Company fail to comply with the foregoing requirement, the Company and each Agent shall immediately cease to be agents of the Agency in connection with the Facility without any further action of the Agency and the Company shall immediately and

without demand notify each Agent appointed by the Agency in connection with the Facility of such termination.

(h) Sales Tax Registry Filing Requirement. No later than January 15th and July 15th of each year, the Company shall file with the Agency a completed Sales Tax Registry, in the form attached hereto as Exhibit F, which accounts for all Company Sales Tax Savings realized by the Company and each Agent during the prior semi-annual period ending on the preceding June 30th or December 31st, as applicable (or such shorter period beginning on the Closing Date and ending on the preceding June 30th or December 31st, as applicable), unless the Termination Date occurred prior to such June 30th or December 31st, as applicable. Within ten (10) days after the Termination Date, the Company shall file with the Agency a completed Sales Tax Registry which accounts for all Company Sales Tax Savings realized by the Company and each Agent during the period from the preceding July 1st or January 1st to the Termination Date.

(i) Special Provisions Relating to State Sales Tax Savings.

(i) The Company covenants and agrees to comply, and to cause each of its contractors, subcontractors, Agents, persons or entities to comply, with the requirements of GML Sections 875(1) and (3) (the “**Special Provisions**”), as such provisions may be amended from time to time. In the event of a conflict between the other provisions of this Lease Agreement and the Special Provisions, the Special Provisions shall control.

(ii) The Company acknowledges and agrees that pursuant to GML Section 875(3), the Agency shall have the right to recover, recapture, receive, or otherwise obtain from the Company, State Sales Tax Savings taken or purported to be taken by the Company, any Agent or any other person or entity acting on behalf of the Company to which the Company is not entitled or which are in excess of the Maximum Company Sales Tax Savings Amount or which are for property or services not authorized or taken in cases where the Company, any Agent or any other person or entity acting on behalf of the Company failed to comply with a material term or condition to use property or services in the manner required by this Lease Agreement. The Company shall, and shall require each Agent and any other person or entity acting on behalf of the Company, to cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such State Sales Tax Savings and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner to assess and determine State Sales and Use Taxes due from the Company under Article 28 of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

(j) Subject to the provisions of subsection (i) above, in the event that the Company or any Agent shall utilize the Sales Tax Exemption in violation of the provisions of this Lease Agreement or any Sales Tax Agent Authorization Letter, the Company shall promptly deliver notice of same to the Agency, and the Company shall, upon demand by the Agency, pay to or at the direction of the Agency a return of sales or use tax exemptions in an amount equal to all such

unauthorized sales or use tax exemptions together with interest at the rate of twelve percent (12%) per annum compounded daily from the date and with respect to the dollar amount for which each such unauthorized sales or use tax exemption was availed of by the Company or any Agent (as applicable).

(k) Upon request by the Agency with reasonable notice to the Company, the Company shall make available at reasonable times to the Agency and/or the Independent Accountant all such books, records, contracts, agreements, invoices, bills or purchase orders of the Company and any Agent, and require all appropriate officers and employees of the Company to respond to reasonable inquiries by the Agency and/or the Independent Accountant, as shall be necessary (y) to indicate in reasonable detail those costs for which the Company or any Agent shall have utilized the Sales Tax Exemption and the dates and amounts so utilized, and (z) to permit the Agency to determine any amounts owed by the Company under this Section 5.2.

Section 5.3 Mortgage Recording Tax Exemption. Section 874 of the Act exempts the Agency from paying certain mortgage recording taxes except for the portion of the mortgage recording tax allocated to transportation districts referenced in Section 253(2)(a) of the Tax Law. The Agency hereby grants to the Company exemption from mortgage recording taxes for one or more Mortgages securing an aggregate principal amount not to exceed \$0.00, or such greater amount as approved by the Agency in its sole and absolute discretion, in connection with the financing of the Project Work and any future financing, refinancing or permanent financing of the costs of the Project Work for the Facility (the “**Mortgage Recording Tax Exemption**”). The Company represents and warrants (1) that the real property secured by the Mortgage is located within a transportation district referenced in Section 253(2)(a) of the Tax Law, and (2) that upon recording the Mortgage, the Company shall pay the mortgage recording tax allocated to transportation districts referenced in Section 253(a)(2) of the Tax Law.

Section 5.4 Recapture of Agency Benefits.

(a) It is understood and agreed by the parties hereto that the Agency is entering into this Lease Agreement in order to provide financial assistance to the Company for the Facility and to accomplish the Public Purposes of the Act. In consideration therefor, the Company hereby agrees as follows:

- (i) If there shall occur a Recapture Event after February 25, 2021, but on or before December 31, 2023, the Company shall pay to the Agency, or to the State of New York, if so directed by the Agency (except as otherwise specified below) as a return of public benefits conferred by the Agency, one hundred percent (100%) of the Recaptured Benefits (as defined below);
- (ii) If there shall occur a Recapture Event on or after January 1, 2024, but on or before December 31, 2026, the Company shall pay to the Agency, or to the State of New York, if so directed by the Agency (except as otherwise specified below) as a return of public benefits conferred by the Agency, seventy-five percent (75%) of the Recaptured Benefits;

- (iii) If there shall occur a Recapture Event on or after January 1, 2027, but on or before December 31, 2027, the Company shall pay to the Agency, or to the State of New York, if so directed by the Agency (except as otherwise specified below) as a return of public benefits conferred by the Agency, fifty percent (50%) of the Recaptured Benefits;
- (iv) If there shall occur a Recapture Event on or after January 1, 2028, but on or before December 31, 2028, the Company shall pay to the Agency, or to the State of New York, if so directed by the Agency (except as otherwise specified below) as a return of public benefits conferred by the Agency, twenty-five percent (25%) of the Recaptured Benefits; and
- (v) If there shall occur a Recapture Event on or after January 1, 2029, the Company shall not be obligated to pay to the Agency, or to the State of New York, any of the Recaptured Benefits; and

(b) The term “**Recaptured Benefits**” 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 Lease Agreement including, but not limited to, the amount equal to 100% of:

- (i) the Mortgage Recording Tax Exemption; and
- (ii) Sales Tax Exemption savings realized by or for the benefit of the Company, including any savings realized by any Agent pursuant to the Lease Agreement and each Sales Tax Agent Authorization Letter issued in connection with the Facility (the “**Company Sales Tax Savings**”); and
- (iii) real property tax abatements granted pursuant to Section 5.1 hereof (i.e., Taxes on the Facility less the PILOT Payments) (the “**Real Property Tax Abatements**”);

which Recaptured Benefits from time to time shall upon the occurrence of a Recapture Event in accordance with the provisions of subsection (c) below and the declaration of a Recapture Event by notice from the Agency to the Company be payable directly to the Agency or the State of New York if so directed by the Agency within ten (10) days after such notice.

- (c) The term “**Recapture Event**” shall mean any of the following events:
 - (i) The occurrence and continuation of an Event of Default under this Lease Agreement (other than as described in clause (iv) below or in subsections (d) or (e) below) which remains uncured beyond any applicable notice and/or grace period, if any, provided hereunder; or

- (ii) The Facility shall cease to be a “project” within the meaning of the Act, as in effect on the Closing Date, through the act or omission of the Company; or
- (iii) The sale of the Facility or closure of the Facility and/or departure of the Company from the Town of Brookhaven, except as due to casualty, condemnation or force majeure as provided in subsection (e) below or as provided in Section 9.3 hereof; or
- (iv) Failure of the Company to create or cause to be maintained the number of FTE jobs at the Facility as provided in Section 8.11 of the Lease Agreement, which failure, in the sole judgment of the Agency, is not reflective of the business conditions of the Company or the subtenants of the Company, including without limitation loss of major sales, revenues, distribution or other adverse business developments and/or local, national or international economic conditions, trade issues or industry wide conditions; or
- (v) Any significant deviations from the Project Application Information which, in the sole judgment of the Agency, would constitute a significant diminution of the Company’s activities in, or commitment to, the Town of Brookhaven, Suffolk County, New York; or
- (vi) The Company receives Sales Tax Savings in connection with the Project Work in excess of the Maximum Company Sales Tax Savings Amount or after the Termination Date; provided, however, that the foregoing shall constitute a Recapture Event with respect to such excess Sales Tax Savings only. It is further provided that failure to repay the Sales Tax Savings within thirty (30) days shall constitute a Recapture Event with respect to all Recaptured Benefits.

(d) Provided, however, if a Recapture Event has occurred due solely to the failure of the Company to create or cause to be maintained the number of FTEs at the Facility as provided in Section 8.11 hereof in any Tax Year but the Company has created or caused to be maintained at least 90% of such required number of FTEs for such Tax Year, then in lieu of recovering the Recaptured Benefits provided above, the Agency may, in its sole discretion, adjust the PILOT Payments due hereunder on a pro rata basis so that the amounts payable will be adjusted upward retroactively for such Tax Year by the same percentage as the percentage of FTEs that are below the required FTE level for such Tax Year. Such adjustments to the PILOT Payments may be made each Tax Year until such time as the Company has complied with the required number of FTEs pursuant to Section 8.11 hereof.

(e) Furthermore, notwithstanding the foregoing, a Recapture Event shall not be deemed to have occurred if the Recapture Event shall have arisen as a result of (i) a “force majeure” event (as more particularly defined in Section 10.1(b) hereof), (ii) a taking or condemnation by governmental authority of all or part of the Facility, or (iii) the inability or failure of the Company after the Facility shall have been destroyed or damaged in whole or in

part (such occurrence a “Loss Event”) to rebuild, repair, restore or replace the Facility to substantially its condition prior to such Loss Event, which inability or failure shall have arisen in good faith on the part of the Company or any of its affiliates so long as the Company or any of its affiliates have diligently and in good faith using commercially reasonable efforts pursued the rebuilding, repair, restoration or replacement of the Facility or part thereof.

(f) The Company covenants and agrees to furnish the Agency with written notification (i) within sixty (60) days of the end of each Tax Year the number of FTEs located at the Facility for such Tax Year, and (ii) within thirty (30) days of actual notice of any facts or circumstances which would likely lead to a Recapture Event or constitute a Recapture Event hereunder. The Agency shall notify the Company of the occurrence of a Recapture Event hereunder, which notification shall set forth the terms of such Recapture Event.

(g) In the event any payment owing by the Company under this Section shall not be paid on demand by the Agency, such payment shall bear interest from the date of such demand at a rate equal to one percent (1%) plus the Prime Rate, but in no event at a rate higher than the maximum lawful prevailing rate, until the Company shall have made such payment in full, together with such accrued interest to the date of payment, to the Agency (except as otherwise specified above).

(h) The Company shall pay to the Agency all reasonable out of pocket expenses of the Agency, including without limitation, reasonable legal fees, incurred with the recovery of all amounts due under this Section 5.4.

ARTICLE VI MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

Section 6.1 Maintenance and Modifications of Facility by Company.

(a) The Company shall not abandon the Facility or cause or permit any waste to the Improvements. During the Lease Term, the Company shall not remove any material part of the Facility outside of the jurisdiction of the Agency and shall (i) keep the Facility or cause the Facility to be kept in as reasonably safe condition as its operations shall permit; (ii) make all necessary repairs and replacements to the Facility; and (iii) operate the Facility in a sound and economic manner.

(b) The Company from time to time may make any structural additions, modifications or improvements to the Facility or any part thereof, provided such actions do not adversely affect the structural integrity of the Facility. The Company may not make any changes to the footprint of the Facility, and any additions expanding the square footage of the Facility (including the addition of any stories whether above or below ground) or make any additions, modifications or improvements to the Facility which will materially and/or adversely affect the structural integrity or value of the Facility without the prior written consent of the Agency which consent shall not be unreasonably withheld or delayed. All such additions, modifications or improvements made by the Company after the date hereof shall become a part of the Facility and the Property of the Agency. The Company agrees to deliver to the Agency all documents which may be necessary or appropriate to convey to the Agency title to or an interest in such Property.

Section 6.2 Installation of Additional Equipment. Subject to the provisions of Section 3.5 hereof, the Company or any permitted sublessee of the Company from time to time may install additional machinery, equipment or other personal property in the Facility (which may be attached or affixed to the Facility), and such machinery, equipment or other personal property shall not become, or be deemed to become, a part of the Facility, so long as such additional property is properly identified by such appropriate records, including computerized records, as approved by the Agency. The Company from time to time may create or permit to be created any Lien on such machinery, equipment or other personal property. Further, the Company from time to time may remove or permit the removal of such machinery, equipment and other personal property from the Facility, provided that any such removal of such machinery, equipment or other personal property shall not occur: (i) if any Event of Default has occurred or (ii) if any such removal shall adversely affect the structural integrity of the Facility or impair the overall operating efficiency of the Facility for the purposes for which it is intended, and provided further, that if any damage to the Facility is occasioned by such removal, the Company agrees promptly to repair or cause to be repaired such damage at its own expense.

Section 6.3 Taxes, Assessments and Utility Charges.

(a) Subject to the Sales Tax Exemption and the Real Property Tax Abatements as provided hereunder, the Company agrees to pay, as the same become due and before any fine, penalty, interest (except interest which is payable in connection with legally permissible installment payments) or other cost which may be added thereto or become due or be imposed by operation of law for the non-payment thereof, (i) all taxes, PILOT Payments and governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to the Facility and any machinery, equipment or other Property installed or brought by the Company therein or thereon, including, without limiting the generality of the foregoing, any sales or use taxes imposed with respect to the Facility or any part or component thereof, or the rental or sale of the Facility or any part thereof, and any taxes levied upon or with respect to the income or revenues of the Agency from the Facility; (ii) all utility and other charges, including service charges, incurred or imposed for or with respect to the operation, maintenance, use, occupancy, upkeep and improvement of the Facility; and (iii) all assessments and charges of any kind whatsoever lawfully made by any governmental body for public improvements; provided that, with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Company shall be obligated under this Lease Agreement to pay only such installments as are required to be paid during the Lease Term.

(b) The Company may in good faith contest any such taxes, assessments and other charges (other than PILOT Payments). In the event of any such proceedings, the Company may permit the taxes, assessments or other charges (but in no event the PILOT Payments) so contested to remain unpaid during the period of such proceedings and any appeal therefrom, provided, however, that (i) neither the Facility nor any part thereof or interest therein would be in any immediate danger of being sold, forfeited or lost by reason of such proceedings and (ii) the Company shall have set aside on its books adequate reserves with respect thereto and shall have furnished such security, if any, as may be required in such proceedings or requested by the Agency.

(c) The Agency agrees that if it or the Company contests any taxes, assessments or

other charges provided for in paragraph (b) hereof, all sums returned and received by the Agency, as a result thereof, will be promptly transmitted by the Agency to the Company and that the Company shall be entitled to retain all such amounts; which such obligation shall survive the expiration or termination of this Lease Agreement.

(d) Within thirty (30) days of receipt of written request therefor, the Company shall deliver to the Agency, official receipts of the appropriate taxing authorities or other proof reasonably satisfactory to the Agency evidencing payment of any tax.

Section 6.4 Insurance Required. At all times throughout the Lease Term, including, when indicated herein, during the Construction Period, if any, the Company shall, at its sole cost and expense, maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by facilities of like size and type and shall pay or cause to be paid, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(a) Insurance against loss or damage by fire, lightning and other casualties customarily insured against, with a uniform standard extended coverage endorsement, in an amount not less than the full replacement value of the completed Improvements, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Company, but in no event less than the greater of \$1,000,000 or the amount as may be required by any Lender. During the Construction Period, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" and shall contain a provision granting the insured permission to complete and/or occupy.

(b) Workers' compensation insurance, disability benefits insurance and each other form of insurance which the Company or any permitted sublessee is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company or any permitted sublessee who are located at or assigned to the Facility. This coverage shall be in effect from and after the Completion Date or on such earlier date as any employees of the Company, any permitted sublessee, any contractor or subcontractor first occupy the Facility.

(c) Insurance protecting the Agency and the Company against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 8.2 hereof) or arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or other occurrence, with a limit of liability of not less than \$1,000,000 (per occurrence for personal injury, including bodily injury or death, and property damage); comprehensive automobile liability insurance covering all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit or equivalent protecting the Agency and the Company against any loss, liability or damage for personal injury, including bodily injury or death, and property damage); and blanket excess liability coverage, in an amount not less than \$5,000,000 per occurrence, protecting the Agency and the Company against any loss or liability or damage for personal injury, including bodily injury or death, or property damage. This coverage shall also be in effect during the Construction Period.

(d) During the Construction Period, if any (and for at least one year thereafter in the case of Products and Completed Operations as set forth below), the Company shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

(i) Workers' compensation and employer's liability with limits in accordance with applicable law.

(ii) Comprehensive general liability providing coverage for:

Premises and Operations
Products and Completed Operations
Owners Protective
Contractors Protective
Contractual Liability
Personal Injury Liability
Broad Form Property Damage
(including completed operations)
Explosion Hazard
Collapse Hazard
Underground Property Damage Hazard

Such insurance shall have a limit of liability of not less than \$1,000,000 (per occurrence it for personal injury, including bodily injury or death, and property damage).

(iii) Comprehensive auto liability, including all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

(iv) Excess "umbrella" liability providing liability insurance in excess of the coverages in (i), (ii) and (iii) above with a limit of not less than \$5,000,000 per occurrence.

(e) A policy or policies of flood insurance in an amount not less than the greater of \$1,000,000 or the amount that may be required by any Lender or the maximum amount of flood insurance available with respect to the Facility under the Flood Disaster Protection Act of 1973, as amended, whichever is less. This requirement will be waived upon presentation of evidence satisfactory to the Agency that no portion of the Land is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards.

(f) The Company shall also maintain such other insurance on or in connection with the Facility as the Agency may require.

(g) The Agency does not in any way represent that the insurance specified in this Lease Agreement, whether in scope or coverage or limits of coverage, is adequate or sufficient to protect the Company's business or interests.

Section 6.5 Additional Provisions Respecting Insurance.

(a) All insurance required by Section 6.4 hereof shall be in form and substance satisfactory to the Agency, and procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State and selected by the entity required to procure the same. The company issuing the policies required by Section 6.4(a) and (e) shall be rated "A" or better by A.M. Best Co., Inc. in Best's Key Rating Guide. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All policies of insurance required by Section 6.4 hereof shall provide for at least thirty (30) days' prior written notice to the Agency of the restriction, cancellation or modification thereof. The policy evidencing the insurance required by Section 6.4(c) hereof shall name the Agency as an additional insured. All policies evidencing the insurance required by Section 6.4(d)(ii), (iii) and (iv) shall name the Agency and the Company as additional insureds. The Agency acknowledges that a mortgage and security interest in the policies of insurance required by Section 6.4(a) and the Net Proceeds thereof have been or may be granted by the Company to any Lender pursuant to the Mortgage, and the Agency consents thereto. The Agency hereby acknowledges that upon request of any Lender, the Company will assign and deliver (which assignment shall be deemed to be automatic and to have occurred upon the occurrence of an Event of Default under any Mortgage) to any Lender the policies of insurance required under Section 6.4(a), so and in such manner and form that any Lender shall at all times, upon such request and until the payment in full of any Loan, have and hold said policies and the Net Proceeds thereof as collateral and further security under any Mortgage for the payment of any Loan. The policies required under Sections 6.4(a), (b) and (c) shall contain appropriate waivers of subrogation.

(b) In addition, each contractor must protect the Agency with respect to the policies required under Section 6.4(d)(ii), (iii) and (iv) as an additional insured on a primary and non-contributory basis via ISO endorsements CG 20 26 and CG 20 37 or their equivalents and the endorsements must specifically identify the Agency as an additional insured.

(c) The certificates of insurance required by Section 6.4(a), (c) and (e) hereof shall be deposited with the Agency on or before the Closing Date. The certificate of insurance required by Section 6.4(b) hereof shall be deposited with the Agency at such times as provided therein. A copy of the certificates of insurance required by Section 6.4(d)(ii), (iii) and (iv) hereof shall be delivered to the Agency on or before the commencement of any Construction Period. The Company shall deliver to the Agency before the first Business Day of each calendar year thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance of the types and in the amounts required by Section 6.4 hereof and complying with the additional requirements of Section 6.5(a) hereof. Prior to the expiration of each such policy or policies, the Company shall furnish to the Agency and any other appropriate Person a new certificate or certificates of insurance or evidence that such policy or policies have been renewed or replaced or are no longer required by this Lease Agreement. The Company shall provide such further information with respect to the insurance coverage required by this Lease Agreement as the Agency may from time to time reasonably require, including, without limitation, a copy of the insurance policy.

(d) The minimum insurance requirements set forth under Section 6.4 and this Section 6.5 shall not limit, abridge, or modify the Company's obligation under Section 8.2 hereof to indemnify and hold the Agency harmless from and against certain damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements or expenses, as more fully set forth in Section 8.2.

Section 6.6 Application of Net Proceeds of Insurance. The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.4 hereof shall be applied as follows: (i) the Net Proceeds of the insurance required by Section 6.4(a) and (e) hereof shall be applied as provided in Section 7.1 hereof, and (ii) the Net Proceeds of the insurance required by Section 6.4(b), (c) and (d) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

Section 6.7 Right of Agency to Pay Taxes, Insurance Premiums and Other Charges. If the Company fails, beyond the expiration of any applicable notice and cure periods, (i) to pay any tax, together with any fine, penalty, interest or cost which may have been added thereto or become due or been imposed by operation of law for nonpayment thereof, PILOT Payment, assessment or other governmental charge required to be paid by Section 6.3 hereof (unless contested in accordance with the provisions of Section 6.3), (ii) to maintain any insurance required to be maintained by Section 6.4 hereof, (iii) to pay any amount required to be paid by any law or ordinance relating to the use or occupancy of the Facility or by any requirement, order or notice of violation thereof issued by any governmental person, (iv) to pay any mechanic's Lien which is recorded or filed against the Facility or any part thereof (unless contested in accordance with the provisions of Section 8.8(b) hereof), or (v) to pay any other amount or perform any act required to be paid or performed by the Company hereunder, the Agency may, but shall have no obligation to, pay or cause to be paid such tax, PILOT Payment, assessment or other governmental charge, premium for such insurance or any such other payment, or may perform any such act. No such payment shall be made or act performed by the Agency until at least ten (10) days shall have elapsed since notice shall have been given by the Agency, and in the case of any tax, assessment or governmental charge or the amounts specified in clauses (i) and (iv) hereof, no such payment shall be made in any event if the Company is contesting the same in good faith to the extent and as permitted by this Lease Agreement, unless an Event of Default hereunder shall have occurred and be continuing. No such payment by the Agency shall affect or impair any rights of the Agency hereunder arising in consequence of such failure by the Company. The Company shall, on demand, reimburse the Agency for any amount so paid or for expenses or costs incurred in the performance of any such act by the Agency pursuant to this Section (which shall include all reasonable legal fees and disbursements), together with interest thereon, from the date of payment of such amount, expense or cost by the Agency at a rate equal to two percent (2%) plus the Prime Rate, but in no event higher than the maximum lawful prevailing rate.

ARTICLE VII DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1 Damage or Destruction of the Facility.

(a) If the Facility or any part or component thereof shall be damaged or destroyed (in whole or in part) at any time during the Lease Term:

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

(ii) there shall be no abatement or reduction in the amounts payable by the Company under this Lease Agreement, including, without limitation, the PILOT Payments (whether or not the Facility is replaced, repaired, rebuilt, restored or relocated);

(iii) the Company shall promptly give written notice thereof to the Agency;

(iv) upon the occurrence of such damage or destruction, the Net Proceeds derived from the insurance shall be (A) paid to the Company or the Lender, as applicable, for the replacement, repair, rebuilding, restoration or relocation of the Facility as provided in Section 7.1(b) hereof or (B) applied pursuant to Section 7.1(e) hereof; and

(v) if the Facility is not replaced, repaired, rebuilt, restored or relocated, as provided herein and in Section 7.1(b) hereof, this Lease Agreement shall be terminated at the option of the Agency and the provisions of Section 7.1(e) hereof shall apply.

(b) Any replacements, repairs, rebuilding, restorations or relocations of the Facility by the Company after the occurrence of such damage or destruction shall be subject to the following conditions:

(i) the Facility shall be in substantially the same condition and value as an operating entity as existed prior to the damage or destruction;

(ii) the Facility shall continue to constitute a "project" as such term is defined in the Act;

(iii) the Facility will be subject to no Liens, other than Permitted Encumbrances; and

(iv) any other conditions the Agency may reasonably impose.

(c) All such repair, replacement, rebuilding, restoration or relocation of the Facility shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements, shall be promptly and fully paid for by the Company in accordance with the terms of the applicable contracts and shall automatically become a part of the Facility as if the same were specifically provided herein.

(d) In the event such Net Proceeds are not sufficient to pay in full the costs of such repair, replacement, rebuilding, restoration or relocation, the Company shall nonetheless complete the work, or cause the work to be completed pursuant to the terms of this Lease

Agreement, and pay from its own moneys, or cause to be paid by such other party as may be obligated for payment that portion of the costs thereof in excess of such Net Proceeds. All such repairs, replacements, rebuilding, restoration or relocations made pursuant to this Section, whether or not requiring the expenditure of the Company's own money or moneys of any other person, shall automatically become a part of the Facility as if the same were specifically described herein.

(e) If the Company shall not repair, replace, rebuild, restore or relocate the Facility, it shall be deemed to have exercised its option to terminate this Lease Agreement pursuant to Section 11.1 hereof. Any Net Proceeds derived from insurance shall be applied to the payment of the amounts required to be paid by Section 11.2 hereof and the balance shall be delivered to the Company. If an Event of Default hereunder shall have occurred and the Agency shall have exercised its remedies under Section 10.2 hereof, such Net Proceeds shall be applied to the payment of the amounts required to be paid by Section 10.2 and Section 10.4 hereof.

Section 7.2 Condemnation.

(a) If title to or use of the Facility shall be taken by Condemnation (in whole or in part) at any time during the Lease Term:

(i) the Agency shall have no obligation to repair, replace, rebuild, restore or relocate the Facility or to acquire, by construction or otherwise, facilities of substantially the same nature as the Facility ("**Substitute Facilities**");

(ii) there shall be no abatement or reduction in the amounts payable by the Company under this Lease Agreement including, without limitation, the PILOT Payments (whether or not the Facility is repaired, replaced, rebuilt, restored or relocated or Substitute Facilities are acquired);

(iii) the Company shall promptly give written notice thereof to the Agency;

(iv) upon the occurrence of such Condemnation, the Net Proceeds derived therefrom shall be (A) paid to the Company or the Lender, as applicable, for the replacement, repair, rebuilding, restoration or relocation of the Facility or acquisition of Substitute Facilities as provided in Section 7.2(b) hereof or (B) applied pursuant to Section 7.2(e) hereof; and

(v) if the Facility is not repaired, replaced, rebuilt, restored or relocated, as provided herein and in Section 7.2(b) hereof, this Lease Agreement shall be terminated at the option of the Agency and the provisions of Section 7.2(e) hereof shall apply.

(b) Any repairs, replacements, rebuilding, restorations or relocations of the Facility by the Company after the occurrence of such Condemnation or acquisitions by the Company of Substitute Facilities shall be subject to the following conditions:

(i) the Facility or the Substitute Facilities shall be in substantially the same condition and value as an operating entity as existed prior to the Condemnation;

(ii) the Facility or the Substitute Facilities shall continue to constitute a "project" as such term is defined in the Act;

(iii) the Facility or the Substitute Facilities will be subject to no Liens, other than Permitted Encumbrances; and

(iv) any other conditions the Agency may reasonably impose.

(c) All such repair, replacement, rebuilding, restoration or relocation of the Facility shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements, shall be promptly and fully paid for by the Company in accordance with the terms of the applicable contracts and shall automatically become a part of the Facility as if the same were specifically described herein. Any Net Proceeds of a Condemnation not used to repair, replace, rebuild, restore, or relocate the Facility shall belong to the Company.

(d) In the event such Net Proceeds are not sufficient to pay in full the costs of such repair, replacement, rebuilding, restoration, relocation or acquisition of Substitute Facilities, the Company shall nonetheless complete, or cause to be completed, the work or the acquisition pursuant to the terms of this Lease Agreement and pay from its own moneys, or cause to be paid by such other party as may be obligated for payment, that portion of the costs thereof in excess of such Net Proceeds. All such repairs, replacements, rebuilding, restoration, relocations and such acquisition of Substitute Facilities made pursuant to this Section, whether or not requiring the expenditure of the Company's own money or moneys of any other person, shall automatically become a part of the Facility as if the same were specifically described herein.

(e) If the Company shall not repair, replace, rebuild or restore the Facility or acquire Substitute Facilities, it shall be deemed to have exercised its option to terminate this Lease Agreement pursuant to Section 11.1 hereof. Any Net Proceeds derived from the Condemnation shall be applied to the payment of the amounts required to be paid by Section 11.2 hereof. If any Event of Default hereunder shall have occurred and the Agency shall have exercised its remedies under Section 10.2 hereof, such Net Proceeds shall be applied to the payment of the amounts required to be paid by Section 10.2 and Section 10.4 hereof and any balance remaining thereafter shall belong to the Company.

Section 7.3 Condemnation of Company-Owned Property. The Company shall be entitled to the Net Proceeds of any casualty, damage or destruction insurance proceeds or any Condemnation award or portion thereof made for damage to or taking of any Property which, at the time of such damage or taking, is not part of the Facility.

Section 7.4 Waiver of Real Property Law Section 227. The Company hereby waives the provisions of Section 227 of the Real Property Law of the State or any law of like import now or hereafter in effect.

ARTICLE VIII
SPECIAL COVENANTS

Section 8.1 Right to Inspect Facility. The Agency and its duly authorized agents shall have the right at all reasonable times on reasonable notice to inspect the Facility, including, without limitation, for the purpose of ascertaining the condition of the Environment at, on or in the vicinity of the Facility.

Section 8.2 Hold Harmless Provisions.

(a) The Company agrees that the Agency, its directors, members, officers, agents (except the Company and any Agents), and employees (the "**Indemnified Parties**") shall not be liable for and agrees to protect, defend, indemnify, save, release and hold the Indemnified Parties harmless from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements or expenses (including, without limitation, reasonable attorneys' and experts' fees, expenses and disbursements, incurred whether by reason of third party claims or to enforce the terms, conditions and provisions of this Lease Agreement) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against the Agency relating to, resulting from or arising out of: (i) loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Facility or the Land, (ii) the Project Work and the Agency's acquisition, owning, leasing and subleasing of the Facility, including, without limiting the generality of the foregoing, all claims arising from the breach by the Company of any of its covenants contained herein, the exercise by the Company of the authority conferred upon it pursuant to Section 5.2 of this Lease Agreement, and all causes of action and reasonable attorneys' fees (whether by reason of third party claims or by reason of the enforcement of any provision of this Lease Agreement (including without limitation this Section) or any of the other documents delivered in connection herewith by the Agency) and any other expenses incurred in defending any claims, suits or actions which may arise as a result of any of the foregoing, (iii) the conditions of the Environment at, on or in the vicinity of the Facility, (iv) the Project Work or the operation or use of the Facility in violation of any applicable Environmental Law for the storage, treatment, generation, transportation, processing, handling, management, production or Disposal of any Hazardous Substance or as a landfill or other waste disposal site, or for military, manufacturing or industrial purposes or for the commercial storage of petroleum or petroleum based products, except in compliance with all applicable Environmental Laws, (v) the presence of any Hazardous Substance or a Release or Disposal or the threat of a Release or Disposal of any Hazardous Substance or waste on, at or from the Facility, (vi) the failure promptly to undertake and diligently pursue to completion all necessary, appropriate and legally authorized investigative, containment, removal, clean-up and other remedial actions with respect to a Release or the threat of a Release of any Hazardous Substance on, at or from the Facility, required by any Environmental Law, (vii) human exposure to any Hazardous Substance, noises, vibrations or nuisances of whatever kind to the extent the same arise from the Project Work, the condition of the Facility or the ownership, use, sale, operation, conveyance or operation thereof in violation of any Environmental Law, (viii) a violation of any applicable Environmental Law, (ix) non-compliance with any Environmental Permit, (x) a material misrepresentation or

inaccuracy in any representation or warranty or a material breach of or failure to perform any covenant made by the Company in this Lease Agreement, or (xi) the costs of any required or necessary investigation, assessment, testing, repair, cleanup, or detoxification of the Facility and the preparation of any closure or other required plans; provided that any such losses, damages, liabilities or expenses of the Agency are not incurred on account of and do not result from the gross negligence or intentional or willful wrongdoing of the Indemnified Parties. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of any of the Indemnified Parties, and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law, and upon the application of any such prohibition by the final judgment or decision of a competent court of law, the remaining provisions of these indemnities shall remain in full force and effect.

(b) Notwithstanding any other provisions of this Lease Agreement, the obligations of the Company pursuant to this Section 8.2 shall remain in full force and effect after the termination of this Lease Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought, the payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all expenses and charges incurred by the Indemnified Parties, relating to the enforcement of the provisions herein specified. The liability of the Company to the Agency hereunder shall in no way be limited, abridged, impaired or otherwise affected by (i) any amendment or modification of any of the Transaction Documents by or for the benefit of the Agency, the Company or any subsequent owners or users of the Facility, (ii) any extensions of time for payment or performance required by any of the Transaction Documents, (iii) the release of the Company or any other person from the performance or observance of any of the agreements, covenants, terms or conditions contained in any of the Transaction Documents by operation of law, either by the Agency's voluntary act or otherwise, (iv) the invalidity or unenforceability of any of the terms or provisions of the Transaction Documents, (v) any exculpatory provision contained in any of the Transaction Documents limiting the Agency's recourse to any other security or limiting the Agency's rights to a deficiency judgment against the Company, (vi) any investigation or inquiry conducted by or on the behalf of the Agency or any information which the Agency may have or obtain with respect to the condition of the Environment at, or ecological condition of, the Facility, (vii) the sale, assignment or foreclosure of any mortgage relating to all or any part of the Facility, but only with respect to a Release that has occurred prior to any such event, (viii) the sale, assignment, subleasing, transfer or conveyance of all or part of the Land or the Facility or the Company's interests and rights in, to, and under the Lease Agreement or the termination of the Lease Agreement, but only with respect to a Release that has occurred prior to any such event, (ix) the death or legal incapacity of the Company, (x) the release or discharge, in whole or in part, of the Company in any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or similar proceeding, or (xi) any other circumstances which might otherwise constitute a legal or equitable release or discharge, in whole or in part, of the Company under the Lease Agreement, or any other Transaction Document.

(c) In the event of any claim against the Indemnified Parties by any employee or contractor of the Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Company hereunder shall not be

limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

(d) Notwithstanding any provisions of this Section 8.2, the Agency retains the right to defend itself, and in any such defense of itself, the Agency may select its own counsel, and any and all costs of such defense, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses, shall be paid by the Company.

(e) To effectuate the provisions of this Section 8.2, the Company shall provide for and insure in the liability policies required in Section 6.4 hereof, its liabilities assumed pursuant to this Section 8.2.

Section 8.3 Company to Maintain Its Existence. The Company covenants and agrees that at all times during the Lease Term, it will (i) maintain its existence, (ii) continue to be an entity subject to service of process in the State and either organized under the laws of the State, or organized under the laws of any other state of the United States and duly qualified to do business as a foreign entity in the State, (iii) not liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets remaining after the execution and delivery of this Lease Agreement, (iv) not consolidate with or merge into another corporation or permit one or more corporations to consolidate with or merge into it, and (v) not change, directly or indirectly, however accomplished, whether in a single transaction or in a series of related or unrelated transactions, more than 49% of the ownership or control of the Company or sell or transfer, directly or indirectly, however accomplished, whether in a single transaction or in a series of related or unrelated transactions, more than 49% of the equity interests in the Company, except with consent of the Agency, which consent shall not be unreasonably withheld or delayed or conditioned.

Section 8.4 Qualification in State. The Company throughout the Lease Term shall continue to be duly authorized to do business in the State.

Section 8.5 Agreement to File Annual Statements and Provide Information. The Company shall file with NYSDTF an annual statement of the value of all sales and use tax exemptions claimed in connection with the Facility in compliance with Sections 874(8) of the GML as provided in Section 5.2(g) hereof. The Company shall submit a copy of such annual statement to the Agency at the time of filing with NYSDTF. The Company shall also provide the Agency with the information the Agency deems necessary for the Agency to comply with Section 874(9) of the GML. Annually, and upon request, the Company shall provide the Agency with a certified statement and documentation (i) enumerating the FTE jobs, by category, retained and/or created at the Facility as a result of the Agency's financial assistance and (ii) indicating the fringe benefits and salary averages or ranges for such categories of FTE jobs created and/or retained. The Company further agrees to provide and certify or cause to be provided and certified such information concerning the Company, its finances, its operations, its employment and its affairs as the Agency deems necessary, including to enable the Agency to make any report required by law, governmental regulation, including, without limitation, any reports required by the Act or the Public Authorities Accountability Act of 2005 and the Public Authorities Reform Act of 2009, each as amended from time to time, or any other reports

required by the New York State Authority Budget Office or the Office of the State Comptroller or any of the Agency Documents or Company Documents. Such information shall be provided within thirty (30) days following written request from the Agency. The Company shall cause any and all sublessees at the Facility to comply with the requirements of this Section 8.5 by requiring each such sublessee to enter into a Tenant Agency Compliance Agreement as described in Section 9.3 hereof.

Section 8.6 Books of Record and Account; Financial Statements. The Company at all times agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all transactions and events relating to the business and financial affairs of the Company.

Section 8.7 Compliance with Orders, Ordinances, Etc.

(a) The Company, throughout the Lease Term, agrees that it will promptly comply, and cause any sublessee, tenant or occupant of the Facility to comply, with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof, or to the Project Work, or to any use, manner of use or condition of the Facility or any part thereof, of all federal, state, county, municipal and other governments, departments, commissions, boards, courts, authorities, officials and officers having jurisdiction over the Facility or any part thereof, or of the Project Work, or of any use, manner of use or condition of the Facility or any part thereof or of any companies or associations insuring the premises.

(b) Notwithstanding the provisions of subsection (a) above, the Company may in good faith contest the validity or the applicability of any requirement of the nature referred to in such subsection (a) by appropriate legal proceedings conducted in good faith and with due diligence. In such event, the Company may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom, unless the Agency shall notify the Company that by failure to comply with such requirement or requirements, the Facility or any part thereof may be subject to loss, penalty or forfeiture, in which event the Company shall promptly take such action with respect thereto or provide such security as shall be satisfactory to the Agency. If at any time the then existing use or occupancy of the Facility shall, pursuant to any zoning or other law, ordinance or regulation, be permitted only so long as such use or occupancy shall continue, the Company shall use its best efforts not to cause or permit such use or occupancy to be discontinued without the prior written consent of the Agency.

Section 8.8 Discharge of Liens and Encumbrances.

(a) The Company, throughout the Lease Term, shall not permit or create or suffer to be permitted or created any Lien, except for Permitted Encumbrances, upon the Facility or any part thereof, without the Agency's consent, including without limitation, by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied with respect to the Facility or any part thereof.

(b) Notwithstanding the provisions of subsection (a) above, the Company may in good faith contest any such Lien. In such event, the Company may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Agency shall notify the Company in writing that by nonpayment of any such item or items, the Facility or any part thereof may be subject to loss or forfeiture. In the event of such notice the Company shall promptly secure payment of all such unpaid items by filing a bond, in form and substance satisfactory to the Agency, thereby causing such Lien to be removed, or by taking such other actions as may be satisfactory to the Agency to protect its interests. Mechanics' Liens shall be discharged or bonded within thirty (30) days of the filing or perfection thereof.

Section 8.9 Depreciation Deductions and Investment Tax Credit. The parties agree that, as between them, the Company shall be entitled to all depreciation deductions with respect to any depreciable property comprising a part of the Facility and to any investment credit with respect to any part of the Facility.

Section 8.10 Employment Opportunities; Notice of Jobs. The Company covenants and agrees that, in consideration of the participation of the Agency in the transactions contemplated herein, it will, except as otherwise provided by collective bargaining contracts or agreements to which the Company is a party, cause any new employment opportunities created in connection with the Facility to 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), as superseded by the Workforce Innovation and Opportunity Act (PL. 113-128), in which the Facility is located (collectively, the "**Referral Agencies**"). The Company also agrees, and shall cause any and all sublessees to agree, that except as is otherwise prohibited by collective bargaining contracts or agreements, they will, 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.

Section 8.11 Employment at the Facility. The Company hereby agrees to create and maintain at all times at the Facility: Eight (8) full time equivalent employees as of December 31, 2021, and eight (8) full time equivalent employees as of December 31, 2022, and thereafter throughout the Lease Term, calculated on the basis of 35 hours per week who are employees of the Company or any subsidiary or affiliates of the Company, or any consultants, contractors or subcontractors of the Company, or any subsidiary or affiliates of the Company, whose place of employment or workplace is located at the Facility (including the full time equivalent employees of all tenants at the Facility) ("FTE"). The Company's obligation with regard to creating or causing to be maintained FTEs includes (a) using all reasonable efforts to lease up the Facility, and (b) including provisions in all subleases requiring any tenant to comply with the provisions of the Lease Agreement applicable to them.

Section 8.12 Annual Compliance Certificate. The Company shall deliver to the Agency each year no later than January 15th, a certificate signed by an Authorized Representative of the Company in the form attached hereto as Exhibit K, together with all attachments referenced therein.

ARTICLE IX
RELEASE OF CERTAIN LAND; ASSIGNMENTS AND SUBLEASING

Section 9.1 Restriction on Sale of Facility; Release of Certain Land.

(a) Except as otherwise specifically provided in this Article IX and in Article X hereof, the Agency shall not sell, convey, transfer, encumber or otherwise dispose of the Facility or any part thereof, or any of its rights under this Lease Agreement, without the prior written consent of the Company.

(b) The Agency and the Company from time to time may release from the provisions of this Lease Agreement and the leasehold estate created hereby any part of, or interest in, the Demised Premises which is not necessary, desirable or useful for the Facility. In such event, the Agency, at the Company's sole cost and expense, shall execute and deliver any and all instruments necessary or appropriate so to release such part of, or interest in, the Demised Premises. As a condition to such release, the Agency shall be provided with a copy of the instrument transferring such title or interest in such Demised Premises, an instrument survey of the Demised Premises to be conveyed, together with a certificate of an Authorized Representative of the Company stating that there is then no Event of Default under this Lease Agreement and that such part of, or interest in, the Demised Premises is not necessary, desirable or useful for the Facility.

(c) No conveyance of any part of, or interest in, the Demised Premises effected under the provisions of this Section 9.1 shall entitle the Company to any abatement or diminution of the rents payable by it under this Lease Agreement or any abatement or diminution of the PILOT Payments.

Section 9.2 Removal of Equipment.

(a) The Agency shall not be under any obligation to remove, repair or replace any inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary item of Equipment. In any instance where the Company determines that any item of Equipment has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company, may remove such items from the Facility and may sell, trade-in, exchange or otherwise dispose of the same, as a whole or in part, provided that such removal will not materially impair the operation of the Facility for the purpose for which it is intended or change the nature of the Facility so that it does not constitute a "project" under the Act.

(b) Upon the request of the Company, the Agency shall execute and deliver to the Company all instruments, in form and substance satisfactory to the Agency, necessary or appropriate to enable the Company to sell or otherwise dispose of any such item of Equipment. The Company shall pay any costs (including attorneys' fees) incurred in transferring title to any item of Equipment removed pursuant to this Section 9.2.

(c) The removal of any item of Equipment pursuant to this Section shall not entitle the Company to any abatement or diminution of the PILOT Payments or any other amounts payable by it under this Lease Agreement.

Section 9.3 Assignment and Subleasing.

(a) This Lease Agreement may not be assigned, in whole or in part, and the Facility may not be subleased, in whole or in part (including successive generation subleases), or used or occupied without the prior written consent of the Agency, in each instance, which consent shall not be unreasonably withheld or delayed, but shall be subject to the dates of the Agency's board meetings, and which consent may be fully and effectively given by the execution and delivery of a Tenant Agency Compliance Agreement by an Authorized Representative of the Agency in substantially the form attached hereto as Exhibit I. Any assignment or sublease shall be on the following conditions, as of the time of such assignment or sublease:

(i) no assignment or sublease shall relieve the Company from primary liability for any of its obligations hereunder unless the Agency consents thereto, which consent shall not be unreasonably withheld or delayed subject to the dates of the Agency's board meetings and which consent shall be conditioned upon the Agency being indemnified and held harmless to its reasonable satisfaction;

(ii) the assignee or sublessee (except in the case of a true sublessee in the ordinary course of business) shall assume the obligations of the Company hereunder to the extent of the interest assigned or subleased;

(iii) the Company shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Agency a true and complete copy of such assignment or sublease and the instrument of assumption;

(iv) neither the validity nor the enforceability of the Lease Agreement shall be adversely affected thereby;

(v) the Facility shall continue to constitute a "project" as such quoted term is defined in the Act, and, without limiting the generality of the foregoing, no assignment or sublease shall cause the Facility to be used in violation of Section 862(2)(a) of the Act and no assignment or sublease shall cause the Facility to be occupied by a sublessee in violation of Section 862(1) of the Act; and

(vi) any sublessee will execute and deliver a Tenant Agency Compliance Agreement, satisfactory to the Agency in substantially the form attached hereto as Exhibit I;

(b) If the Agency shall so request, as of the purported effective date of any assignment or sublease pursuant to subsection (a) of this Section 9.3, the Company at its sole cost and expense shall furnish the Agency with opinions, in form and substance satisfactory to the Agency, (i) of Transaction Counsel as to item (v) above, and (ii) of Independent Counsel as to items (i), (ii), and (iv) above.

(c) In accordance with Section 862(1) of the Act, no assignment or sublease shall cause the Facility to be occupied by an assignee or sublessee whose occupancy would result in the removal of a facility or plant of the proposed assignee or sublessee from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of such

assignee or sublessee located within the State; provided, however, that neither restriction shall apply if the Agency shall determine:

(i) that such occupation of the Facility is reasonably necessary to discourage the proposed assignee or sublessee from removing such other plant or facility to a location outside the State, or

(ii) that such occupation of the Facility is reasonably necessary to preserve the competitive position of the proposed assignee or sublessee in its respective industry.

Section 9.4 Merger of Agency.

(a) Nothing contained in this Lease Agreement shall prevent the consolidation of the Agency with, or merger of the Agency into, or the transfer of the Agency's interest in the entire Facility to, any other public benefit corporation or political subdivision which has the legal authority to own and lease the Facility and to continue the tax benefits contemplated by the Transaction Documents, provided that upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of this Lease Agreement to be kept and performed by the Agency shall be expressly assumed in writing by the public benefit corporation or political subdivision resulting from such consolidation or surviving such merger or to which the Facility shall be transferred.

(b) Within thirty (30) days after the consummation of any such consolidation, merger or transfer of title, the Agency shall give notice thereof in reasonable detail to the Company and shall, upon request, furnish to the Company, at the sole cost and expense of the Company, a favorable opinion of Independent Counsel as to compliance with the provisions of Section 9.4(a) hereof. The Agency promptly shall furnish such additional information with respect to any such transaction as the Company may reasonably request.

ARTICLE X EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default Defined.

(a) The following shall each be "Events of Default" under this Lease Agreement:

(i) the failure by the Company to pay or cause to be paid, on the date due, the amounts specified to be paid pursuant to Section 4.3(a) and (b) hereof;

(ii) the failure by the Company to observe and perform any covenant contained in Sections 2.2(e), (f) or (i), 5.2, 6.3, 6.4, 6.5, 8.2, 8.4, 8.5, 8.11, 8.12, 9.3, and 10.4 and Article XIII hereof;

(iii) the failure by the Company to pay or cause to be paid PILOT Payments or the Recaptured Benefits, in each case on the dates due;

(iv) the occurrence and continuation of a Recapture Event;

(v) any representation or warranty of the Company herein, in any of the Company Documents or in the Project Application Information shall prove to have been false or misleading in any material respect;

(vi) the failure by the Company to observe and perform any covenant, condition or agreement hereunder on its part to be observed or performed (except obligations referred to in 10.1(a)(i), (ii), (iii) and (vii)) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, has been given to the Company by the Agency;

(vii) the dissolution or liquidation of the Company; or the failure by the Company to release, stay, discharge, lift or bond within thirty (30) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the Company generally to pay its debts as they become due; or an assignment by the Company for the benefit of creditors; or the commencement by the Company (as the debtor) of a case in bankruptcy or any proceeding under any other insolvency law; or the commencement of a case in bankruptcy or any proceeding under any other insolvency law against the Company (as the debtor), wherein a court having jurisdiction in the premises enters a decree or order for relief against the Company as the debtor, or such case or proceeding is consented to by the Company or remains undismissed for forty (40) days, or the Company consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the Company for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors;

(viii) an Event of Default under the Mortgage, if any, shall have occurred and be continuing;

(ix) a default by any tenant under its respective Tenant Agency Compliance Agreement shall have occurred and be continuing; or

(x) the Master Lease is terminated or expires by its terms.

(b) Notwithstanding the provisions of Section 10.1(a), if by reason of force majeure any party hereto shall be unable in whole or in part to carry out its obligations under Sections 3.4, 6.1 and 8.11 of this Lease Agreement, and if such party shall give notice and full particulars of such force majeure in writing to the other party, within a reasonable time after the occurrence of the event or cause relied upon, such obligations under this Lease Agreement of the party giving such notice (and only such obligations), so far as they are affected by such force majeure, shall be suspended during continuation of the inability, which shall include a reasonable time for the removal of the effect thereof. The term "force majeure" as used herein shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts, priorities or orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, governmental subdivisions or officials or

any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, shortages of labor or materials or delays of carriers, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault. The party claiming such inability shall remove the cause for the same with all reasonable promptness. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout and other industrial disturbances by acceding to the demands of the opposing party or parties.

Section 10.2 Remedies on Default.

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

(i) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable: (A) all unpaid installments of rent payable pursuant to Section 4.3(a) and (b) hereof, (B) all unpaid and past due PILOT Payments, (C) all due and owing Recaptured Benefits, and (D) all other payments due under this Lease Agreement; provided, however, that if an Event of Default specified in Section 10.1(a)(vii) hereof shall have occurred and be continuing, such installments of rent and other payments due under this Lease Agreement shall become immediately due and payable without notice to the Company or the taking of any other action by the Agency;

(ii) terminate this Lease Agreement and the Company Lease, reconvey the Equipment to the Company and terminate the Sales Tax Exemption authorization. The Agency shall have the right to execute appropriate lease termination documents with respect to the Facility and to place the same on record in the Suffolk County Clerk's office, at the sole cost and expense of the Company and in such event the Company waives delivery and acceptance of such lease termination documents and the Company hereby appoints the Agency its true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest), with full power of substitution to file on its behalf all affidavits, questionnaires and other documentation necessary to accomplish the recording of such lease termination documents; or

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

(b) No action taken pursuant to this Section 10.2 (including termination of the Lease Agreement) shall relieve the Company from its obligation to make all payments required by Section 4.3 hereof or due and owing PILOT Payments or Recaptured Benefits.

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

Section 10.4 Agreement to Pay Attorneys' Fees and Expenses. In the event the Company should default under any of the provisions of this Lease Agreement and the Agency should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Agency the reasonable fees of such attorneys and such other expenses so incurred.

Section 10.5 No Additional Waiver Implied by One Waiver. In the event any agreement contained herein should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE XI
EARLY TERMINATION OF LEASE AGREEMENT
OPTION IN FAVOR OF COMPANY

Section 11.1 Early Termination of Lease Agreement. The Company shall have the option to terminate this Lease Agreement at any time upon filing with the Agency a certificate signed by an Authorized Representative of the Company stating the Company's intention to do so pursuant to this Section and stating the date upon which such payments required by Section 11.2 hereof shall be made (which date shall not be less than forty five (45) nor more than 90 days from the date such certificate is filed) and upon compliance with the requirements set forth in Section 11.2 hereof.

Section 11.2 Conditions to Termination of Lease Agreement. In the event of the termination or expiration of this Lease Agreement in accordance with the provisions of Sections 4.2, 10.2 or 11.1 hereof, the Company shall make or cause to be made the following payments:

- (a) To the Agency or the Taxing Authorities, as appropriate pursuant to Section 5.1 hereof: all PILOT Payments due and payable hereunder as of the date of the termination or expiration of this Lease Agreement;
- (b) To the Agency: the purchase price with respect to the Equipment of one dollar (\$1.00);
- (c) To the Agency: all amounts due and payable under Section 5.4 hereof;

(d) To the Agency: an amount certified by the Agency to be sufficient to pay all unpaid fees and expenses of the Agency incurred under the Agency Documents; and

(e) To the appropriate Person: an amount sufficient to pay all other fees, expenses or charges, if any, including appropriate attorneys' fees, due and payable or to become due and payable under the Company Documents.

Section 11.3 Conveyance on Termination. At the closing of any expiration or termination of the Lease Agreement, the Agency shall, upon receipt of the amounts payable pursuant to Section 11.2 hereof, deliver to the Company all necessary documents, in form and substance satisfactory to the Agency (i) to terminate this Lease Agreement and the Company Lease and to convey the Equipment to the Company, subject in each case only to the following: (A) any Liens to which leasehold estate or title to such Property was subject when conveyed to the Agency, (B) any Liens created at the request of the Company, to the creation of which the Company consented or in the creation of which the Company acquiesced, (C) any Permitted Encumbrances, and (D) any Liens resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Lease Agreement or arising out of an Event of Default hereunder; and (ii) to release and convey to the Company all of the Agency's rights and interest in and to any rights of action or any Net Proceeds of insurance or Condemnation awards with respect to the Facility (but not including any Unassigned Rights). At the closing of any expiration or termination of the Lease Agreement, and unless otherwise waived by the Agency, as a condition to such termination or expiration, the Company shall request each Lender to release the Agency from any Mortgage and any other Loan Documents to which it is a party in writing and cause such releases to be recorded as applicable.

ARTICLE XII LENDER PROVISIONS

Section 12.1 Subordination of Lease Agreement. This Lease Agreement and any and all modifications, amendments, renewals and extensions thereof is subject and subordinate to any Mortgage which may be granted by the Agency and the Company on the Facility or any portion thereof and to any and all modifications, amendments, consolidations, extensions, renewals, replacements and increases thereof.

Section 12.2 Mortgage and Pledge of Agency's Interests to Lender. The Agency shall at the request of, and at the sole cost and expense of, the Company (i) mortgage its interest in the Facility, and (ii) pledge and assign its rights to and interest in this Lease Agreement (other than Unassigned Rights) to the Lender as security for the payment of the principal of and interest on the Loan, in each case in accordance with the provisions attached hereto as Exhibit D. The Company hereby acknowledges and consents to such mortgage, pledge and assignment by the Agency. Notwithstanding the foregoing, all indemnities herein contained shall, subsequent to such mortgage, pledge and assignment, continue to run to the Agency for its benefit.

Section 12.3 Pledge of Company's Interest to Lender. The Company shall have the right to pledge and assign its rights to and interest in this Lease Agreement and the Plans and Specifications to any Lender as security for the payment of the principal of and interest on the

Loan (as hereinafter defined). The Agency hereby acknowledges and consents to any such pledge and assignment by the Company.

Section 12.4 Making of Loans; Disbursement of Loan Proceeds. The Agency acknowledges that the Company may request one or more Lenders to make one or more loans to finance and refinance the costs of the acquisition of the Facility and/or the Project Work or to reimburse the Company for the cost of acquiring the Facility and/or the Project Work (the "Loan"). Proceeds of such Loan shall be disbursed by such Lender in accordance with the provisions of the Mortgage or other related documentation applicable to such Loan.

Provided that the Agency shall have received the notice of the name and address of a Lender, the Agency agrees that simultaneously with its giving of any notice under this Lease Agreement (each a "Notice") it will send a copy of such Notice to each Lender. Each Notice shall be sent to each Lender in the manner provided herein at the address provided to the Agency by each Lender for such purpose. Each such Lender may change such address from time to time by written notice to the Agency in accordance herewith. The Agency shall reasonably cooperate with the Company in connection with the granting or modification by the Company of any Mortgage. Such cooperation shall include, without limitation, the execution and delivery of such documents and instruments in connection with a Mortgage as the Company or the Lender may reasonably request (the "Loan Documents"), provided that such documents and instruments shall contain the language set forth in Exhibit D attached hereto and made a part hereof. The Company shall perform or cause to be performed for and on behalf of the Agency, and at the Company's sole cost and expense, each and every obligation of the Agency under and pursuant to such instruments.

Section 12.5 References to Lender, Loan or Mortgage. All references herein to Lender, Loan or Mortgage or other similar words, whether in the singular or the plural, may be in anticipation of future Loans to be made by future Lenders. Such references shall only be effective if such Loans have been made and are still outstanding. If such Loans are never made or have been repaid, such references shall not be of any force or effect.

ARTICLE XIII ENVIRONMENTAL MATTERS

Section 13.1 Environmental Representations of the Company. Except as otherwise shown on Exhibit H attached hereto, the Company hereby represents and warrants to the Agency that:

(a) Neither the Facility nor, to the best of Company's knowledge, any property adjacent to or within the immediate vicinity of the Facility is being or has been used in violation of any applicable Environmental Law for the storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance or as a landfill or other waste management or disposal site or for military, manufacturing or industrial purposes or for the storage of petroleum or petroleum based products.

(b) Underground storage tanks are not and have not been located on the Facility.

(c) The soil, subsoil, bedrock, surface water and groundwater of the Facility are free of Hazardous Substances, in violation of Environmental Law, other than any such substances that occur naturally.

(d) There has been no Release or threat of a Release of any Hazardous Substance in violation of any applicable law on, at or from the Facility or any property adjacent to or within the immediate vicinity of the Facility which through soil, subsoil, bedrock, surface water or groundwater migration could come to be located on or at the Facility, and the Company has not received any form of notice or inquiry from any federal, state or local governmental agency or authority, any operator, tenant, subtenant, licensee or occupant of the Facility or any property adjacent to or within the immediate vicinity of the Facility or any other person with regard to a Release or the threat of a Release of any Hazardous Substance on, at or from the Facility or any property adjacent to or within the immediate vicinity of the Facility in violation of any applicable law.

(e) All Environmental Permits necessary for the Project Work and the ownership, use or operation of the Facility have been obtained and are in full force and effect.

(f) No event has occurred with respect to the Facility which, with the passage of time or the giving of notice, or both, would constitute a violation of or non-compliance with any applicable Environmental Law or Environmental Permit.

(g) There are no agreements, consent orders, decrees, judgments, license or permit conditions or other orders or directives of any federal, state or local court, governmental agency or authority relating to the past, present or future construction, renovation, equipping, ownership, use, operation, sale, transfer or conveyance of the Facility which require any change in the present condition of the Facility or any work, repairs, construction, containment, clean up, investigations, studies, removal or remedial action or capital expenditures in order for the Facility to be in compliance with any applicable Environmental Law or Environmental Permit.

(h) There are no actions, suits, claims or proceedings, pending or threatened, which could cause the incurrence of expenses or costs of any name or description or which seek money damages, injunctive relief, remedial action or remedy that arise out of, relate to or result from (i) conditions of the Environment at, on or in the vicinity of the Facility, (ii) a violation or alleged violation of any applicable Environmental Law or non-compliance or alleged non-compliance with any Environmental Permit with respect to the Facility, (iii) the presence of any Hazardous Substance or a Release or the threat of a Release of any Hazardous Substance on, at or from the Facility or any property adjacent to or within the immediate vicinity of the Facility or (iv) human exposure to any Hazardous Substance, noises, vibrations or nuisances of whatever kind to the extent the same arise from the condition of the Facility, the Project Work or the ownership, use, operation, sale, transfer or conveyance of the Facility.

Section 13.2 Environmental Covenants of the Company. The Company hereby covenants and agrees with the Agency as follows:

(a) The Company shall perform the Project Work and use, operate and manage the Facility in accordance with all applicable Environmental Laws and Environmental Permits, and

shall cause all operators, tenants, subtenants, licensees and occupants of the Facility to perform the Project Work and to use, operate and manage the Facility in accordance with any applicable Environmental Laws and Environmental Permits, and shall not cause, allow or permit the Facility or any part thereof to be operated or used for the storage, treatment, generation, transportation, processing, handling, production, management or Disposal of any Hazardous Substances other than in accordance with all applicable Environmental Laws and Environmental Permits.

(b) The Company shall obtain and comply with, and shall cause all contractors, subcontractors, operators, tenants, subtenants, licensees and occupants of the Facility to obtain and comply with, all Environmental Permits, if any.

(c) The Company shall not cause or permit any change to be made in the present or intended Project Work or use or operation of the Facility which would (i) involve the storage, treatment, generation, transportation, processing, handling, management, production or disposal of any Hazardous Substance other than in accordance with any applicable Environmental Law, or the Project Work or use or operation of the Facility as a landfill or waste management or disposal site or for manufacturing or industrial purposes or for the storage of petroleum or petroleum based products other than in accordance with any applicable Environmental Law, (ii) violate any applicable Environmental Law, (iii) constitute a violation or non-compliance with any Environmental Permit or (iv) increase the risk of a Release of any Hazardous Substance.

(d) The Company shall promptly provide the Agency with a copy of all notifications which the Company gives or receives with respect to conditions of the Environment at or in the vicinity of the Facility, any past or present Release or the threat of a Release of any Hazardous Substance on, at or from the Facility or any property adjacent to or within the immediate vicinity of the Facility. If the Company receives or becomes aware of any such notification which is not in writing or otherwise capable of being copied, the Company shall promptly advise the Agency of such verbal, telephonic or electronic notification and confirm such notice in writing. Furthermore, upon the Company's discovery thereof, the Company shall promptly advise the Agency in writing of: (i) the presence of any Hazardous Substance on, under or about the Facility of which the Agency has not previously been advised in writing; (ii) any remedial action taken by, or on behalf of, the Company in response to any Hazardous Substance on, under or about the Facility or to any environmental proceedings of which the Company has not previously been advised in writing; and (iii) the occurrence or condition on any real property adjoining or in the vicinity of the Facility that could reasonably be expected to cause the Facility or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the Facility under any Environmental Law. The Company shall also provide the Agency with copies of all reports, analyses, notices, licenses, approvals, orders, correspondences or other written materials in its possession or control relating to the condition of the Environment at the Facility or real property or bodies of water adjoining or in the vicinity of the Facility or environmental proceedings promptly upon receipt, completion or delivery of such materials.

(e) The Company shall undertake and complete all investigations, studies, sampling and testing and all removal or remedial actions necessary to contain, remove and clean up all Hazardous Substances that are or may become present at the Facility and are required to be removed and/or remediated in accordance with all applicable Environmental Laws and all

Environmental Permits. All remedial work shall be conducted (i) in a diligent and timely fashion by licensed contractors acting under the supervision of a consulting environmental engineer, (ii) pursuant to a detailed written plan for the remedial work approved by any public or private agencies or persons with a legal or contractual right to such approval, (iii) with such insurance coverage pertaining to liabilities arising out of the remedial work as is then customarily maintained with respect to such activities, and (iv) only following receipt of any required permits, licenses or approvals. In addition, the Company shall submit, or cause to be submitted, to the Agency, promptly upon receipt or preparation, copies of any and all reports, studies, analyses, correspondence, governmental comments or approvals, proposed removal or other remedial work contracts and similar information prepared or received by or on behalf of the Company in connection with any remedial work, or Hazardous Substances relating to the Facility. All costs and expenses of such remedial work shall be paid by or on behalf of the Company, including, without limitation, the charges of the remedial work contractors and the consulting environmental engineer, any taxes or penalties assessed in connection with the remedial work and the Agency's out-of-pocket costs incurred in connection with monitoring or review of such remedial work. The Agency shall have the right but not the obligation to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any environmental proceedings.

(f) If at any time the Agency obtains any notice or information that the Company or the Facility, or the use or operation thereof or the Project Work may be in violation of an Environmental Law or in non-compliance with any Environmental Permit or standard, the Agency may require that a full or supplemental environmental inspection and audit report with respect to the Facility of a scope and level of detail reasonably satisfactory to the Agency be prepared by a professional environmental engineer or other qualified environmental scientist acceptable to the Agency, at the Company's sole cost and expense. Said audit may, but is not required to or limited to, include a physical inspection of the Facility, a records search, a visual inspection of any property adjacent to or within the immediate vicinity of the Facility, personnel interviews, review of all Environmental Permits and the conducting of scientific testing. If necessary to determine whether a violation of an Environmental Law exists, such inspection shall also include subsurface testing for the presence of Hazardous Substances in the soil, subsoil, bedrock, surface water and/or groundwater. If said audit report indicates the presence of any Hazardous Substance or a Release or Disposal or the threat of a Release or Disposal of any Hazardous Substance on, at or from the Facility in violation of any applicable law, the Company shall promptly undertake and diligently pursue to completion all necessary, appropriate investigative, containment, removal, clean-up and other remedial actions required by any Environmental Law, in accordance with Section 13.2(e) above. The Company hereby consents to the Agency notifying any party under such circumstances of the availability of any or all of the environmental reports and the information contained therein. The Company further agrees that the Agency may disclose such environmental reports to any governmental agency or authority if they reasonably believe that they are required to disclose any matter contained therein to such agency or authority; provided that the Agency shall give the Company at least forty-eight (48) hours prior written notice before so doing. The Company acknowledges that the Agency cannot control or otherwise assure the truthfulness or accuracy of the environmental reports, and that the release of the environmental reports, or any information contained therein, to prospective bidders at any foreclosure sale of the Facility may have a material and adverse effect upon the amount which a party may bid at such sale. The Company agrees that the

Agency shall not have any liability whatsoever as a result of delivering any or all of the environmental reports or any information contained therein to any third party if done in good faith, and the Company hereby releases and forever discharges the Agency from any and all claims, damages, or causes of action arising out of, connected with or incidental to the delivery of environmental reports.

Section 13.3 Survival Provision. Notwithstanding anything to the contrary contained herein, the representations, warranties, covenants and indemnifications of the Company contained in this Article XIII shall survive any termination, conveyance, assignment, subleasing or defeasance of any right, title or interest of the Company in and to the Facility or in, to or under the Lease Agreement.

ARTICLE XIV MISCELLANEOUS

Section 14.1 Notices. All notices, certificates and other communications hereunder shall be in writing and shall be either delivered personally or sent by certified mail, return receipt requested, or delivered by any national overnight express delivery service (in each case, postage or delivery charges paid by the party giving such communication) addressed as follows or to such other address as any party may specify in writing to the other:

To the Agency:

Town of Brookhaven Industrial Development Agency
1 Independence Hill, 2nd Floor
Farmingville, New York 11738
Attention: Chief Executive Officer

With a copy to:

Town of Brookhaven, Town Attorney's Office
1 Independence Hill, 3rd Floor
Farmingville, New York 11738
Attention: General Counsel

To the Company:

Framerica Corporation
2 Todd Court
Yaphank, New York 11980
Attention: L. Gordon Van Vechten, Co-Chair

With a copy to counsel to the Company:

Mark Skolnick, Esq., via E-mail to the following:
mskolnick.atty@gmail.com and mskolnick@platzerlaw.com

Notice by mail shall be effective when delivered but if not yet delivered shall be deemed effective at 12:00 p.m. on the third Business Day after mailing with respect to certified mail and one Business Day after mailing with respect to overnight mail.

Copies of all notices given either to the Agency or to the Company shall also be sent to any Lender, if such Lender shall have delivered written instructions to the Agency and the Company with the address of such Lender pursuant to Section 12.4 hereof.

Section 14.2 Binding Effect. This Lease Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

Section 14.3 Severability. In the event any provision of this Lease Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 14.4 Amendments, Changes and Modifications. This Lease Agreement may not be amended, changed, modified, altered or (except pursuant to Section 10.2 hereof) terminated except in a writing executed by the parties hereto.

Section 14.5 Execution of Counterparts. This Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 14.6 Applicable Law. This Lease Agreement shall be governed exclusively by the applicable laws of the State without regard or reference to its conflict of laws principles.

Section 14.7 Survival of Obligations. This Lease Agreement shall survive the performance of the obligations of the Company to make the payments required by Section 4.3, and all indemnities shall survive the foregoing and any termination or expiration of this Lease Agreement.

Section 14.8 Table of Contents and Section Headings Not Controlling. The Table of Contents and the headings of the several Sections in this Lease Agreement have been prepared for convenience of reference only and shall not control or affect the meaning of or be taken as an interpretation of any provision of this Lease Agreement.

Section 14.9 Waiver of Trial by Jury. The parties do hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Lease Agreement or the Facility or any matters whatsoever arising out of or in any way connected with this Lease Agreement.

Section 14.10 No Liability of Agency.

(a) Neither the Agency, nor any member, officer, agent, servant or employee of the Agency, nor a successor in interest to any of the foregoing, shall be under any personal liability with respect to any of the provisions of this Lease Agreement or any other Agency Document or any matter arising out of or in connection with this Lease Agreement, or any other Agency Document, or the Company's or any other person's occupancy or use of the Facility, and in the

event of any breach or default with respect to the Agency's obligations under this Lease Agreement or any claim arising out of or in connection with this Lease Agreement or the Company's or any other person's occupancy or use of the Facility, the Company's sole remedy shall be an action or proceeding to enforce such obligation, or for specific performance, injunction or declaratory judgment, and the Company hereby waives any right to recover from, and releases, the Agency, its members, officers, agents and employees from any and all monetary damages, whether known, unknown, foreseeable, unforeseeable, ordinary, extraordinary, compensatory or punitive, and in no event shall the Company attempt to secure any personal judgment against the Agency or any of the Agency's members, officers, agents or employees, or successors thereto.

(b) The approval, consent, determination, opinion or judgment of the Agency or any agent or employee of the Agency shall not be construed as such person's endorsement, warranty or guarantee of the matter at issue or the manner or means of accomplishing same or the benefit thereof; in no event shall actions of such party replace, or act as or on behalf of, the requesting parties, its agents, servants or employees

Section 14.11 Recordation. This Lease Agreement shall not be recorded by either party hereto. The Agency, at the sole expense and effort of the Company, shall cause a memorandum of lease with respect hereto to be recorded in the office of the Suffolk County Clerk

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

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

**TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY**

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

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

On the 23rd day of February in the year 2021, before me, the undersigned, personally appeared **Lisa MG Mulligan**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

Joelyn B. Linse
Notary Public

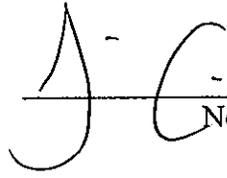
JOCELYN B. LINSE Notary Public - State of New York No. 01L6351400 Qualified in Suffolk County My Comm. Expires Dec. 5, 2024
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FRAMERICA CORPORATION

By: 
Name: L. Gordon Van Vechten
Title: Co-Chair

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

On the 22nd day of February in the year 2021, before me, the undersigned, personally appeared **L. Gordon Van Vechten**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.



Notary Public



EXHIBIT A-1

Drawing of Premises covered by Company Lease (an approximately 84,156 square foot portion of an approximately 232,842 square foot building)

EXHIBIT A-2

Legal Description of Land

ALL that certain plot, piece or parcel of land, situate, lying and being at Yaphank, in the Town of Brookhaven, County of Suffolk and State of New York, bounded and described as follows:

BEGINNING at a point on the Northerly line of Long Island Avenue, as widened, where the same intersects the westerly line of land reputed to belong to I.B.W. Real Estate Corporation, said point of being the following (2) courses and distances from the Southwesterly end of the arc which connects the northwesterly side of Patchogue-Yaphank Road with the original northerly line of Long Island Avenue.

1. South 83 degrees 15 minutes 10 seconds West along the original Northerly line of Long Island Avenue, 37.36 feet;
2. North 5 degrees 10 minutes 33 seconds, along the aforesaid Westerly line of land now or formerly of LIE 66 LLC (formerly reputed to belong to I.B.W. Real Estate Corporation) 76.19 feet; and

RUNNING THENCE along from said point of beginning and along the said widened northerly line of Long Island Avenue the following two (2) courses and distances:

1. Southwesterly along the arc of a curve bearing to the left and having a radius of 660.00 feet a distance of 162.44 feet;
2. South 83 degrees 15 minutes 10 seconds West, 688.43 feet to the Easterly line of land now or formerly of John, Lorraine and Robert Liere (formerly of Herman and John Liere);

THENCE along said land of Liere North 05 degrees 22 minutes 23 seconds West, 1430.61 feet to the Southerly side of Long Island Expressway (South Service Road);

THENCE along the Southerly side of Long Island Expressway (South Service Road) the following (3) courses and distances;

1. North 67 degrees 41 minutes 00 seconds East, 353.13 feet;
2. Easterly on an arc bearing to the right with a radius of 1,970.00 feet for a distance of 331.22 feet; and
3. North 77 degrees 19 minutes 00 seconds East 183.34 feet to the above mentioned westerly line of land of LIE 66 LLC (formerly of I.B.W. Real Estate Corporation); and

THENCE along the said Westerly line of land of LIE 66 LLC (formerly of I.B.W. Real Estate Corporation) South 05 degrees 10 minutes 33 seconds East, 1,547.34 feet to the point or place of BEGINNING.

EXHIBIT B

Equipment

All Eligible Items acquired, constructed, renovated or installed and/or to be acquired, constructed, renovated or installed by or on behalf of the Company, in connection with the completion of the Town of Brookhaven Industrial Development Agency's FramERICA Corporation 2021 Facility located at 19 Nichols Drive, Suite 100, Yaphank, New York, leased or purchased using the Agency's Sales Tax Exemption, and leased to the Company pursuant to the Lease Agreement.

EXHIBIT C

PILOT Schedule

Schedule of PILOT Payments less any amounts payable by the Company in connection with any special ad valorem levies, special assessments or Special District Taxes and service charges levied against the Facility to the Town of Brookhaven, Longwood Central School District, Suffolk County and Appropriate Special Districts:

Address: 19 Nicholas Drive, Suite 100, Yaphank, New York 11980

Tax Map No. 0200-703.00-01.00-049.004*

*The Lease Agreement provides for the rental of approximately 84,156 square foot portion of an approximately 232,842 square foot building of the above-referenced real property, to be more particularly described as Overlay #[8220314] covering only the leased premises.

<u>Year</u>	<u>Tax Year</u>	<u>Payment</u>
1.	2021/2022	\$68,048
2.	2022/2023	\$69,409
3.	2023/2024	\$70,796
4.	2024/2025	\$72,212
5.	2025/2026	\$73,657
6.	2026/2027	\$75,130
7.	2027/2028	\$76,632
8.	2028/2029	\$78,165
9.	2029/2030	\$79,729
10.	2030/2031	\$81,323
	and thereafter	100% of full taxes and assessments on the Facility

The PILOT benefits provide for an approximately 84,156 square foot portion of an approximately 232,842 square foot building, to be more particularly described as **Overlay #[8220314] assigned by the Town of Brookhaven, covering only the leased premises.

***THIS PILOT shall terminate on November 30, 2026, unless extended by a five (5) term, which such extension will terminate on November 30, 2031.

PILOT Payments shall be allocated among the Taxing Authorities in proportion to the amount of real property tax and other taxes which would have been received by each Taxing Authority if the Facility was owned by the Company exclusive of the Agency's leasehold interest.

All annual PILOT Payments as described above shall be payable in two equal semi-annual installments on or prior to January 31 and May 31 of each year of the Lease Term or on such other due dates as may be established from time to time during the Lease Term.

EXHIBIT D

Mortgage Requirements

Any Mortgage or related document which shall be entered into by the Agency and the Company shall contain the following required provisions:

Non-Recourse and Hold Harmless Provisions to be included in the Lender's Mortgage

Section _____. No Recourse Against Agency. The general credit of the Agency is not obligated or available for the payment of this Mortgage. The Mortgagee will not look to the Agency or any principal, member, director, officer or employee of the Agency with respect to the indebtedness evidenced by this Mortgage or any covenant, stipulation, promise, agreement or obligation contained herein. In enforcing its rights and remedies under this Mortgage, the Mortgagee will look solely to the mortgaged premises and/or the Company for the payment of the indebtedness secured by this Mortgage and for the performance of the provisions hereof. The Mortgagee will not seek a deficiency or other money judgment against the Agency or any principal, member, director, officer or employee of the Agency and will not institute any separate action against the Agency by reason of any default that may occur in the performance of any of the terms and conditions of this Mortgage or the Loan Documentation. This agreement on the part of the Mortgagee shall not be construed in any way so as to effect or impair the lien of this Mortgage or the Mortgagee's right to foreclose hereunder as provided by law or construed in any way so as to limit or restrict any of the rights or remedies of the Mortgagee in any foreclosure proceedings or other enforcement of payment of the indebtedness secured hereby out of and from the security given therefor. All covenants, stipulations, promises, agreements and obligations are the Agency's and not of any member, director, officer, employee or agent (except the Company) of the Agency in his or her individual capacity, and no recourse shall be had for the payment of the principal of any debt or interest thereon or for any claim based thereon or hereunder against any member, director, officer, employee or agent (except the Company) of the Agency or any natural person executing this Mortgage on behalf of the Agency. No covenant contained herein shall be deemed to constitute a debt of the State of New York or the Town of Brookhaven, Suffolk County and neither the State of New York nor the Town of Brookhaven, Suffolk County shall be liable on any covenant contained herein, nor shall any obligations hereunder be payable out of any funds of the Agency.

Section _____. Hold Harmless Provisions. The Company agrees that the Agency, its directors, members, officers, agents (except the Company) and employees shall not be liable for and agrees to defend, indemnify, release and hold the Agency, its director, members, officers, agents (except the Company) and employees harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the use thereof or under this Mortgage, or (ii) liability arising from or expense incurred by the Project Work or the Agency's acquiring, owning and leasing of the Facility, including without limiting the generality of the foregoing, all claims arising from the breach by the Company of any of its covenants contained herein and all causes of action and reasonable attorneys' fees (whether by reason of third party

claims or by reason of the enforcement of any provision of the Mortgage (including, without limitation, this Section)) and any other expenses incurred in defending any claims, suits or actions which may arise as a result of the foregoing, provided that any such losses, damages, liabilities or expenses of the Agency are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Agency or any of its directors, members, officers, agents (except the Company) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its members, directors, officers, agents, or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law, and upon the application of such prohibition by the final judgment or decision of a competent court of law, the remaining provisions of these indemnities shall remain in full force and effect.

(b) Notwithstanding any other provisions of this Mortgage, the obligations of the Company pursuant to this Section ___ shall remain in full force and effect after the termination of this Mortgage until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all reasonable expenses and charges incurred by the Agency, or its respective members, directors, officers, agents (except the Company) and employees, relating to the enforcement of the provisions herein specified.

(c) In the event of any claim against the Agency or its members, directors, officers, agents (except the Company) or employees by any employee or contractor of the Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

Section ___. Recordation of Mortgage. The Agency covenants that it will record or cause this Mortgage to be duly recorded in all offices where recordation thereof is necessary.

Section ___. Termination of Lease Agreement. Upon the termination of the Lease Agreement for any reason whatsoever, and at the sole cost and expense of the Company, the Mortgagee shall prepare, execute and deliver to the Agency and the Company, and the Agency and the Company shall execute, any documents necessary to amend the Mortgage to remove the Agency as a party thereto.

EXHIBIT E

FORM OF SALES TAX AGENT AUTHORIZATION LETTER

SALES TAX AGENT AUTHORIZATION LETTER

EXPIRATION DATE: APRIL 1, 2021

ELIGIBLE LOCATION:

[19 NICHOLS DRIVE, SUITE 100, YAPHANK, NEW YORK]

_____, 20____

TO WHOM IT MAY CONCERN

Re: Town of Brookhaven Industrial Development Agency
(Framerica Corporation 2021 Facility)

Ladies and Gentlemen:

The Town of Brookhaven Industrial Development Agency (the "Agency"), by this notice, hereby advises you as follows:

1. Pursuant to a certain Lease and Project Agreement, dated as of February 1, 2021 (the "Lease Agreement"), between the Agency and FRAMERICA CORPORATION, a business corporation duly organized and validly existing under the laws of the State of New York, having its principal office at 2 Todd Court, Yaphank, New York 11980 (the "Company"), the Agency has authorized the Company to act as its agent in connection with the Facility described therein located at the Eligible Location described above. Certain capitalized terms used herein and not defined shall have the respective meanings given to such terms in the Lease Agreement.

2. Upon the Company's request, the Agency has appointed [**insert name of Agent**] (the "Agent"), pursuant to this Sales Tax Agent Authorization Letter (the "Sales Tax Agent Authorization Letter") to act as the Agency's agent for the purpose of effecting purchases exempt from sales or use tax in accordance with the terms, provisions of this Sales Tax Agent Authorization Letter and the Lease Agreement. **The Agent should review the definitions of Eligible Items and Ineligible Items in Schedule A hereto with respect to the scope of Sales Tax Exemption provided under the Lease Agreement and hereunder.**

3. The effectiveness of the appointment of the Agent as an agent of the Agency is expressly conditioned upon the execution by the Agency of New York State Department of Taxation and Finance Form ST-60 "IDA Appointment of Project Operator or Agent" ("Form ST-60") to evidence that the Agency has appointed the Agent as its agent (the form of which is to be completed by Agent and the Company). Pursuant to the exemptions from sales and use taxes available to the Agent under this Sales Tax Agent Authorization Letter, the Agent shall avail itself of such exemptions when purchasing eligible materials and services in connection with the Facility and shall not include such taxes in its contract price, bid or reimbursable costs, as the case may be.

Exhibit E-1

4. The Agent acknowledges that the executed Form ST-60 shall not serve as a sales or use tax exemption certificate or document. No agent or project operator may tender a copy of the executed Form ST-60 to any person required to collect sales tax as a basis to make such purchases exempt from tax. No such person required to collect sales or use taxes may accept the executed Form ST-60 in lieu of collecting any tax required to be collected. THE CIVIL AND CRIMINAL PENALTIES FOR MISUSE OF A COPY OF FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT OR FOR FAILURE TO PAY OR COLLECT TAX SHALL BE AS PROVIDED IN THE TAX LAW. IN ADDITION, THE USE BY AN AGENT, THE COMPANY, OR OTHER PERSON OR ENTITY OF SUCH FORM ST-60 AS AN EXEMPTION CERTIFICATE OR DOCUMENT SHALL BE DEEMED TO BE, UNDER ARTICLES TWENTY-EIGHT AND THIRTY-SEVEN OF THE TAX LAW, THE ISSUANCE OF A FALSE OR FRAUDULENT EXEMPTION CERTIFICATE OR DOCUMENT WITH THE INTENT TO EVADE TAX.

5. As agent for the Agency, the Agent agrees that it will present to each seller or vendor a completed and signed **NYSDTF Form ST-123 "IDA Agent or Project Operator Exempt Purchase Certificate"** or such additional or substitute form as is adopted by NYSDTF for use in completing purchases that are exempt from Sales and Use Taxes ("Form ST-123") for each contract, agreement, invoice, bill or purchase order entered into by the Agent, as agent for the Agency, for the construction, renovation and equipping of the Facility. Form ST-123 requires that each seller or vendor accepting Form ST-123 identify the Facility on each bill and invoice and invoice for purchases and indicate on the bill or invoice that the Agency or Agent or Company, as project operator of the Agency, was the purchaser. For the purposes of indicating who the purchaser is, each bill or invoice should state, "I, [Company/Agent], certify that I am duly appointed agent of the Town of Brookhaven Industrial Development Agency and that I am purchasing the tangible personal property or services for use in the Framera Corporation 2021 Facility located at 19 Nichols Drive, Suite 100, Yaphank, Suffolk County, New York, IDA Project Number 4702-21-3A." The Agent shall complete Form ST-123 as follows: (i) the "Project information" section of Form ST-123 should be completed using the name and address of the Facility as indicated on the Form ST-60 used to appoint the Agent; (ii) the date that the Agent was appointed as an agent should be completed using the date of the Agent's Sales Tax Agent Authorization Letter; and (iii) the "Exempt purchases" section of Form ST-123 should be completed by marking "X" in box "A" only.

6. The Agent agrees to comply with the terms and conditions of the Lease Agreement. The Agent must retain for at least six (6) years from the date of expiration of its contract copies of (a) its contract with the Company to provide services in connection with the Facility, (b) all contracts, agreements, invoices, bills or purchases entered into or made by such Agent using the Letter of Authorization for Sales Tax Exemption, and (c) the executed Form ST-60 appointing the Agent as an agent of the Agency, and shall make such records available to the Agency upon reasonable notice. This provision shall survive the expiration or termination of this Sales Tax Agent Authorization Letter.

7. In order to assist the Company in complying with its obligation to file New York State Department of Taxation and Finance Form ST-340 "Annual Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority"

("Form ST-340"), the Agent covenants and agrees that it shall file semi-annually with the Company and the Agency (no later than January 15th and July 15th of each calendar year in which it has claimed sales and use tax exemptions in connection with the Facility) a written statement of all sales and use tax exemptions claimed by such Agent for the preceding six-month period (ending on June 30th or December 31st, as applicable) in connection with the Facility by completing and submitting to the Company and the Agency the **Sales Tax Registry** attached hereto as **Schedule B**. If the Agent fails to comply with the foregoing requirement, the Agent shall immediately cease to be the agent for the Agency in connection with the Facility (such agency relationship being deemed to be immediately revoked) without any further action of the parties, the Agent shall be deemed to have automatically lost its authority to make purchases as agent for the Agency, and shall desist immediately from all such activity.

8. The Agent agrees that if it fails to comply with the requirements for sales and use tax exemptions, as described in this Sales Tax Agent Authorization Letter, it shall pay any and all applicable Company Sales Tax Savings and any interest and penalties thereon. This provision shall survive the expiration or termination of this Sales Tax Agent Authorization Letter.

9. **Special Provisions Relating to State Sales Tax Savings.**

(a) The Agent covenants and agrees to comply, and to cause each of its contractors, subcontractors, persons or entities to comply, with the requirements of General Municipal Law Sections 875(1) and (3) (the "Special Provisions"), as such provisions may be amended from time to time. In the event of a conflict between the other provisions of this Sales Tax Agent Authorization Letter or the Lease Agreement and the Special Provisions, the Special Provisions shall control.

(b) The Agent acknowledges and agrees that pursuant to General Municipal Law Section 875(3) the Agency shall have the right to recover, recapture, receive, or otherwise obtain from the Agent State Sales Tax Savings taken or purported to be taken by the Agent or any other person or entity acting on behalf of the Agent to which Agent or the Company is not entitled or which are in excess of the Maximum Company Sales Tax Savings Amount or which are for property or services not authorized or taken in cases where the Company, any Agent or any other person or entity acting on behalf of the Company or the Agent failed to comply with a material term or condition to use property or services in the manner required by this Sales Tax Agent Authorization Letter or the Lease Agreement. The Company shall, and shall require each Agent and any other person or entity acting on behalf of the Company, to cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such State Sales Tax Savings and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner of the New York State Department of Taxation and Finance (the "Commissioner") to assess and determine State Sales and Use Taxes due from the Company under Article Twenty-Eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

10. Subject to the provisions of Section 9 hereof, in the event that the Agent shall utilize the Sales Tax Exemption in violation of the provisions of the Lease Agreement or this Sales Tax Agent Authorization Letter, the Agent shall promptly deliver notice of same to the Company and the Agency, and the Agent shall, upon demand by the Agency, pay to or at the

direction of the Agency a return of sales or use tax exemptions in an amount equal to all such unauthorized sales or use tax exemptions together with interest at the rate of twelve percent (12%) per annum compounded daily from the date and with respect to the dollar amount for which each such unauthorized sales or use tax exemption was availed of by the Agent.

11. Upon request by the Agency with reasonable notice to the Agent, the Agent shall make available at reasonable times to the Agency all such books, records, contracts, agreements, invoices, bills or purchase orders of the Agent, and require all appropriate officers and employees of the Agent to respond to reasonable inquiries by the Agency as shall be necessary (y) to indicate in reasonable detail those costs for which the Agent shall have utilized the Sales Tax Exemption and the dates and amounts so utilized, and (z) to permit the Agency to determine any amounts owed by the Agent under Section 10.

12. By execution of this Sales Tax Agent Authorization Letter, the Agent agrees to accept the terms hereof and represent and warrant to the Agency that the use of this Sales Tax Agent Authorization Letter by the Agent is strictly for the purposes stated herein.

13. The Agent acknowledges that this Sales Tax Agent Authorization Letter will terminate on the date (the "Termination Date") that is the earlier of (i) the Expiration Date referred to above, and (ii) the expiration or termination of the Lease Agreement. Upon the Termination Date, the agency relationship between the Agency and the Agent shall terminate.

(Remainder of Page Intentionally Left Blank -Signature Page Follows)

The signature of a representative of the Agent where indicated below will indicate that the Agent accepted the terms hereof.

**TOWN OF BROOKHAVEN
INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Name:
Title:

ACCEPTED AND AGREED TO BY:

[AGENT]

By: _____
Name:
Title:

Schedule A

To SALES TAX AGENT AUTHORIZATION LETTER

Set forth below is a description of items that are eligible for the Sales Tax Exemption

Eligible Items shall mean the following items of personal property and services, but excluding any Ineligible Items, with respect to which the Agent shall be entitled to claim a Sales Tax Exemption in connection with the Facility:

- (i) purchases of materials, goods, personal property and fixtures and supplies that will be incorporated into and made an integral component part of the Facility;
- (ii) purchases or leases of any item of materials, goods, machinery, equipment, furniture, furnishings, trade fixtures and other tangible personal property having a useful life of one year or more;
- (iii) with respect to the eligible items identified in (ii) above: purchases of freight, installation, maintenance and repair services required in connection with the shipping, installation, use, maintenance or repair of such items; provided that maintenance shall mean the replacement of parts or the making of repairs;
- (iv) purchases of materials, goods and supplies that are to be used and substantially consumed in the course of construction or renovation of the Facility (but excluding fuel, materials or substances that are consumed in the course of operating machinery and equipment or parts containing fuel, materials or substances where such parts must be replaced whenever the substance is consumed); and
- (v) leases of machinery and equipment solely for temporary use in connection with the construction or renovation of the Facility.

Ineligible Items shall mean the following items of personal property and services with respect to which the Agent shall not be entitled to claim a Sales Tax Exemption in connection with the Facility:

- (i) vehicles of any sort, including watercraft and rolling stock;
- (ii) personalty having a useful life of one year or less;
- (iii) any cost of utilities, cleaning services or supplies or other ordinary operating costs;
- (iv) ordinary office supplies such as pencils, paper clips and paper;
- (v) any materials or substances that are consumed in the operation of machinery;
- (vi) equipment or parts containing materials or substances where such parts must be replaced whenever the substance is consumed; and
- (vii) maintenance of the type as shall constitute janitorial services.

EXHIBIT F

Sales Tax Registry

Please Complete: **REPORTED PERIOD:** ANNUAL PERIOD FROM JULY 1, 20__ to JUNE 30, 20__

Description of Item (incl. Serial #, if applicable)	Location of Item	Dollar Amount	Vendor Description	Date of Payment	Purchase order or invoice number	Sales Tax Savings
SEMI-ANNUAL PERIOD FROM JULY 1, [] to DECEMBER 31, []						
TOTAL SALES TAX SAVINGS REALIZED DURING THE SEMI-ANNUAL PERIOD FROM JULY 1, [] to DECEMBER 31, []:						
SEMI-ANNUAL PERIOD FROM JANUARY 1, [] to JUNE 30, []						
TOTAL SALES TAX SAVINGS REALIZED DURING THE SEMI-ANNUAL PERIOD FROM JANUARY 1, [] to JUNE 30, []:						
TOTAL SALES TAX SAVINGS REALIZED DURING THE ANNUAL REPORTED PERIOD:						

Certification: I, the undersigned, an authorized officer or principal owner of the Company, hereby certify to the best of my knowledge and belief that all information contained in this report is true and complete. The information reported in this form includes all Company Sales Tax Savings realized by the Company below and its principals, affiliates, tenants, subtenants, contractors, subcontractors and any other person or entity pursuant to the LETTER OF AUTHORIZATION FOR SALES TAX EXEMPTION issued to the Company, and any SALES TAX AGENT AUTHORIZATION LETTER issued to any other person or entity at the direction of the Company, by the Town of Brookhaven Industrial Development Agency ("TOBIDA"). This form and information provided pursuant hereto may be disclosed by TOBIDA in connection with the administration of the programs by TOBIDA; and, without limiting the foregoing, such information may be included in reports or disclosure required by law.

Company Name: _____

Signature By: _____

Name (print): _____

Title: _____

Date: _____

EXHIBIT G

Compliance with Labor Law, Executive Law and Civil Rights Law

The purpose of the Town of Brookhaven Industrial Development Agency (the “**Agency**”) 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 Suffolk County.

The Agency has consistently sought to ensure that skilled and fair paying construction jobs be encouraged in straight-lease transactions with the Agency.

Now therefor, the parties to the attached Lease Agreement (the “**Agreement**”) further agree to be bound by the following, which are hereby made a part of the Agreement.

- I. The Company agrees that:
 - (a) no laborer, workman or mechanic, in the employ of the Company or any contractor, subcontractor or other person doing or contracting to construct and equip the Facility shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week, except in compliance with the Labor Law; and
 - (b) to the extent applicable and required by law, the Company shall comply with the provisions of the Labor Law of the State of New York (the “**Labor Law**”), including Section 220 thereof. While such Labor Law does not presently require or obligate the Company to pay the prevailing rate of wages as such term is defined in Section 220-d thereof, the Company acknowledges that it has been advised that it is the policy of the Agency to encourage the Company to voluntarily comply with such provisions.

- II. To the extent required by law, the Company agrees that each contract or subcontract for the construction, renovation and equipping of the Facility shall provide:
 - (a) in the hiring of employees for the performance of work in acquiring, demolishing, constructing, renovation and equipping the Facility, or for the manufacture, sale or distribution of materials, equipment or supplies in connection with the acquisition, construction, renovation and equipping of the Facility, neither the Company nor any contractor, subcontractor nor any person acting on behalf of the Company shall by reason of race, creed, color, disability, sex, or national origin, marital status or Vietnam veteran era status discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;
 - (b) neither the Company nor any contractor, subcontractor, nor any person on their behalf shall, in connection with the acquisition, construction,

renovation and equipping of the Facility, discriminate against or intimidate any employee hired for the performance of work involved in acquiring, constructing, renovating and equipping the Facility on account of race, creed, color, disability, sex, national origin, marital status or Vietnam era veteran status; and

- (c) the aforesaid provisions of this section covering every contract for the manufacture, sale or distribution of materials, equipment or supplies in connection with the acquisition, construction, renovation and equipping of the Facility shall be limited to operations performed within the territorial limits of the State of New York.

- III. To the extent required by law, the Company will comply with the applicable provisions of Sections 291-299 of the Executive Law, and with the Civil Rights Law, will furnish all information and reports deemed necessary by the State Division of Human Rights, and will provide access, as required by law, to its books, records and accounts to the State Division of Human Rights, the Attorney General and the Industrial Commissioner for the purposes of investigation to ascertain compliance with the non-discrimination clauses, the Executive Law and the Civil Rights Law.

EXHIBIT H

EXCEPTIONS TO REPRESENTATIONS AND WARRANTIES OF COMPANY

[NONE.]

EXHIBIT I

FORM OF TENANT AGENCY COMPLIANCE AGREEMENT

THIS TENANT AGENCY COMPLIANCE AGREEMENT, dated as of _____, 20__, is between the TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its office at 1 Independence Hill, 2nd Floor, Farmingville, New York 11738 (the “Agency”), and _____, a [banking corporation] [business corporation] [general partnership] [limited liability company] [limited liability partnership] [limited partnership] duly organized and validly existing under the laws of the State of _____ having its principal office at _____ (the “Tenant”).

R E C I T A L S

WHEREAS, the Agency was created by Chapter 358 of the Laws of 1970 of the State of New York, as amended, pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York (collectively, the “Act”); and

WHEREAS, the Agency has agreed to assist in (a) the acquisition of a leasehold interest in an approximately 84,156 square foot portion (the “Demised Premises”) of an approximately 230,000 square foot building situated on an approximately 29.5 acre parcel of land located at 19 Nicholas Drive, Suite 100, Yaphank, Town of Brookhaven, New York (further identified as Tax Map No. District 0200, Section 703.00, Block 01.00, Lot 049.400) (the “Land”), currently owned by 1516-19 LLC, a Delaware limited liability company (the “Landlord”), (b) the renovation of the Demised Premises (the “Improvements”), and (c) the acquisition and installation therein of certain equipment including, but not limited to, office furniture, manufacturing equipment to produce and warehouse products and personal property (collectively, the “Equipment”; and, together with the Demised Premises and the Improvements, the “Facility”), which Facility will be subleased and leased by the Agency to Framera Corporation, a New York business corporation (the “Company”) and which Facility will be used in the manufacturing, warehousing and distribution by the Company in its primary business of manufacturing picture frame moldings, architectural trims, and flooring transitions (collectively, the “Project”); and

WHEREAS, the Agency acquired a subleasehold interest in the Demised Premises and the Improvements, all pursuant to the Company Lease Agreement, dated as of February 1, 2021 (the “Company Lease”), by and between the Agency and the Company; and

WHEREAS, the Agency sub-subleased and leased the Facility to the Company pursuant to the Lease and Project Agreement, dated as of February 1, 2021 (the “Lease Agreement”), by and between the Agency and the Company; and

WHEREAS, the Company intends to further sublease a portion of the Facility to be used as _____ (the “Demised Premises”) to the Tenant pursuant to a [Tenant Lease Agreement], dated as of _____, 20__ (the “Tenant Lease Agreement”), by and between the Company and the Tenant, which may be amended from time to time.

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

ARTICLE I
REPRESENTATIONS AND COVENANTS OF TENANT

Section 2.1 Representations and Covenants of Tenant. The Tenant makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Tenant is a [banking corporation] [business corporation] [general partnership] [limited liability company] [limited liability partnership] [limited partnership] duly organized and validly existing under the laws of the State of _____ [*and authorized to transact business in the State of New York*], and in good standing under the laws of the State of New York,[and the State of [____]] and has full legal right, power and authority to execute, deliver and perform this Tenant Agency Compliance Agreement. This Tenant Agency Compliance Agreement has been duly authorized, executed and delivered by the Tenant.

(b) To the best of the Tenant's knowledge, neither the execution and delivery of this Tenant Agency Compliance Agreement nor the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions hereof will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of any law or ordinance of the State or any political subdivision thereof, the Tenant's organizational documents, as amended, or any restriction or any agreement or instrument to which the Tenant is a party or by which it is bound.

(c) Any and all leasehold improvements undertaken by the Tenant with respect to the Demised Premises and the design, acquisition, construction, renovation, equipping and operation thereof by the Tenant will conform in all material respects with all applicable zoning, planning, building and environmental laws, ordinances, rules and regulations of governmental authorities having jurisdiction over the Facility. The Tenant shall defend, indemnify and hold harmless the Agency from any liability or expenses, including reasonable attorneys' fees, resulting from any failure by the Tenant to comply with the provisions of this subsection.

(d) The Tenant Agency Compliance Agreement constitutes a legal, valid and binding obligation of the Tenant enforceable against the Tenant in accordance with its terms.

(e) Under penalty of perjury, the Tenant certifies that it is in substantial compliance with all local, state, and federal tax, worker protection and environmental laws, rules and regulations.

ARTICLE II
INSURANCE

Section 2.1 Insurance Required. At all times throughout the Lease Term, the Tenant shall, at its sole cost and expense, maintain or cause to be maintained insurance against such risks, and for such amounts, as are customarily insured against by businesses of

like size and type and shall pay, as the same become due and payable, all premiums with respect thereto. Such insurance shall include, without limitation, the following (but without duplication of insurance provided by the Company pursuant to the Lease Agreement covering the same risks and insured(s)):

(a) Insurance against loss or damage by fire, lightning and other casualties customarily insured against, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the completed Improvements, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Tenant, but in no event less than \$1,000,000. During the construction of the Facility, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" and shall contain a provision granting the insured permission to complete and/or occupy.

(b) Workers' compensation insurance, disability benefits insurance and each other form of insurance that the Tenant is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Tenant or any permitted sublessee who are located at or assigned to the Facility. This coverage shall be in effect from and after the date any such employees first occupy the Facility.

(c) Insurance protecting the Agency and the Tenant against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the Tenant under Section 3.2 hereof) or arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or other occurrence, with a limit of liability of not less than \$1,000,000 (per occurrence for personal injury, including bodily injury or death, and property damage), and blanket excess liability coverage, in an amount not less than \$5,000,000 per occurrence, protecting the Agency and the Tenant against any loss or liability or damage for personal injury, including bodily injury or death, or property damage. This coverage shall also be in effect during any construction or renovation period with respect to the Demised Premises.

(d) During any construction period with respect to the Demised Premises (and for at least one year thereafter in the case of Products and Completed Operations as set forth below), the Tenant shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

(i) Workers' compensation and employer's liability with limits in accordance with applicable law.

(ii) Comprehensive general liability providing coverage for:

Premises and Operations
Products and Completed Operations
Owners Protective
Contractors Protective
Contractual Liability
Personal Injury Liability

Broad Form Property Damage
(including completed operations)
Explosion Hazard
Collapse Hazard
Underground Property Damage Hazard

Such insurance shall have a limit of liability of not less than \$1,000,000 (per occurrence for personal injury, including bodily injury or death, and property damage).

- (iii) Business auto liability, including all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).
- (iv) Excess "umbrella" liability providing liability Insurance in excess of the coverages in (i), (ii) and (iii) above with a limit of not less than \$5,000,000 per occurrence.

(e) The Agency does not in any way represent that the insurance specified in this Tenant Agency Compliance Agreement, whether in scope or coverage or limits of coverage, is adequate or sufficient to protect the Tenant's business or interests.

Section 2.2 Additional Provisions Respecting Insurance.

(a) All insurance required by this Tenant Agency Compliance Agreement shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State and selected by the entity required to procure the same. The company issuing the policies required by Section 2.1(a) hereof shall be rated "A" or better by A.M. Best Co., Inc. in Best's Key Rating Guide. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All policies of insurance required by Section 2.1 hereof shall provide for at least thirty (30) days prior written notice to the Agency of the restriction, cancellation or modification thereof. The policy evidencing the insurance required by Section 2.1(c) hereof shall name the Agency as an additional insured. All policies evidencing the insurance required by Section 2.1 (d)(ii) and (iv) shall name the Agency and the Tenant as additional insureds. The policies required under Sections 2.1(a), (b) and (c) shall contain appropriate waivers of subrogation.

(b) In addition, each contractor must protect the Agency with respect to the policies required under Section 2.1(d)(ii), (iii) and (iv) as an additional insured on a primary and non-contributory basis via ISO endorsements CG 20 26 and CG 20 37 or their equivalents and the endorsements must specifically identify the Agency as an additional insured.

(c) The certificate of insurance required by Section 2.1(c) hereof shall be delivered to the Agency on or before the date hereof. The certificate of insurance required by

Section 2.1(b) hereof shall be delivered to the Agency by such date as required therein. A copy of the certificates of insurance required by Section 2.1(d)(ii) and (iv) hereof shall be delivered to the Agency on or before the commencement of any construction or renovation of the Demised Premises. The Tenant shall deliver to the Agency before the first Business Day of each calendar year thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering the current year of the Tenant's insurance policy, insurance of the types and in the amounts required by Section 2.1 hereof and complying with the additional requirements of Section 2.2(a) hereof. Prior to the expiration of each such policy or policies, the Tenant shall furnish to the Agency and any other appropriate Person a new policy or policies of insurance or evidence that such policy or policies have been renewed or replaced or are no longer required by this Tenant Agency Compliance Agreement. The Tenant shall provide such further information with respect to the insurance coverage required by this Tenant Agency Compliance Agreement as the Agency may from time to time reasonably require.

(d) The minimum insurance requirements set forth under Section 2.1 and this Section 2.2 shall not limit, abridge, or modify the Tenant's obligation under Section 3.2 hereof to indemnify and hold the Agency harmless from and against certain damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements or expenses, as more fully set forth in Section 3.2.

Section 2.3 Application of Net Proceeds of Insurance. The Net Proceeds of the insurance carried pursuant to the provisions of Section 2.1(c) and (d) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid. The Net Proceeds of the insurance carried pursuant to the provisions of Section 2.1(a) hereof shall be applied in accordance with the provisions of the Tenant Lease Agreement.

Section 2.4 Right of Agency to Pay Insurance Premiums. If the Tenant fails to maintain or cause to be maintained any insurance required to be maintained by Section 2.1 hereof, the Agency may pay or cause to be paid the premium for such insurance. No such payment shall be made by the Agency until at least ten (10) days shall have elapsed since notice shall have been given by the Agency to the Tenant. No such payment by the Agency shall affect or impair any rights of the Agency hereunder arising in consequence of such failure by the Tenant. The Tenant shall, on demand, reimburse the Agency for any amount so paid pursuant to this Section, together with interest thereon from the date of payment of such amount by the Agency.

ARTICLE III SPECIAL COVENANTS

Section 3.1 No Warranty of Condition or Suitability by Agency. THE AGENCY HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE FACILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE FACILITY, OR THE SUITABILITY OF

THE DEMISED PREMISES FOR THE PURPOSES OR NEEDS OF THE TENANT OR THE EXTENT TO WHICH FUNDS AVAILABLE TO THE TENANT WILL BE SUFFICIENT TO PAY THE COST OF COMPLETION OF THE DEMISED PREMISES. THE TENANT ACKNOWLEDGES THAT THE AGENCY IS NOT THE MANUFACTURER OF THE EQUIPMENT NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN. THE TENANT, ON BEHALF OF ITSELF IS SATISFIED THAT THE DEMISED PREMISES IS SUITABLE AND FIT FOR PURPOSES OF THE TENANT. THE AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE TENANT OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OF THE FACILITY OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

Section 3.2 Hold Harmless Provisions.

(a) The Tenant agrees that the Agency and its directors, members, officers, agents (except the Company) and employees shall not be liable for, and agrees to defend, indemnify, release and hold the Agency and its directors, members, officers, agents and employees harmless from and against, any and all (i) liability for loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Demised Premises or to common areas or other portions of the Facility to which the Tenant has regular access (such areas, together with the Demised Premises, are hereinafter referred to as the "**Tenant Premises**"), or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Tenant Premises, and (ii) liability arising from or expense incurred in connection with the Agency's participation in the subleasing of the Demised Premises to the Tenant, including, without limiting the generality of the foregoing, all claims arising from the breach by the Tenant of any of its covenants contained herein, the exercise by the Tenant of any authority conferred upon it pursuant to this Tenant Agency Compliance Agreement and all causes of action and reasonable attorneys' fees (whether by reason of third party claims or by reason of the enforcement of any provision of this Tenant Agency Compliance Agreement (including without limitation this Section) or any other documents delivered by the Agency in connection with this Tenant Agency Compliance Agreement), and any other expenses incurred in defending any claims, suits or actions which may arise as a result of any of the foregoing, to the extent that any such losses, damages, liabilities or expenses of the Agency are not incurred and do not result from the gross negligence or intentional or willful wrongdoing of the Agency or any of its directors, members, agents or employees. Except as otherwise provided herein, the foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency, or any of its members, directors, officers, agents or employees, and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law, and upon the application of any such

prohibition by the final judgment or decision of a competent court of law, the remaining provisions of these indemnities shall remain in full force and effect.

(b) Notwithstanding any other provisions of this Tenant Agency Compliance Agreement, the obligations of the Tenant pursuant to this Section shall remain in full force and effect after the termination of this Tenant Agency Compliance Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought, and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all expenses and charges incurred by the Agency or its members, directors, officers, agents and employees relating to the enforcement of the provisions herein specified.

(c) In the event of any claim against the Agency or its members, directors, officers, agents or employees by any employee or contractor of the Tenant or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Tenant hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

Section 3.3 Right to Inspect Demised Premises. The Agency and its duly authorized agents shall have the right at all reasonable times and upon reasonable prior written notice to inspect the Demised Premises.

Section 3.4 Qualification as Project.

(a) The Tenant will not take any action, or fail to take any action, which action or failure to act would cause the Facility not to constitute a "project" as such quoted term is defined in the Act. Without limiting the generality of the foregoing, the Tenant will in no event use the Demised Premises in such a way as to cause or permit the Facility to be used in violation of Section 862(2)(a) of the Act.

(b) The occupation of the Demised Premises has not and will not result in the removal of a facility or plant of the Tenant from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Tenant located within the State.

Section 3.5 Tenant to Maintain Its Existence. The Tenant agrees that during the Lease Term it will maintain its existence, will not dissolve, liquidate or otherwise dispose of substantially all of its assets, and will not consolidate with or merge into another entity or permit one or more entities to consolidate with or merge into it.

Section 3.6 Compliance with Orders, Ordinances, Etc.

(a) The Tenant, throughout the Lease Term, agrees that it will promptly comply, and cause any sublessee of the Tenant or occupant of the Demised Premises which is occupying the Demised Premises by permission of the Tenant to comply, with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations,

permits, licenses, authorizations, directions and requirements, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or the Demised Premises, or to the acquisition, construction and equipping of the Demised Premises, or to any use, manner of use or condition of the Facility or any part of the Demised Premises, of all federal, state, county, municipal and other governments, departments, commissions, boards, courts, authorities, officials and officers having jurisdiction of the Facility or any part thereof, and companies or associations insuring the premises.

(b) The Tenant shall keep or cause the Demised Premises to be kept free of Hazardous Substances. Without limiting the foregoing, the Tenant shall not cause or permit the Demised Premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Substances, except in compliance with all applicable federal, state and local laws or regulations, nor shall the Tenant cause or permit, as a result of any intentional or unintentional act or omission on the part of the Tenant or any of its contractors, subcontractors or tenants, a release of Hazardous Substances onto the Facility or onto any other property. The Tenant shall comply with, and ensure compliance by all of its contractors, subcontractors and subtenants with, all applicable federal, state and local environmental laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and ensure that all of its contractors, subcontractors and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder. The Tenant shall (i) conduct and complete all investigations, studies, sampling and testing and all remedial, removal and other actions necessary to clean up and remove all Hazardous Substances released, stored, generated or used by it on, from or affecting the Demised Premises (A) in accordance with all applicable federal, state and local laws, ordinances, rules, regulations and policies, (B) to the satisfaction of the Agency, and (C) in accordance with the orders and directives of all federal, state and local governmental authorities; and (ii) defend, indemnify and hold harmless the Agency, its employees, agents, officers, members and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to (A) the presence, disposal, release or threatened release of any Hazardous Substances which are on, from or affecting the soil, water, vegetation, buildings, personal property, persons, animals or otherwise, (B) any bodily injury, personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Substances, (C) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Substances, or (D) any violation of laws, orders, regulations, requirements or demands of government authorities, or of any policies or requirements of the Agency, which are based upon or in any way related to such Hazardous Substances, and in all cases which result from the intentional or unintentional act or omission of the Tenant or any of its contractors, subcontractors or subtenants, including, without limitation, reasonable attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses. The provisions of this Section shall be in addition to any and all other obligations and liabilities the Tenant may have to the Agency at common law and shall survive the transactions contemplated herein.

(c) Notwithstanding the provisions of subsections (a) and (b) above, the Tenant may in good faith contest the validity or the applicability of any requirement of the nature

referred to in such subsections (a) and (b) by appropriate legal proceedings conducted in good faith and with due diligence. In such event, the Tenant may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom, unless the Agency shall notify the Tenant that, by failure to comply with such requirement or requirements, the Facility or any part thereof may be subject to loss, penalty or forfeiture, in which event the Tenant shall promptly take such action with respect thereto or provide such security as shall be reasonably satisfactory to the Agency. If at any time the then existing use or occupancy of the Demised Premises shall, pursuant to any zoning or other law, ordinance or regulation, be permitted only so long as such use or occupancy shall continue, the Tenant shall use reasonable efforts not to cause or permit such use or occupancy by the Tenant to be discontinued without the prior written consent of the Agency, which consent shall not be unreasonably withheld.

(d) Notwithstanding the provisions of this Section, if, because of a breach or violation of the provisions of subsection (a) or (b) above (without giving effect to subsection (c)), the Agency or any of its members, directors, officers, agents or employees shall be threatened with a fine, liability, expense or imprisonment, then, upon notice from the Agency, the Tenant shall immediately provide legal protection or pay an amount or post a bond in an amount necessary, in the opinion of the Agency and of its members, directors, officers, agents and employees, to the extent permitted by applicable law, to remove the threat of such fine, liability, expense or imprisonment.

(e) Notwithstanding any provisions of this Section, the Agency retains the right to defend itself in any action or actions which are based upon or in any way related to such Hazardous Substances. In any such defense of itself, the Agency shall select its own counsel, and any and all costs of such defense, including, without limitation, reasonable attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses, shall be paid by the Tenant.

Section 3.7 Agreement to Provide Information. Annually, the Tenant shall provide the Agency with a certified statement and documentation (i) enumerating the FTE jobs, by category, retained and/or created at the Facility as a result of the Agency's financial assistance and (ii) indicating the fringe benefits and salary averages or ranges for such categories of FTE jobs created and/or retained.¹ The Tenant further agrees to provide and certify or cause to be provided and certified whenever requested by the Agency any other information concerning the Tenant, its respective finances, its respective operations, its respective employment and its affairs necessary to enable the Agency to make any report required by law, governmental regulation, including, without limitation, any reports required by the Act, the Public Authorities Accountability Act of 2005, or the Public Authorities Reform Act of 2009, each as amended from time to time, or any other reports required by the New York State Authority Budget Office or the Office of the State Comptroller, or any of the Agency Documents or Tenant Documents. Such information shall be provided within thirty (30) days following written request from the Agency.

¹Cannot be removed or modified; required by GML Section 859-a(6)(b).

Section 3.8 Employment Opportunities; Notice of Jobs. The Tenant covenants and agrees that, in consideration of the participation of the Agency in the transactions contemplated herein, it will, except as otherwise provided by collective bargaining contracts or agreements to which it is a party, cause any new employment opportunities created in connection with the Demised Premises to 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), as superseded by the Workforce Innovation and Opportunity Act (PL. 113-128), in which the Facility is located (collectively, the “**Referral Agencies**”). The Tenant also agrees that it will, except as otherwise provided by collective bargaining contracts or agreements to which it is a party, 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.

Section 3.9 Subleasing.

(a) In accordance with Section 862(1) of the Act, the Demised Premises shall not be occupied by a sublessee whose tenancy would result in the removal of a facility or plant of the proposed sublessee from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of such sublessee located within the State; provided, however, that neither restriction shall apply if the Agency shall determine:

- (i) that such occupation of the Demised Premises is reasonably necessary to discourage the proposed sublessee from removing such other plant or facility to a location outside the State, or
- (ii) that such occupation of the Demised Premises is reasonably necessary to preserve the competitive position of the proposed sublessee in its respective industry.

(b) The Tenant may not assign the Tenant Lease Agreement or sub-sublease the Demised Premises without the prior written consent of the Agency. Any assignment or sub-sublease shall conform with the restrictions and requirements set forth in Section 9.3 of the Lease Agreement.

Section 3.10 Approval of Tenant Lease Agreement. The Agency hereby approves the subleasing of the Facility by the Company to the Tenant pursuant to the terms of the Tenant Lease Agreement.

Section 3.11 Definitions. All capitalized terms used in this Tenant Agency Compliance Agreement and not otherwise defined herein shall have the meanings assigned thereto in the Schedule of Definitions attached to the Lease Agreement as Schedule A.

Section 3.12 Execution of Counterparts. This Tenant Agency Compliance Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(Remainder of Page Intentionally Left Blank – Signature Page Follows)

IN WITNESS WHEREOF, the Agency and the Tenant have caused this Tenant Agency Compliance Agreement to be executed in their respective names by their duly authorized representatives, all as of _____, 20__.

**TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____

Name:

Title:

[NAME OF ENTITY]

By: _____

Name:

Title:

EXHIBIT J-1

**PROJECT COMPLETION CERTIFICATE OF COMPANY AS
REQUIRED BY SECTION 3.6 OF THE LEASE AGREEMENT**

The undersigned, an Authorized Representative (as defined in the Lease Agreement referred to below) of FRAMERICA CORPORATION, a business corporation duly organized and validly existing under the laws of the State of New York, having its principal office at 2 Todd Court, Yaphank, New York 11980 (the “**Company**”), HEREBY CERTIFIES that this Certificate is being delivered in accordance with the provisions of Section 3.6 of that certain Lease and Project Agreement, dated as of February 1, 2021 (the “**Lease Agreement**”), between the TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY (the “**Agency**”) and the Company. If the Company’s Final Project Cost Budget deviates materially (more than ten percent (10%)) from the information provided in the Project Application Information (as defined in the Lease Agreement), the Company shall provide a written statement explaining the difference to the Agency. The Agency may in its sole discretion, adjust the benefits to reflect such deviation.

THE COMPANY HEREBY FURTHER CERTIFIES THAT (capitalized terms used but not defined herein shall have the respective meanings assigned to such terms in the Lease Agreement):

(i) the Project Work has been completed substantially in accordance with the Plans and Specifications therefor;

(ii) attached hereto as Appendix A is a copy of one of the following (check only one and attach a copy of the indicated document):

- certificate of occupancy, or
- temporary certificate of occupancy, or
- amended certificate of occupancy, or
- letter of no objection;

(iii) there is no certificate, license, permit, written approval or consent or other document required to permit the occupancy, operation and use of the Facility that has not already been obtained or received, except for such certificates, licenses, permits, authorizations, written approvals and consents that will be obtained in the ordinary course of business and the issuance of which are ministerial in nature, which certificates, licenses, permits, authorizations, written approvals and consents are attached hereto as Appendix B;

(iv) check as applicable:

- all costs for Project Work have been paid, or
- all costs for Project Work have been paid except for

- amounts not yet due and payable (attach itemized list) and/or
- amounts the payments for which are being contested in good faith (attach itemized list with explanations); and

(v) attached hereto as Appendix C is the Final Project Cost Budget, including a comparison with the project cost budget information listed in the Project Application Information; and

(vi) there are no municipal violations outstanding on the premises.

In the event that the Final Project Cost Budget indicates that the final costs of the Project Work are greater than the estimated costs provided in the Project Application Information, the Company agrees pay to the Agency, within ten (10) days of written request, any additional fees owed to the Agency related to such an increase of final costs of the Project Work and not accounted for in the Agency's fee collected on the Closing Date.

This Certificate is given without prejudice to any rights of the Company against third parties existing on the date hereof or which may subsequently come into being and no Person other than the Agency may benefit from this Certificate.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this _____ day of _____, ____.

FRAMERICA CORPORATION

By: _____
Name:
Title:

Appendix A

Appendix B

Appendix C

EXHIBIT J-2

Form ST-340



Department of Taxation and Finance

Annual Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority (IDA)

ST-340

(1/18)

For period ending December 31, _____ (enter year)

Project information

Name of IDA agent/project operator		Employer identification number (EIN)	
Street address		Telephone number ()	
City		State	ZIP code
Name of IDA	Name of project		IDA project number
Street address of project site			
City		State	ZIP code
Date project began		Completion date of project Actual <input type="checkbox"/> Expected <input type="checkbox"/>	
Total sales and use tax exemptions (actual tax savings; not total purchases)			\$

Representative information (not required)

Authorized representative, if any		Title	
Street address		Telephone number ()	
City		State	ZIP code

Certification

I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer, employee, or authorized representative		Title of person signing	
Signature		Date	

If you do not annually file a complete report, we may remove your authority to act as an IDA Agent/project operator.

Mail completed report to:

NYS TAX DEPARTMENT
IDA UNIT
W A HARRIMAN CAMPUS
ALBANY NY 12227-0866

If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

EXHIBIT K

COMPLIANCE CERTIFICATE

_____, being duly sworn, deposes and says:

1. That s/he is the duly appointed _____ of FRAMERICA CORPORATION, a business corporation duly organized and validly existing under the laws of the State of New York, having its principal office at 2 Todd Court, Yaphank, New York 11980 (the “**Company**”).

2. That the Company has previously entered into a straight-lease transaction with the Brookhaven Industrial Development Agency pursuant to a certain Company Lease Agreement, dated as of February 1, 2021 (the “**Company Lease**”) whereby the Company leased the Facility (as such term is defined in the hereinafter defined Lease Agreement) to the Agency, and a Lease and Project Agreement, dated as of February 1, 2021 (the “**Lease Agreement**”), whereby the Agency subleased and leased the Facility to the Company.

3. That the Company is not in default under the Lease Agreement and that no Event of Default exists under this Lease Agreement or any other Company Document (as such term is defined in the Lease Agreement).

4. That there is no action or proceeding pending or, to the best of the Company’s knowledge, after diligent inquiry, threatened, by or against the Company by or before any court or administrative agency that would adversely affect the ability of the Company to perform its obligations under the Lease Agreement or any other Company Document.

5. That the Company has not received written notice of default in payment of any taxes, PILOT Payments, sewer rents or water charges which have not been paid, unless such default is currently being contested with due diligence in proceedings in a court or other appropriate forum.

6. That there are no mechanics liens or other liens by reason of any labor, services or materials on the Facility, except in compliance with the provisions in the Lease Agreement.

7. That there are no municipal violations outstanding on the premises.

8. Reserved.

9. That attached hereto as Appendix A are copies of the certificates of insurance required to be provided to the Agency pursuant to Sections 6.4 and 6.5 of the Lease Agreement.

10. That attached hereto as Appendix B is a certified statement of the Company and documentation (i) enumerating the FTE (as such term is defined in the Lease Agreement) jobs, by category, retained and/or created at the Facility as a result of the Agency’s financial assistance

and (ii) indicating the fringe benefits and salary averages or ranges for such categories of FTE jobs created and/or retained.

11. That attached hereto as Appendix C is a copy of the Form NYS-45 for the fourth quarter of the immediately preceding calendar year filed with respect to the New York State Department of Labor.

12. That attached hereto as Appendix D is a copy of the ST-340 for the immediately preceding calendar year filed with the New York State Department of Taxation and Finance in compliance with Section 874(8) of the General Municipal Law evidencing the annual value of all sales and use tax exemptions claimed in connection with Facility.

13. That attached hereto as Appendix E is a certified statement of the Company enumerating the FTE (as such term is defined in the Lease Agreement) construction/renovation jobs, retained and/or created at the Facility during the immediately preceding calendar year as a result of the Agency's financial assistance.

14. That attached hereto as Appendix F is a certified statement of the Company (i) identifying all tenants, subtenants, occupants and users of the Facility during the immediately preceding calendar year, (ii) enumerating the FTE (as such term is defined in the Lease Agreement) jobs of each tenant, subtenant, occupant and user of the Facility, by category, retained and/or created at the Facility during the immediately preceding calendar year, and (iii) a copy of the Form NYS-45 for the fourth quarter of the immediately preceding calendar year filed by each tenant, subtenant, occupant and user of the Facility with respect to the New York State Department of Labor.

FRAMERICA CORPORATION

By: _____
Name:
Title:

Subscribed and sworn to before
me this ___ day of _____, 20 ____

Notary Public

Appendix A

Insurance Certificates

Appendix B

Certified Statement and Documentation Regarding FTEs

Appendix C

Form NYS-45

Appendix D

Form ST-340

Appendix E

Certified Statement Regarding Construction/Renovation FTEs

Appendix F

Certified Statement: Identifying All Tenants, Subtenants, Occupants and Users of the Facility; Regarding FTEs of All Tenants, Subtenants, Occupants and Users of the Facility; Form NYS-45 of All Tenants, Subtenants, Occupants and Users of the Facility

SCHEDULE A

SCHEDULE OF DEFINITIONS

“Act” means, collectively, Title 1 of Article 18-A of the General Municipal Law of the State, enacted into law as Chapter 1030 of the Laws of 1969 of the State, as amended, together with Chapter 358 of the Laws of 1970 of the State, as amended.

“Agency” means (i) the Town of Brookhaven Industrial Development Agency, its successors and assigns, and (ii) any local governmental body resulting from or surviving any consolidation or merger to which the Agency or its successors may be a party.

“Agency Documents” means the Company Lease and the Lease Agreement.

“Agent” shall have the meaning set forth in Section 5.2(d).

“Approving Resolution” or “Authorizing Resolution” means the resolution adopted by the Agency on February 17, 2021, authorizing the Project and the execution and delivery of the Agency Documents, as such resolution may be amended and supplemented from time to time.

“Authorized Representative” means, in the case of the Agency, the Chairman, the Vice Chairman, the Secretary, the Assistant Secretary, the Chief Executive Officer or any member or officer of the Agency and such additional persons as, at the time, are designated to act on behalf of the Agency; and in the case of the Company, the Co-Chair and such additional persons as, at the time, are designated to act on behalf of the Company.

“Bill of Sale” means the Bill of Sale, dated the Closing Date, given by the Company to the Agency with respect to the Equipment, as the same may be amended from time to time.

“Business Day” means any day other than a Saturday, a Sunday, a legal holiday or a day on which banking institutions in New York, New York, or any city in which the principal office of the Lender, if any, is located are authorized by law or executive order to remain closed.

“Closing Date” means February 25, 2021.

“Company” means Framera Corporation, a business corporation duly organized and validly existing under the laws of the State of New York, and its successors and assigns.

“Company Documents” means the Bill of Sale, the Company Lease and the Lease Agreement.

“Company Lease” means the Company Lease Agreement, dated as of February 1, 2021, by and between the Company and the Agency, as the same may be amended from time to time.

“Company Sales Tax Savings” means all Sales Tax Exemption savings realized by or for the benefit of the Company, including any savings realized by any Agent on behalf of the Company, pursuant to this Lease Agreement and each Sales Tax Agent Authorization Letter issued in connection with the Facility.

“Completion Date” means the date of completion of the Facility as certified pursuant to Section 3.6 of the Lease Agreement.

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

“Construction Period” means the period beginning on the earlier of (a) Closing Date and (b) the date of commencement of the Project Work of the Facility, and ending on the Completion Date.

“Demised Premises” means the approximately 84,156 square foot portion of the 232,842 square foot building located on the Land.

“Disposal” has the same meaning as given to that term in the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act, (42 U.S.C. Section 6901 et seq.)

“Eligible Items” shall mean the following items of personal property and services, but excluding any Ineligible Items, with respect to which the Company and any Agent shall be entitled to claim a Sales Tax Exemption in connection with the Facility: (i) purchases of materials, goods, personal property and fixtures and supplies that will be incorporated into and made an integral component part of the Facility; (ii) purchases or leases of any item of materials, goods, machinery, equipment, furniture, furnishings, trade fixtures and other tangible personal property having a useful life of one year or more; (iii) with respect to the eligible items identified in (ii) above; purchases of freight, installation, maintenance and repair services required in connection with the shipping, installation, use, maintenance or repair of such items; provided that maintenance shall mean the replacement of parts or the making of repairs; (iv) purchases of materials, goods and supplies that are to be used and substantially consumed in the course of construction or renovation of the Facility (but excluding fuel, materials or substances that are consumed in the course of operating machinery and equipment or parts containing fuel, materials or substances where such parts must be replaced whenever the substance is consumed); and (v) leases of machinery and equipment solely for temporary use in connection with the construction or renovation of the Facility.

“Environment” means any water or water vapor, any land, including land surface or subsurface, air, fish, wildlife, flora, fauna, biota and all other natural resources.

“Environmental Laws” means all federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection, preservation or remediation of the Environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances and the rules, regulations, written and published policies, guidelines, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto.

“Environmental Permits” means all permits, licenses, approvals, authorizations, consents or registrations required by any applicable Environmental Law in connection with the ownership,

construction, renovation, equipping, use and/or operation of the Facility, for the storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances or the sale, transfer or conveyance of the Facility.

“Equipment” means all machinery, equipment and other personal property used and to be used in connection with the Facility as described in Exhibit B to the Lease Agreement.

“Event of Default” means (a) when used with respect to the Lease Agreement, any of the events defined as Events of Default by Section 10.1 of the Lease Agreement, and (b) when used with respect to any Mortgage, any of the events defined as Events of Default in such Mortgage.

“Facility” means, collectively, the Demised Premises, the Improvements and the Equipment, leased and subleased to the Company pursuant to the Lease Agreement.

Final Project Cost Budget means that certain budget of costs paid or incurred by the Company in connection with the Project, which shall be submitted by the Company pursuant to Section 3.6 hereof upon completion of the Project.

“Form ST-60” shall mean NYSDTF Form ST-60 “IDA Appointment of Project Operator or Agent” or such additional or substitute form as is adopted by NYSDTF to report the appointment of project operators or agents with respect to industrial development agency transactions.

“Form ST-123” shall mean NYSDTF Form ST-123 “IDA Agent or Project Operator Exempt Purchase Certificate” or such additional or substitute form as is adopted by NYSDTF for use in completing purchases that are exempt for Sales and Use Taxes with respect to industrial development agency transactions.

“Form ST-340” shall mean NYSDTF Form ST-340 “Annual Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority” or such additional or substitute form as is adopted by NYSDTF to report Company Sales Tax Savings with respect to industrial development agency transactions.

“FTE” shall have the meaning set forth in Section 8.11 of the Lease Agreement.

“GML” means the General Municipal Law of the State.

“Hazardous Substance” means, without limitation, any flammable, explosive, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum constituents, petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, pollutants, or toxic pollutants, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. Sections 1251 et seq.), Articles 17 and 27 of the New York State Environmental

Conservation Law, or any other applicable Environmental Law and the regulations promulgated thereunder.

“Improvements” means all those buildings, improvements, structures and other related facilities (i) affixed or attached to the Demised Premises, and (ii) not part of the Equipment, all as they may exist from time to time.

“Independent Accountant” shall mean an independent certified public accountant or firm of independent certified public accountants selected by the Company and approved by the Agency (such approval not to be unreasonably withheld or delayed).

“Independent Counsel” means an attorney or attorneys or firm or firms of attorneys duly admitted to practice law before the highest court of any state of the United States of America or in the District of Columbia and not a full time employee of the Agency, the Company.

“Ineligible Items” shall mean the following items of personal property and services with respect to which the Company and any Agent shall not be entitled to claim a Sales Tax Exemption in connection with the Facility:

- (i) vehicles of any sort, including watercraft and rolling stock;
- (ii) personalty having a useful life of one year or less;
- (iii) any cost of utilities, cleaning services or supplies or other ordinary operating costs;
- (iv) ordinary office supplies such as pencils, paper clips and paper;
- (v) any materials or substances that are consumed in the operation of machinery;
- (vi) equipment or parts containing materials or substances where such parts must be replaced whenever the substance is consumed; and
- (vii) maintenance of the type as shall constitute janitorial services.

“Land” means the real property owned by the Landlord upon which contains the approximately 232,842 square foot building and more particularly described in Exhibit A attached thereto.

“Landlord” means 1516-19 LLC, a limited liability company organized and existing under the laws of the State of Delaware and authorized to transact business in the State of New York, its successors and/or assigns.

“Landlord Consent” means that certain Landlord Consent, dated as of February 1, 2021, from the Landlord to the Agency and the Company consenting to the straight-lease transaction between the Company and the Agency.

“Landlord Facility” means the Land, together with the 148,686 square foot portion of the building located on the Land, not used by the Company as the Demised Premises.

“Lease Agreement” means the Lease and Project Agreement, dated as of February 1, 2021 by and between the Agency, as lessor, and the Company, as lessee, with respect to the Facility, as the same may be amended from time to time.

“Lease Term” means the duration of the leasehold estate created by the Lease Agreement as specified in Section 4.2 of the Lease Agreement.

“Lender” means any lender making a Loan to the Company to finance in whole or in part the Project Work, the acquisition and/or development of the Facility or any portion thereof.

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

“Loan” has the meaning ascribed to such term in Section 12.4 of the Lease Agreement.

“Loan Documents” has the meaning ascribed to such term in Section 12.4 of the Lease Agreement.

“Loss Event” has the meaning ascribed to such term in Section 5.4 of the Lease Agreement.

“Master Lease” means that certain Agreement of Lease, dated December 29, 2020, by and between the Landlord and the Company, as may be amended from time to time.

“Maximum Company Sales Tax Savings Amount” shall mean the aggregate maximum dollar amount of Company Sales Tax Savings that the Company and all Agents acting on behalf the Company are permitted to receive under this Lease Agreement, which shall equal \$3,450.00, or such maximum dollar amount as may be determined by the Agency pursuant to such additional documents as may be required by the Agency for such increase.

“Mortgage” means any mortgage and security agreement granted by the Agency and the Company, or the Company with the consent of the Agency, to a Lender which grants a mortgage lien on and security interest in the Facility in favor of the Lender as security for such Lender’s Loan to the Company.

“Mortgage Recording Tax Exemption” has the meaning ascribed to such term in Section 5.3 of the Lease Agreement.

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

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

“Organizational Documents” means (i) in the case of an entity constituting a limited liability company, the articles of organization or certificate of formation, and the operating agreement of such entity, (ii) in the case of an Entity constituting a corporation, the articles of incorporation or certificate of incorporation, and the by-laws of such entity, and (iii) in the case of an entity constituting a general or limited partnership, the partnership agreement of such entity

“Permitted Encumbrances” means, with respect to the Facility, (i) exceptions to title set forth in the Title Report, (ii) the Company Lease, (iii) the Lease Agreement, (iv) utility, access and other easements and rights-of-way, restrictions and exceptions that do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (v) mechanics', materialmen's, warehousemen's, carriers' and other similar Liens which are approved in writing by the Lender, if any, or its counsel and, if no Lender, then by the Agency or its counsel, (vi) Liens for taxes not yet delinquent, (vii) any Mortgage granted to a Lender and (viii) purchase money security interests and blanket liens.

“Person” or “Persons” means an individual, partnership, limited liability partnership, limited liability company, corporation, trust or unincorporated organization, or a government agency, political subdivision or branch thereof.

“PILOT Payments” has the meaning ascribed to such term in Section 5.1 of the Lease Agreement.

“Plans and Specifications” means the plans and specifications, if any, for the Improvements, prepared for the Company and approved by the Agency, as revised from time to time in accordance with the Lease Agreement.

“Project” means (a) the acquisition of a leasehold interest in an approximately 84,156 square foot portion (the **“Demised Premises”**) of an approximately 230,000 square foot building situated on an approximately 29.5 acre parcel of land located at 19 Nicholas Drive, Suite 100, Yaphank, Town of Brookhaven, New York (further identified as Tax Map No. District 0200, Section 703.00, Block 01.00, Lot 049.400) (the **“Land”**), currently owned by 1516-19 LLC, a Delaware limited liability company (the **“Landlord”**), (b) the renovation of the Demised Premises (the **“Improvements”**), and (c) the acquisition and installation therein of certain equipment including, but not limited to, office furniture, manufacturing equipment to produce and warehouse products and personal property (collectively, the **“Equipment”**); and, together with the Demised Premises and the Improvements, the **“Facility”**), which Facility will be subleased and leased by the Agency to the Company and which Facility will be used in the

manufacturing, warehousing and distribution by the Company in its primary business of manufacturing picture frame moldings, architectural trims, and flooring transitions.

“Project Application Information” means the application and questionnaire submitted to the Agency on January 11, 2021, as amended to date, by or on behalf of the Company, for approval by the Agency of the Project, together with all amendments thereto and all other letters, documentation, reports and financial information submitted in connection therewith.

“Project Work” means the work required to complete the Project.

“Prime Rate” means (i) if no Lender, the rate designated by The Wall Street Journal from time to time as its “prime rate”, or (ii) if a Lender exists, the rate designated by the Lender from time to time as its “prime rate”.

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

“Public Purposes” shall mean the State’s objective to create industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and to empower such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, recreation or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living.

“Real Property Tax Abatements” has the meaning ascribed to such term in Section 5.4 of the Lease Agreement.

“Recaptured Benefits” has the meaning ascribed to such term in Section 5.4 of the Lease Agreement.

“Recapture Event” has the meaning ascribed to such term in Section 5.4 of the Lease Agreement.

“Release” has the meaning given to that term in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.), and the regulations promulgated thereunder.

“Sales Tax Agent Authorization Letter” shall mean the Sales Tax Agent Authorization Letter, substantially in the form set forth in Exhibit E to the Lease Agreement – “Form of Sales Tax Agent Authorization Letter” and to be delivered in accordance with Section 5.2(d) of the Lease Agreement.

“Sales Tax Exemption” shall mean an exemption from Sales and Use Taxes resulting from the Agency’s participation in the Facility.

“Sales Tax Registry” shall mean the Sales Tax Registry in the form set forth in Exhibit F.

“Sales and Use Taxes” shall mean local and State sales and compensating use taxes and fees imposed pursuant to Article 28 of the New York State Tax Law, as the same may be amended from time to time.

“Schedule of Definitions” means the words and terms set forth in this Schedule of Definitions attached to the Lease Agreement, as the same may be amended from time to time.

“SEQR Act” means the State Environmental Quality Review Act and the regulations thereunder.

“Special Provisions” has the meaning ascribed to such term in Section 5.2 of the Lease Agreement.

“State” means the State of New York.

“State Sales and Use Taxes” shall mean sales and compensating use taxes and fees imposed by Article 28 of the New York State Tax Law but excluding such taxes imposed in a city by Section 1107 or 1108 of such Article 28, as the same may be amended from time to time.

“State Sales Tax Savings” shall mean all Sales Tax Exemption savings relating to State Sales and Use Taxes realized by or for the benefit of the Company, including any savings realized by any Agent, pursuant to this Lease Agreement and each Sales Tax Agent Authorization Letter issued in connection with the Facility.

“Substitute Facilities” means facilities of substantially the same nature as the proposed Facility.

“Taxes on the Facility” has the meaning ascribed to such term in Section 5.1 of the Lease Agreement.

“Taxing Authorities” has the meaning ascribed to such term in Section 5.1 of the Lease Agreement.

“Tax Year” means the lien period for which real estate taxes are assessed, that is, December 1 through the following November 30.

“Tenant Agency Compliance Agreement” means an agreement in the form attached to the Lease Agreement as Exhibit I between the Agency and a sublessee of the Facility.

“Termination Date” shall mean such date on which the Sales Tax Exemption authorization may terminate pursuant to the terms and conditions of Section 5.2 of the Lease Agreement.

“Transaction Counsel” means the law firm of Nixon Peabody LLP.

“Transaction Documents” means the Agency Documents and the Company Documents.

“Unassigned Rights” means the rights of the Agency and moneys payable pursuant to and under Sections 3.6, 4.3, 4.4, 5.1, 5.2, 5.4, 6.4(c) and (d), 6.7, 8.1, 8.2, 8.5, 8.7, 8.8, 8.10, 8.11, 9.3, 10.2(a), 10.4, 11.2, 11.3 and 14.8 and Article XIII of the Lease Agreement.

Except as otherwise expressly provided or unless the context otherwise requires, (i) the plural includes the singular, the singular includes the plural, and the use of any gender herein shall be deemed to include the other genders; (ii) “including,” “included” and words of similar import are deemed followed by “but not limited to”; (iv) the words “herein,” “hereof,” “hereunder” and other words of similar import refer to the document as a whole and not to any particular provision, (v) the term “heretofore” shall mean before, and the term “hereafter” shall mean after, the date of the document, (vi) “or” is not exclusive, (vii) “any” shall include “any and all”, and (viii) “shall” is mandatory, “will” shall have the same meaning as “shall” and “may” is permissive.

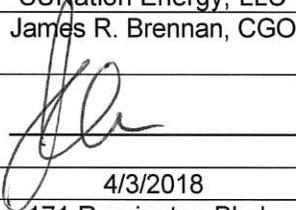
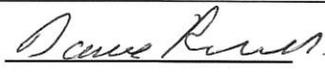
SOLAR SITE LEASE AGREEMENT

This Solar Site Lease Agreement ("Agreement") is by and between, Owner, and Host (each a "Party" and collectively, the ("Parties").

Executive Summary:

Item	Specification
System Size:	1,0124 kW (DC)
Rooftop System Description:	2,531 LG400w Panels with 25 yr Warranty 17 SMA Inverters with 20 yr Warranty Terragen Racking with 20 yr Warranty
Base Rent:	\$30,000 per calendar year
Lease Term:	20 Years
Roof Budget/Description/Contractor: Paid by Owner	\$255,000 Commercial Roofing, Inc. Roofing Contractor 60 mil TPO, Mechanically Fastened Type
Executive Perks:	7_ Owners \$_0.05 per kwh less than the annual PPA rate 70,000 Total kwh/yr

IN WITNESS WHEREOF, subject to the Terms and Conditions defined below, the parties have executed this Solar Site Lease Agreement on the day and year first above written.

	OWNER	HOST
Company Names:	SUNation Energy, LLC	FrAmerica Corporation
Corporate Officer:	James R. Brennan, CGO	Dave Rosner, SVP Procurement
Signature:		
Effective Date:	4/3/2018	4/3/2018
Corporate Address:	171 Remington Blvd., Ronkonkoma, NY 11779	2 Todd Court Yaphank, NY 11980
Premise Location: (if different than above)		

Additional Information	OWNER	HOST
Technical Contact:	Scott Sousa	Dave Rosner
Legal Notice Contact:	Don Rassiger, Esq., Campolo, Middleton & McCormick, LLP 4175 Veterans Memorial Highway, Suite 400, Ronkonkoma, NY 11779, (631) 738-9100, DRassiger@cmmllp.com	Brad M. Behar BRAD M. BEHAR & ASSOCIATES, PLLC 94 Second Street Mineola, NY 11501 Tel: 516-741-6500 bbehar@beharlawfirm.com

TERMS AND CONDITIONS

WITNESSETH

WHEREAS, Owner desires to develop, design, construct, own, maintain and operate a solar powered electric generating facility with KWH size listed above (as amended from time to time pursuant to the terms hereof, the "Distribution Generation Facility" or "System"), as described in the Executive Summary section above, at the Premises (as defined in the Executive Summary above) and sell the capacity, electric energy, available forms of environmental and renewable energy attributes and and/or net metering credits and other recognized products and services produced by the System ("collectively, "Products"); and

WHEREAS, under separate agreement(s) with one or more tenants of Host located on the Premises, Owner may deliver and/or sell one or more Products to such tenants, the local electric utility or to other entities and homes through the local electric grid in compliance with applicable law; and

WHEREAS, in order to construct and install the System the Owner requires access to certain rooftop property owned or leased by Host as identified in the Executive Summary section above (the "Premises"); and

WHEREAS, in connection with the foregoing, Owner desires to lease a certain portion of the Premises and obtain related easements sufficient for the installation, commissioning, maintenance, alteration and removal of the System and Host is willing to provide the same to Owner on the terms and conditions set forth herein;

WHEREAS, as part of this agreement Owner is agreeing to provide discounts to seven (7) of Host's employees/owners on their home electric bills as set forth in the Power Purchase Agreements (PPAs) being executed contemporaneously herewith and which are incorporated herein as if restated here in full, and which form a part of this Agreement;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Owner and Host hereby agree as follows:

1. **Grant of Property Rights.** For the period of years (the "Term") defined in the Executive Summary section above, Host hereby leases to Owner, in accordance with the terms and conditions hereinafter set forth, the real property outlined in the Executive Summary section above where the System will be installed (the "Site"). Host hereby also grants to Owner, for a period co-terminus with the Agreement, a non-exclusive easement to (i) temporarily locate and lay down construction equipment and materials, cranes and supports in connection with System installation, alteration and maintenance at locations within the Premises reasonably approved by Host, (ii) locate and relocate from time to time wiring and metering reasonably required to deliver and/or sell Products to Host's tenants located on the Premises and/or the local electric utility grid; and (iii) access the Site across or through the Premises and any surrounding or nearby property owned or leased by Host, passage through which is necessary or convenient to install or gain access to the System or the Site or to otherwise comply with this Agreement, provided same does not unreasonably interfere with host or tenants of the Host.

2. **Rents.** Upon the execution of this Agreement, Owner shall pay Host rent equal to One Dollar (\$1.00). Thereafter, but no later than 6 months after the execution of this Agreement, Owner shall pay Host a Base Rent per annual calendar. Such amounts shall be pro-rated for any partial calendar quarter occurring during the Term. After the initial payment, subsequent rent payments will be due on or before the first date of each calendar quarter.

3. **System Construction, Installation and Operation.**
(a) Host hereby consents to the construction of the System by Owner on the Site, including, without limitation, solar panels, mounting substrates or supports, wiring and connections, power inverters, service equipment, metering equipment and utility interconnections. Prior to System installation,

Host must approve the final plan provided by Owner ("Site Plan") for the System before the installation. The Site Plan will include a confirmatory analysis from a qualified structural engineer. All changes must be approved by the host. Such Host review and approval shall not be unreasonably withheld, denied, conditioned or delayed. Owner will provide at least ten (10) days prior written notice to Host of the commencement of any Site preparation work.

(b) Owner shall also have the right from time to time during the term hereof:

(i) to maintain and operate the System subject to the terms and conditions hereof;

(ii) to interconnect, maintain, clean, repair, replace and dispose of part or all of Owners System, subject to the limitations set forth herein;

(iii) to add or remove any parts of the System, subject to the limitations set forth herein, and to expand the System (and as necessary, the Site), and all subject to the prior review and approval of Host in its sole discretion (and with any Site expansion made the subject of a confirmatory amendment to Exhibit A-1 hereto); and

(iv) to perform (or cause to be performed) all tasks necessary or appropriate, as reasonably determined by Owner, to carry out the activities set forth in this Section 3 provided the same does not unreasonably interfere with Host or tenant of Host.

(c) Host shall provide Owner with available electric and structural plans of the Properties, and otherwise assist and cooperate with Owner to obtain all permits, approvals (including local utility approvals and interconnection and metering arrangements) and authorizations required to install, interconnect, operate and maintain the System.

(d) Host acknowledges that the installation of all or a portion of the System will require installation to the ground and/or may require physically mounting and adhering parts of the System to the buildings, structures and fixtures appurtenant to the Site and consents to such mounting or adhering, as applicable, provided the same does not interfere with Host or tenant of Host and upon hosts approval, consents to such mounting or adhering, as applicable. Host will provide Owner with copies of any structural warranties then in effect with respect to the rooftop area within the Site. Owner is responsible for obtaining, in form reasonably satisfactory to Host, a vendor confirmation that any such warranty will remain in effect after installation of the System. Upon any removal of the System by Owner, Owner will leave the affected parts of the roof as leak proof as it was prior to System removal.

NOTWITHSTANDING ANY OTHER PROVISION HEREOF, OWNER'S CONSTRUCTION AND OPERATION OF THE SYSTEM SHALL AT ALL TIMES BE PERFORMED IN A GOOD AND WORKMANLIKE MANNER IN COMPLIANCE WITH ALL APPLICABLE LAWS, ORDINANCES AND OTHER REGULATIONS.

4. Access to Premises. Host shall provide Owner with access to the Premises as reasonably necessary to allow Owner to perform the installation work and maintain the System, including ingress and egress rights to the Site for Owner and its employees, contractors and sub-contractors and access to solar panels and conduits to interconnect the System with the Premises' electrical wiring. Host shall use commercially reasonable efforts to provide sufficient space for the temporary storage for the duration of the installation and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the furnishing, installation, testing, commissioning, deconstruction, disassembly, decommissioning and removal of each System and access for rigging and material handling. Host and its authorized representatives shall at all times have access to and the right to observe the installation work, subject to compliance with Owner's safety rules, but shall not interfere with the installation work or handle any Owner equipment or the System without written authorization from Owner. Owner shall perform the operations and maintenance work in a manner that minimizes inconvenience to and interference with Host's use of the Premises to the extent

commercially practical. Owner shall not interfere with the lawful use of the Premises by the other Tenants of the Host.

5. System and Output Ownership.

(a) Host acknowledges and agrees that Owner or one of its affiliates is the exclusive owner and operator of each System, and that all equipment comprising the System shall remain the personal property of Owner and shall not become fixtures.

(b) Host acknowledges that the Owner is the exclusive owner of electric energy generated by the System and owner of all environmental attributes and tax attributes attributable to the System.

(c) Host agrees that this Agreement and any property use rights granted hereunder run with the Premises and survive any transfer of any portion of the Premises. Either Party may cause this Agreement or a memorandum of this Agreement to be recorded in the registry or title records of the county or counties where the Premises are located or other applicable government office. Owner may file one or more precautionary financing statements or fixture filings in such jurisdictions as it deems appropriate in order to protect its rights in the System provided any such financing statements or fixture filings shall be limited to Owner's System and shall not cause or result in a lien or encumbrance on the Host's Property or the Premises. Nothing herein shall prevent Host from mortgaging or re-mortgaging the Premises.

(d) If Host determines to repair or replace the roof, then it shall provide reasonable prior notice (not less than two months) to Owner, and at Host's expense, Owner shall disassemble, store and re-assemble the affected portions of the System at a time and in a manner reasonably calculated to accommodate such roof work. Storage of any System components in accordance with the previous sentence shall be on the Premises in a location to be reasonably designated by Host. Host shall not be required to reimburse Owner for the value of any lost solar revenues during such roof repair, unless such roof repair occurs within the first ten (10) years of System operations, or otherwise extends beyond fifteen (15) days, in which case Host will reimburse Owner for such lost solar revenues. Owner shall be entitled to reasonably estimate the amount of revenue that would have been obtained based on past production data. Notwithstanding the foregoing, nothing herein shall obligate Host to reimburse Owner for the value of any lost revenue during a roof repair that is caused by Owner and/or Owner's System.

6. Representations and Warranties, Covenants of Host.

(a) Authorization. Host represents and warrants that Host (i) has been duly authorized to enter into this Agreement by all necessary action and (ii) will not be in default under any agreement to which it is a party (including any lease in respect of the Site as to which Host is the tenant).

(b) Host's Title to Premises. Host represents, warrants and covenants that Host has lawful fee simple title to the Premises, the Site and its other property necessary for the installation and operation of the System, free and clear of all liens and encumbrances except those listed on the Executive Summary above, and that Owner shall, provided Owner complies with the terms and conditions of this Agreement, have quiet and peaceful use of the roof free from any claim of any entity or person of superior title thereto without hindrance to or interference with or molestation of Owner's quiet enjoyment thereof, throughout the term of this Agreement.

(c) No Interference With and Protection of System. Host will not conduct activities on, in or about the Premises that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System to a reasonably noticeable extent.

(d) Utilities. Host shall provide Owner, at Owner's expense (and be paid upon demand), with Station Power during the term of this Agreement. For purposes of this Agreement "Station Power" shall mean electric energy consumed in the start-up and operation of the System, which is distinct

from the alternating current output of the System. Owner estimates Station Power requirements to be approximately kilowatt-hours per year detailed in the Executive Summary section above.

(e) Insolation. Host has exhaust systems, HVAC systems, etc used to run its business which may occasionally require maintenance and/or modification depending upon the needs of Host's operations. Host shall not be restricted in any way from maintaining and modifying any such systems for continued operation of Host's facility, as determined by Host in Host's sole discretion, provided however, Host shall notify Owner of any scheduled work that may cause changes to existing exhaust systems which could adversely affect Insolation levels or emit or permit the emission of suspended particulate matter, smoke, fog or steam or other air-borne impediments to Insolation. If Host becomes aware of any potential development or other activity on adjacent or nearby properties that could diminish the Insolation to the Site, Host shall advise Owner of such information.

(f) Hazardous Materials. Host agrees to assume full responsibility for (and protect, indemnify and defend Owner against) any liability or cleanup obligations for any contamination or pollution or breach of environmental laws related to the Site, unless such contamination or pollution was generated by or brought onto the Site by Owner.

7. Representations and Warranties, Covenants of Owner.

(a) Authorization; Enforceability. The execution and delivery by Owner of, and the performance of its obligations under, this Agreement have been duly authorized by all necessary action, do not and will not require any further consent or approval of any other person, and do not contravene any provision of, or constitute a default under, any indenture, mortgage or other material agreement binding on Owner or any valid order of any court, or regulatory agency or other body having authority to which Owner is subject. This Agreement constitutes a legal and valid obligation of Owner, enforceable against Owner in accordance with its terms, except as may be limited by bankruptcy, reorganization, insolvency, bank moratorium or laws relating to or affecting creditors' rights generally and general principles of equity whether such enforceability is considered in a proceeding in equity or at law.

(b) Hazardous Materials. Owner shall not introduce or use any hazardous, toxic or dangerous materials on, in or under the Premises in violation of any applicable law or regulation. If Owner becomes aware of any such hazardous, toxic or dangerous materials caused by Owner, Owner shall promptly notify Host of the type and location of such materials in writing. Owner agrees to assume full responsibility for (and protect, indemnify and defend Host against) any liability or cleanup obligations for any contamination or pollution or breach of environmental laws to the extent arising out of the use of any hazardous, toxic or dangerous materials on, in or under the Premises by Owner. If Owner becomes aware of any such hazardous, toxic or dangerous materials caused by Host, Owner shall promptly notify Host of the type and location of such materials in writing. Host agrees to assume full responsibility for (and protect, indemnify and defend Owner against) any liability or cleanup obligations, fines, penalties and costs (including reasonable attorneys' fees) for any contamination or pollution or breach of environmental laws related to the use of any hazardous, toxic or dangerous materials on, in or under the Premises that are attributable to the actions of Host or its use of the Site.

(c) Regulatory Status. Owner holds all requisite licenses, permits and approvals to do business in the State of New York and in all other jurisdictions in which it does business, has all licenses, permits and approvals to install and operate the System and will maintain same during the term of lease. If Owner fails to maintain the same, Owner is still responsible for lease payments to the Host. Owner to pay ALL fines and hold Host harmless and indemnify for any such incidents.

8. Term and Termination.

Prior to operation of the System, Owner may terminate this Agreement upon written notice to Host, provided that Owner properly removes all Owner equipment and materials from the Premises and leaves the Site in a materially similar condition to that which existed prior to any actions taken by Owner or its contractors or

agents. Host may terminate this Agreement if construction of the System has not commenced within 365 days of the date hereof, provided that if Owner can demonstrate to Host's reasonable satisfaction that the System has been fully permitted and is ready for construction by such deadline, Host will provide Owner with an additional reasonable amount of time (at least 120 days) to complete the System and maintain this Agreement in place.

The term of this Agreement shall commence on the date hereof and expire on the twentieth (20th) anniversary of the commencement of commercial operation of the System (the "Term") unless terminated earlier. At the end of the Term, the Parties will jointly decide on one of three options:

- (a) System Removal. Within 90 days after any such expiration, Owner shall remove the System. In connection with such removal, during said 90 day period, Host shall continue to provide Owner (and its affiliates and subcontractors) with access to the Premises without payment of further rent or consideration. The Site shall be returned to its condition immediately prior to the installation of the System, except for System mounting pads or other support structures that may increase roof permeability if removed, and ordinary wear and tear.
- (b) Lease Extension. Owner shall leave the System on the Host's roof and continue operating the System at a revised lease arrangement acceptable to both Parties.
- (c) System Purchase. Host can purchase the system from the Owner at fair market value (FMV) acceptable to both Parties.

9. Insurance. The Owner shall obtain and maintain general liability insurance and fire and other coverages required to protect its assets against any damage to premises caused by its System. All such policies shall be in such amounts, provide such coverage and be issued by such companies as shall be reasonably acceptable to Host and shall list the Host as an additional insured and Host shall waive the rights of subrogation.

10. Taxes. Owner shall pay all personal property taxes, possessory interest taxes, business or license taxes or fees, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, assessments, bonds, levies, fees or charges of any kind which are assessed, levied, charged, confirmed, or imposed by any public authority due to Owner's occupancy and use of the Site. Owner shall pay, on demand, any real estate property tax increases to the Premises that are the direct result of the Owner's personal property being affixed to the Site. Host shall (except for increases in taxes resulting from the System) pay all (i) real and personal property taxes relating to the Premises, (ii) inheritance or estate taxes imposed upon or assessed against the Premises, or any part thereof or interest therein, (iii) taxes computed upon the basis of the net income or payments derived from the Premises by Host or the owner of any interest therein, and (iv) taxes, fees, service payments, excises, assessments, bonds, levies, fees or charges of any kind which are adopted by any public authority after the date hereof.

11. Liability and Indemnity.

(a) Owner General Indemnity. Owner shall indemnify, defend and hold harmless Host, its affiliates, officers, agents, employees and tenants and their successors and assigns (the "Host Indemnitees") from and against any claim, demand, lawsuit, or action of any kind for injury to or death of persons, including, but not limited to, employees of Owner, Host, or tenant of host and damage or destruction of property, including, but not limited to, property of Owner, any utility company or Host, or other loss or damage incurred by Host, to the extent arising out of (i) negligent acts or omissions or willful misconduct of Owner, its agents, officers, directors, employees or contractors; or (ii) the material breach by Owner of any of its obligations, representations or warranties under this Agreement. The obligation to indemnify shall extend to and encompass all costs reasonably incurred by Host and any Host Indemnitee in defending such claims, demands, lawsuits or actions, including, but not limited to, attorney, witness and expert witness fees, and any other litigation related expenses. Owner's obligations pursuant to this Section 11(a) shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable to the negligence or willful misconduct of Host, the Host Indemnitees, or their respective contractors, successors

or assigns. Owner shall pay any cost that may be incurred by Host or the Host Indemnitees in enforcing this indemnity, including reasonable attorney fees.

(b) **Host General Indemnity.** Host shall indemnify, defend and hold harmless Owner, its affiliates, officers, agents and employees (the "Owner Indemnitees") from and against any claim, demand, lawsuit, or action of any kind for injury to or death of persons, including, but not limited to, employees of Owner or Host, and damage or destruction of property, including, but not limited to, property of either Owner or Host, or other loss or damage incurred by Owner, to the extent arising out of: (i) negligent acts or omissions or willful misconduct of Host, its agents, officers, directors, employees or contractors; or (ii) the material breach by Host of any of its obligations, representations or warranties under this Agreement. The obligation to indemnify shall extend to and encompass all costs reasonably incurred by Owner and any Owner Indemnitee in defending such claims, demands, lawsuits or actions, including, but not limited to, attorney, witness and expert witness fees, and any other litigation related expenses. Host's obligations pursuant to this Section 11(b) shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable to the negligence or willful misconduct of Owner, the Owner Indemnitees, or their respective contractors, successors or assigns, or the acts of third-parties. Host shall pay any cost that may be incurred by Owner or the Owner Indemnitees in enforcing this indemnity, including reasonable attorney fees.

(c) **No Consequential Damages.** NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, NEITHER OWNER NOR HOST SHALL BE LIABLE TO THE OTHER FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR INDIRECT DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF USE, LOSS OF PROFITS, COST OF CAPITAL OR INCREASED OPERATING COSTS, ARISING OUT OF THIS AGREEMENT WHETHER BY REASON OF CONTRACT, INDEMNITY, TORT, STRICT LIABILITY, NEGLIGENCE, INTENTIONAL CONDUCT, BREACH OF WARRANTY OR FROM BREACH OF THIS AGREEMENT. The foregoing provision shall not prohibit Owner or Host from seeking and obtaining general contract damages for a breach of this Agreement.

12. Casualty or Condemnation. In the event the Site shall be so damaged or destroyed so as to make the use of the Site impractical, then Owner may elect to terminate this Agreement on not less than twenty (20) days' prior notice to Host effective as of a date specified in such notice, and on the date so specified, this Agreement shall expire as fully as if such date were the date set forth above for the expiration this Agreement. If Owner does not elect to terminate this Agreement pursuant to the previous sentence, Host shall exercise commercially reasonable efforts to repair the damage to the Site and return the Site to its condition prior to such damage or destruction, except that Host shall in no event be required to repair, replace or restore any property of Owner comprising part of the System, which replacement or restoration shall be Owner's responsibility.

13. Assignment.

(a) The Owner shall not have the right to assign any of its rights, duties or obligations under this Agreement without the prior written consent of the Host, which consent shall not be unreasonably withheld, delayed or unduly conditioned; provided, however, that Owner may in its sole discretion, and without Host's consent, assign any of its rights, duties or obligations under this Agreement (i) to one or more of its affiliates, (ii) to one or more third parties in connection with a collateral assignment of rights, mortgage or pledge (a "Lender's Lien"), (iii) to any present or future purchaser of the power generated by the System, (iv) to any person or entity succeeding to all or substantially all of the assets of Owner, or (v) to a successor entity in a merger or acquisition transaction; and provided, further, that, any assignee from Owner assumes in writing the obligations of Owner hereunder and without relieving Owner of its obligations hereunder. Any assignee of Owner agrees to assume the obligations of the assignor and such assignee shall bound by the terms of this Agreement.

(b) The Host shall not have the right to assign any of its rights, duties or obligations under this Agreement without the prior written consent of the Owner; provided, however, that Host may in its sole discretion assign any of its rights, duties or obligations under this Agreement (i) to one or more of its

affiliates, (ii) to any person or entity succeeding to all or substantially all of the assets of Host, or (iii) to a successor entity in a merger or acquisition transaction; and provided, further, that, any assignee from Host assumes in writing the obligations of Host hereunder and without relieving Host of its obligations hereunder. Any assignee of Host agrees to assume the obligations of the assignor and such assignee shall bound by the terms of this Agreement.

14. Defaults and Remedies.

(a) Default. If a Party (the "Defaulting Party") fails to perform its obligations hereunder (an "Event of Default"), then it shall not be in default hereunder unless it fails to cure such Event of Default within ten (10) Business Days for any monetary Event of Default (no notice being required) or within sixty (60) days after receiving written notice from the other Party (the "Non-Defaulting Party") stating with particularity the nature and extent of such Event of Default and specifying the method of cure (a "Notice of Default"); provided, however, that if the nature or extent of the obligation or obligations is such that more than sixty (60) days are required, in the exercise of commercially reasonable diligence, for performance of such obligation(s), then the Defaulting Party shall not be in default if it commences such performance within such sixty (60) day period and thereafter pursues the same to completion with commercially reasonable diligence. As used herein "Business Day" means a calendar day excluding Saturdays, Sundays and United States and New York State holidays; provided, that in relation to any payment or funds transfer a "Business Day" means a day on which commercial banks are not required or permitted to be closed in the place where the relevant payor, pay or account, payee account and payee is located.

(b) Remedies. The Non-Defaulting Party shall have and shall be entitled to exercise any and all remedies available to it at law or in equity, including without limitation, the right to terminate the Agreement and commence an eviction action pursuant to applicable Law, all of which remedies shall be cumulative. Such remedies shall include the right in the Non-Defaulting Party to pay or perform any obligations of the Defaulting Party that have not been paid or performed as required hereunder, and to obtain (i) subrogation rights therefor and (ii) immediate reimbursement from the Defaulting Party for the actual, reasonable and verifiable out-of-pocket costs of such payment or performance. This Agreement may be amended only in writing signed by Owner and Host or their respective successors in interest.

(c) Notwithstanding anything to the contrary herein, if Owner's breach or default, or Owner's operation of its System, interferes with Host's operations and/or causes an unreasonable disruption in Host's operation(s) or business, then Owner shall compensate Host for any resulting lost profit(s). In such event, Host shall provide Owner with a calculated amount of lost profits which Owner agrees to pay within ten (10) days of notice from Host.

(d) A "Force Majeure Event" means any act or event that prevents the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence. A Party claiming a Force Majeure Event shall not be considered in breach of this Agreement or liable for any delay or failure to comply with the Agreement, if and to the extent that such delay or failure is attributable to the occurrence of such Force Majeure Event; *provided that* the Party claiming relief shall immediately notify the other Party in writing of the existence of the Force Majeure Event, exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, and resume performance of its obligations hereunder as soon as practicable thereafter.

15. Notices. Each Party shall notify the other within twenty-four (24) hours following the discovery by it of any material malfunction of the System or interruption in the supply of electricity from the System. Each Party shall designate and advise the other Party of personnel to be notified in the event of such an emergency. Owner shall correct, or cause to be corrected, the conditions that caused the emergency as soon as reasonably possible in light of the circumstances following the giving of notice to Owner by Host or upon discovery of such emergency by Owner. Notwithstanding the aforesaid, Host shall have the right to immediately repair or address, at Owner's expense, any fact or circumstance involving the System which poses an immediate danger to the Building, the Premises or any tenant, or poses an

immediate danger to any surrounding property. Host shall notify Owner of the same as soon as practicable once the immediate danger has been remedied.

Any notice required or permitted to be given in writing under this Agreement shall be mailed by certified mail, postage prepaid, return receipt requested, or sent by overnight air courier service, or personally delivered to a representative of the receiving party, or sent by facsimile (provided an identical notice is also sent simultaneously by mail, overnight courier, or personal delivery as otherwise provided in this Section 15). All such communications shall be mailed, sent or delivered, addressed to the party for whom it is intended, at its address set forth in the Executive Summary section above.

16. **Waiver.** The waiver by either party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision contained herein.

17. **Remedies Cumulative.** No remedy herein conferred upon or reserved to Owner or Host shall exclude any other remedy herein or by law provided, but each shall be cumulative and in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

18. **No Third Party Beneficiaries.** This Agreement is solely for the benefit of the Parties hereto and no right or cause of action shall accrue by reason hereof for the benefit of any third party not a party hereto, other than the Host Indemnities, the Owner Indemnities and any secured parties.

19. **Headings.** The headings in this Agreement are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Agreement.

20. **Choice of Law.** This Agreement shall be construed in accordance with the laws of the State of New York (without regard to its conflict of laws principles).

21. **Binding Effect.** This Agreement and its rights, privileges, duties and obligations shall inure to the benefit of and be binding upon each of the parties hereto, together with their respective successors and permitted assigns.

22. **Counterparts.** This Agreement may be executed in counterparts, which shall together constitute one and the same agreement. Facsimile or "pdf" signatures shall have the same effect as original signatures and each party consent to the admission in evidence of a facsimile or photocopy of this Agreement in any court or arbitration proceedings between the parties.

23. **Entire Agreement.** This Agreement represents the full and complete agreement between the parties hereto with respect to the subject matter contained herein and therein and supersede all prior written or oral agreements between said parties with respect to said subject matter.

24. **Further Assurances.** Upon the receipt of a written request from the other party, each party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms and intent hereof. Neither party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this section. At the request of Owner, Host agrees to execute and deliver in recordable form, a memorandum of this Agreement in a form reasonably acceptable to Host for recording in the title records of the county where the Site are located or other applicable government office.

25. **Estoppel.** Either Party, without charge, at any time and from time to time, within five (5) business days after receipt of a written reasonable request by the other party, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person, firm or corporation specified by such requesting party that this Agreement is unmodified and in full force and effect, or if there

has been any modification, that the same is in full force and effect as so modified, and identifying any such modification.

Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

26. No Recording. This Lease shall not be recorded, but Host and Owner shall execute a recordable form Notice of Lease complying with State of New York law and reasonably satisfactory to Host and Owner's attorneys.

27. Confidentiality. Host will maintain in strict confidence, for the sole benefit of Owner, the existence and the terms of this Agreement and the transactions contemplated herein, provided, however, Host may disclose this Agreement and the transactions contemplated herein to Host's affiliates, subsidiaries, attorneys, consultants or other agents or professional advisors, or as required by law.

28. Host Mortgage / Lien Holder. In consideration of the premises and the payments defined above by each party paid to the other, receipt of which is hereby acknowledged, it is hereby mutually covenanted and agreed as follows:

- a. Owner is the exclusive owner of the System, the electricity generated by the System, and all the environmental attributes and other products related to the System and its generation of electricity; and that the Host's Bank Partners or Lienholders does not and shall not have any lien, security interest, or other encumbrance on the System.
- b. Owner's presence on the Site, and its rights and privileges under the Agreement, or any renewal thereof, shall not be diminished or interfered with by the Host or its Banking Partners / mortgage holders.
- c. Host's Banking Partner will not join Owner in summary or foreclosure proceedings and will not disturb the use and occupancy by Owner of the Site or Host's other property pursuant to the Agreement in the event it should become necessary to foreclose the Host Mortgage or Host's Bank Partner should otherwise come in to possession of the Host's property mentioned above.
- d. Owner agrees that in the event any proceedings are brought for the foreclosure of the Host Mortgage, it will attorn to the purchaser at any foreclosure sale and treat such purchaser as a substitute Host and Owner will continue to perform its duties in accordance with the terms of the Agreement.

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY

(TOWN OF BROOKHAVEN, NEW YORK)

and

TWO-G PROPERTIES, LLC

LEASE AGREEMENT

Dated as of October 1, 2012

Town of Brookhaven Industrial Development Agency
(Two-G Properties, LLC/Framerica Corporation Facility)

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LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of October 1, 2012 (the "**Lease Agreement**"), is between the TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its office at 1 Independence Hill, 3rd Floor, Farmingville, New York 11738 (the "**Agency**"), and TWO-G PROPERTIES, LLC, a limited liability company duly organized and validly existing under the laws of the State of New York, having its office 2 Todd Court, Yaphank, New York 11980 (the "**Company**").

R E C I T A L S

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

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

WHEREAS, the aforesaid act further authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, renovate, refurbish, equip, lease, sell and dispose of land and any building or other improvement, and all real and personal property, including but not limited to machinery and equipment deemed necessary in connection therewith, whether now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, recreation or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

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

WHEREAS, on December 1, 2000, the Agency issued its Tax-Exempt Industrial Development Revenue Bonds, Series 2000 (Two-G Properties, LLC/FrameMica Corporation Facility) in the original aggregate amount of \$5,500,000 (the "**Original Bonds**"), acquiring, constructing and equipping a certain industrial development facility consisting of an approximately 100,000 square foot building on approximately 10 acres of land located at Sill Industrial Park, being more particularly described as District 0200, Section 814.00, Block 01.00, Lot 4600C, Yaphank, Town of Brookhaven, Suffolk County, New York (the "**Facility**"), which Facility was sold by the Agency to the Company, pursuant to a certain Installment Sale Agreement, dated as of December 1, 2000 (the "**Installment Sale Agreement**"), from the Agency to the Company, and which Facility is leased by the Company to, and used by, Framera Corporation (formerly FrameMica Corporation) (the "**Sublessee**"), for purposes of manufacturing picture frame mouldings; and

WHEREAS, the Original Bonds were issued pursuant to a certain Bond Purchase Agreement, dated as of December 1, 2000, (the "**Bond Purchase Agreement**"), by and among the Agency, GE Capital Preferred Asset Corporation (the "**Bondholder**") and Marshall & Ilsley Trust Company, N.A. (as successor-in-interest to National City Bank of Minneapolis) (the "**Custodian**"); and

WHEREAS, in connection with the issuance of the Original Bonds the Agency previously consented to a mortgage on the Facility to GE Capital Public Finance, Inc. ("**GECPF**") and to Roslyn Savings Bank (the "**Construction LOC Bank**"), pursuant to a Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing (Acquisition Loan), dated as of December 1, 2000 and a Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing (Building Loan), dated as of December 1, 2000 (collectively, the "**2000 Mortgage**"), securing a maximum aggregate principal amount of \$5,500,000, which 2000 Mortgage was recorded in the Suffolk County Clerk's office; and

WHEREAS, in connection with the issuance of the Original Bonds and as further security for the payment of the sums due or to become due upon the 2000 Mortgage, the Agency executed and delivered to GECPF, a certain Pledge and Assignment, dated as of December 1, 2000 (the "**Assignment**"), and a certain Assignment of Rents and Leases, dated as of December 1, 2000 (the "**Assignment of Rents and Leases**"), which Assignment and Assignment of Rents and Leases were recorded in the Suffolk County Clerk's office; and

WHEREAS, in connection with the issuance of the Bonds and as further security for the payment of the sums due or to become due upon the 2000 Mortgage, the Company and the Sublessee executed and delivered that certain Guaranty, dated as of December 1, 2000 (the "**Guaranty**"); and

WHEREAS, in connection with the acquisition, construction and equipping of the Facility, the Agency, the Company, the Sublessee and GECPF entered into an Environmental Compliance and Indemnification Agreement, dated as of December 1, 2000 (the "**Original Environmental Compliance and Indemnification Agreement**"), whereby the Company and the Sublessee agreed to comply with all Environmental Laws (as defined therein) applicable to the Facility and indemnified and held harmless the Agency and the Bondholder for all liability under all such Environmental Laws; and

WHEREAS, in connection with the acquisition, construction and equipping of the Facility, the Agency, the Company and the Sublessee entered into a certain Payment in Lieu of Tax Agreement, dated as of December 1, 2000 (the "**Original PILOT Agreement**"), pursuant to which the Company and the Sublessee agreed to make payments in lieu of taxes on the Facility; and

WHEREAS, the Agency and the Company previously entered into a certain Amendment and Modification Agreement, dated as of December 1, 2001 (the "**First Amendment and Modification Agreement**"), for the purposes of amending the Installment Sale Agreement and that certain Tax Compliance Agreement, dated as of December 1, 2000 (the "**Tax Compliance Agreement**"), between the Agency and the Company, for purposes of modifying schedules, prices and certain other terms as found therein; and

WHEREAS, the Issuer, the Bondholder, the Company and the Sublessee previously entered into a certain First Amendment to Bond Purchase Agreement, dated as of January 1, 2004 (the "**First Amendment to Bond Purchase Agreement**"), and that certain Second Amendment to Installment Sale Agreement, dated as of January 1, 2004 (the "**Second Amendment to Installment Sale Agreement**"), for purposes of reflecting new redemption debt service reserve requirements and payment terms, including a reduced interest rate, with respect to the Original Bonds, pursuant to which the Original Bonds were reissued (the Original Bonds, as reissued, the "**Bonds**"); and

WHEREAS, the Company and the Sublessee previously submitted a request for the Agency's consent to an extension of payments-in-lieu-of-taxes benefits presently provided under the Original PILOT Agreement; and

WHEREAS, the Sublessee has received a commitment from Valley National Bank, or such other lender as may be approved by the Agency (the "**Lender**"), to make a loan to the Sublessee (the "**2012 Loan**"), in an amount presently estimated to be \$6,500,000 but not to exceed \$7,000,000, a portion of which 2012 Loan will be used to redeem the Bonds (collectively, the "**Loan Documents**") which 2012 Loan will be secured pursuant to one or more Mortgage, assignments of rents and leases and such other loan and collateral documents satisfactory to the Agency, upon advice of counsel, in both form and substance, as may be reasonably required by the Lender, to be dated a date to be determined (collectively, the "**Loan Documents**"), in connection with the financing, refinancing or permanent financing of the costs of acquiring, constructing and equipping of the Facility; and

WHEREAS, the Company, the Sublessee, the Bondholder and the Agency will enter into a Termination Agreement, dated as of October 1, 2012, or such other date as may be determined by the Chairman, Chief Executive Officer or counsel to the Agency (the "**Termination Agreement**"), to terminate the Installment Sale Agreement, the Bond Purchase Agreement, as amended, the Original PILOT Agreement and the Original Environmental Compliance and Indemnification Agreement (collectively, the "**Project Agreements**"), to reflect that the Bonds have been redeemed and refinanced with a portion of the proceeds of the 2012 Loan; and

WHEREAS, immediately following the redemption of the bonds and the termination of the Installment Sale Agreement, the Agency and the Company will enter into this Lease Agreement whereby the Agency will lease the Facility to the Company; and

WHEREAS, the Company will continue to sublease the Facility to the Sublessee pursuant to a Sublease Agreement, dated a date to be determined (the "**Sublease Agreement**"), between the Company and the Sublessee; and

WHEREAS, in connection with the execution and delivery of the Lease Agreement, the Agency, the Lender, the Company and the Sublessee will enter into an Environmental Compliance and Indemnification Agreement, dated as of October 1, 2012, or such other date as may be determined by the Chairman, Chief Executive Officer or counsel to the Agency (the "**Environmental Compliance and Indemnification Agreement**"), whereby the Company and the Sublessee agree to comply with all Environmental Laws (as defined

therein) applicable to the Facility and indemnify and hold harmless the Agency for all liability under all such Environmental Laws; and

WHEREAS, in connection with the execution and delivery of the Lease Agreement, the Agency, the Company and the Sublessee will enter into a certain Amended and Restated Payment in Lieu of Tax Agreement, dated as of October 1, 2012, or such other date as may be determined by the Chairman, Chief Executive Officer or counsel to the Agency (the “**PILOT Agreement**”), pursuant to which the Company and the Sublessee agree to make payments in lieu of taxes on the Facility; and

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

WHEREAS, the Agency has given due consideration to the request of the Company and the Sublessee and to representations by the Company and the Sublessee that the proposed financial assistance is either an inducement to the Sublessee to maintain and expand the Facility in the Town of Brookhaven, Suffolk County or is necessary to maintain the competitive position of the Company in its industry; and

WHEREAS, the Company and the Sublessee have agreed to indemnify the Agency against certain losses, claims, expenses, damages and liabilities that may arise in connection with the transaction contemplated by the assignment, assumption, amendment and refinancing of the Facility; and

AGREEMENT

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

ARTICLE I

DEFINITIONS

All capitalized terms used in this Lease Agreement and not otherwise defined herein shall have the meanings assigned thereto in the Schedule of Definitions attached hereto as Schedule A.

ARTICLE II

REPRESENTATIONS AND COVENANTS

Section 2.1 Representations and Covenants of Agency. The Agency makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Agency is duly established and validly existing under the provisions of the Act and has full legal right, power and authority to execute, deliver and perform each of

the Agency Documents and the other documents contemplated thereby. Each of the Agency Documents and the other documents contemplated thereby has been duly authorized, executed and delivered by the Agency.

(b) The Agency previously acquired title to the Facility and caused the Improvements to be constructed and the Equipment to be acquired and installed and will lease the Facility to the Company pursuant to this Lease Agreement, all for the Public Purposes of the State.

(c) By resolution adopted on July 26, 2012, the Agency determined that, based upon the review by the Agency of the materials submitted and the representations made by the Company relating to the Facility, the Facility would not have a “significant impact” or “significant effect” on the environment within the meaning of the SEQRA Act.

(d) Neither the execution and delivery of any of the Agency Documents and the other documents contemplated thereby or the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of any of the Agency Documents and the other documents contemplated thereby will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of the Act, any other law or ordinance of the State or any political subdivision thereof or the Agency’s Certificate of Establishment or By-Laws, as amended, or of any corporate restriction or any agreement or instrument to which the Agency is a party or by which it is bound, or result in the creation or imposition of any Lien of any nature upon any of the Property of the Agency under the terms of the Act or any such law, ordinance, Certificate of Establishment, By-Laws, restriction, agreement or instrument, except for Permitted Encumbrances.

(e) Each of the Agency Documents and the other documents contemplated thereby, as they pertain to the Agency, constitutes a legal, valid and binding obligation of the Agency enforceable against the Agency in accordance with its terms.

(f) The Agency has been induced to enter into this Lease Agreement by the undertaking of the Company to continue to utilize the Facility in the Town of Brookhaven, Suffolk County, New York.

Section 2.2 Representations and Covenants of Company. The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company duly organized and validly existing under the laws of the State of New York, is in good standing under the laws of the State and it has full legal right, power and authority to execute, deliver and perform each of the Company Documents and the other documents contemplated thereby. Each of the Company Documents and the other documents contemplated thereby has been duly authorized, executed and delivered by the Company.

(b) Neither the execution and delivery of any of the Company Documents and the other documents contemplated thereby nor the consummation of the transactions

contemplated thereby nor the fulfillment of or compliance with the provisions of any of the Company Documents and the other documents contemplated thereby will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of any law or ordinance of the State or any political subdivision thereof or of the Company's Articles of Organization, Operating Agreement, or any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or result in the creation or imposition of any Lien of any nature upon any of the Property of the Company under the terms of any such law, ordinance, Articles of Organization, Operating Agreement, restriction, agreement or instrument, except for Permitted Encumbrances. The Facility and the design, acquisition, construction, equipping and operation thereof will conform with all applicable zoning, planning, building and environmental laws, ordinances, rules and regulations of governmental authorities having jurisdiction over the Facility. The Company shall defend, indemnify and hold harmless the Agency and the Lender for expenses, including reasonable attorneys' fees, resulting from any failure by the Company to comply with the provisions of this subsection.

(c) Except as otherwise provided in the Mortgage, the Company shall perform or cause to be performed, for and on behalf of the Agency, each and every obligation of the Agency under and pursuant to the Mortgage.

(d) Each of the Company Documents and the other documents contemplated thereby constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms.

(e) The Company completed the acquisition, construction and equipping of the Facility in accordance with the terms and provisions of the Plans and Specifications.

(f) The Facility has been, is and will continue to be a "project" as such quoted term is defined in the Act. The Company will not take any action, or fail to take any action, which would cause the Facility to not constitute a "project" as such quoted term is defined in the Act.

(g) The Company hereby represents to the Agency that the Agency's involvement with the Facility (a) will not result in the removal of an industrial or manufacturing plant from one area of the State to another area of the State nor an abandonment of one or more plants of the Company located in the State, or (b) is reasonably necessary to discourage the Company from removing such other plant or facility to a location outside the State, or is reasonably necessary to preserve the competitive position of the Company in its industry and is an inducement to the Company to maintain and expand the Facility within the Town of Brookhaven.

ARTICLE III

FACILITY SITE AND TITLE INSURANCE

Section 3.1 Agreement to Convey to Agency. The Company has previously conveyed to the Agency (i) good and marketable title to the Land, including any buildings,

structures or other improvements thereon, and (ii) fee interest in the Equipment, in each case except for Permitted Encumbrances, and conveyed to the Agency fee interest in the Equipment and Improvements acquired after the date hereof.

Section 3.2 Title Insurance. The Company (i) has previously obtained a fee title insurance policy for the benefit of the Agency insuring title to the Land and the Improvements, and (ii) has obtained or will obtain a mortgage title insurance policy for the benefit of the Lender insuring the Lien of the Mortgage on the Land and the Improvements, in each case in an amount equal to the fair market value of the Land and the Improvements, and in each case except for Permitted Encumbrances.

Section 3.3 Subordination of Lease Agreement. This Lease Agreement and any and all modifications, amendments, renewals and extensions hereof is subject and subordinate to the Mortgage and to any and all modifications, amendments, consolidations, extensions, renewals, replacements and increases thereof.

Section 3.4 Public Authorities Law Representations. The parties hereto hereby acknowledge that the Facility and the interest therein to be conveyed by this Lease Agreement is not "Property" as defined in Article 9, Title 5-A of the Public Authorities Law of the State because the Facility and the interests therein are securing a loan or other financial obligation of the Company. It is hereby acknowledged that the Facility and the interests therein pursuant to this Lease Agreement have been pledged to secure the Loan to the Company from the Lender. The Facility and the interests therein further secure the Company's obligations to the Agency under the PILOT Agreement, the Environmental Compliance and Indemnification Agreement and this Lease Agreement, including the Company's obligation to acquire, construct, equip and maintain the Facility on behalf of the Agency and the Company's obligation to indemnify and hold harmless the Agency.

ARTICLE IV

ACQUISITION, CONSTRUCTION AND EQUIPPING OF FACILITY; MAKING OF THE LOAN

Section 4.1 Acquisition, Construction and Equipping of Facility.

(a) The Company, on behalf of the Agency, acquired, constructed and equipped the Facility in accordance with the Plans and Specifications.

(b) The Company may revise the Plans and Specifications from time to time with the written approval of the Lender, which approval may not be unreasonably withheld or delayed but which may be subject to such conditions as the Lender may deem appropriate.

(c) Title to all materials, equipment, machinery and other items of Property incorporated or installed in the Facility have previously vested in the Agency upon the Company's obtaining an interest in or to the materials, equipment, machinery and other items of Property. The Company has executed, delivered and recorded or filed all instruments necessary or appropriate to so vest title or continue title to such Property in the Agency and

shall take all action necessary or appropriate to protect such title against claims of any third Persons.

(d) The Agency previously appointed the Company and the Sublessee its true and lawful agents, and the Company and the Sublessee previously accepted such agency appointment (i) to acquire, construct and equip the Facility in accordance with the Plans and Specifications, and to maintain, repair and replace the Facility and any components thereof for the term of this Agreement, (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other Persons, and in general to do all things which may be requisite or proper, all for constructing the Improvements and acquiring and installing the Equipment with the same powers and with the same validity as the Agency could do if acting on its own behalf, (iii) to pay all fees, costs and expenses incurred in the construction of the Improvements and the acquisition and installation of the Equipment from funds made available therefor in accordance with this Lease Agreement, (iv) to ask, demand, sue for, levy, recover and receive all such sums of money, debts, dues and other demands whatsoever which may be due, owing and payable to the Agency under the terms of any contract, order, receipt or writing in connection with construction and completion of the Improvements and the acquisition and installation of the Equipment, and (v) to enforce the provisions of any contract, agreement, obligation, bond or other performance security. This agency appointment expressly excluded the Company and the Sublessee from purchasing as agent of the Agency, motor vehicles, including any cars, trucks, vans or buses which are licensed by the Department of Motor Vehicles for use on public highways or streets.

(e) The Agency shall enter into, and accept the assignment of, such contracts as the Company may request in order to effectuate the purposes of this Section 4.1.

(f) The Company and the Sublessee, as agents for the Agency, complied with all provisions of the Labor Law, the Executive Law and the Civil Rights Law of the State applicable to the acquisition, construction, equipping, maintaining, repairing and replacing of the Facility and shall include in all future construction contracts for any future renovation or repairs of the Facility all provisions which may be required to be inserted therein by such provisions. The Company shall comply with the relevant policies of the Agency with respect to such laws, which are set forth as Exhibit C attached hereto. Except as provided in the preceding two sentences, the provisions of this subsection do not create any obligations or duties not created by applicable law outside of the terms of this Lease Agreement. Except as provided in the preceding two sentences, the provisions of this subsection do not create any obligations or duties not created by applicable law outside of the terms of this Lease Agreement.

Section 4.2 Making of the Loans; Disbursement of Loan Proceeds. The Lender has proposed to make the Loan to the Company and the Loan Proceeds shall be disbursed to the Company in accordance with the Loan Documents.

Section 4.3 Certificates of Completion. To establish the Completion Date, the Company previously delivered to the Agency a certificate signed by an Authorized Representative of the Company stating that (a) the acquisition, construction and equipping of the Facility had been completed in accordance with the Plans and Specifications therefor, and

(b) the payment of all labor, services, materials and supplies used in such acquisition, construction and equipping had been made or provided for.

Section 4.4 Remedies to be Pursued Against Contractors, Subcontractors, Materialmen and their Sureties. In the event of a default by any contractor, subcontractor, materialman or other Person under any contract made by it in connection with the Facility, or in the event of a breach of warranty or other liability with respect to any materials, workmanship or performance guaranty, the Company at its expense, either separately or in conjunction with others, may pursue any and all remedies available to it and the Agency, as appropriate, against the contractor, subcontractor, materialman or other Person so in default and against any surety for the performance of such contract. The Company, in its own name or in the name of the Agency, may prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, materialman or surety or other Person which the Company deems reasonably necessary, and in such event the Agency, at the Company's expense, hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the Agency in any such action or proceeding.

ARTICLE V

DEMISING CLAUSES AND RENTAL PROVISIONS

Section 5.1 Demise of Facility. The Agency hereby leases the Facility, consisting of the Land as particularly described in Exhibit A attached hereto, the Improvements and the Equipment as particularly described in Exhibit B attached hereto, to the Company and the Company hereby takes the Facility from the Agency upon the terms and conditions of this Lease Agreement.

Section 5.2 Duration of Lease Term; Quiet Enjoyment.

(a) The Agency shall deliver to the Company sole and exclusive possession of the Facility (subject to Sections 3.3, 8.3 and 10.2 hereof) and the leasehold estate created hereby shall commence on the Closing Date and the Company shall accept possession of the Facility on the Closing Date.

(b) Except as provided in Section 10.2 hereof, the leasehold estate created hereby shall terminate at 11:59 p.m. EST (Eastern Standard Time) on November 30, 2023, or on such earlier date as may be permitted by Section 11.1 hereof; provided, however, that, except as provided in Section 10.2 and Article XI hereof, in the event that this Lease Agreement shall be terminated before the Loan shall have been paid in full or provision for such full payment shall have been made, then the Agency shall reconvey title to the Facility to the Company subject to the Lien of the Mortgage and subject to any other Liens recorded against the Facility in favor of the Lender or securing the Loans.

(c) Except as provided in Sections 3.3, 8.3 and 10.2 hereof, the Agency shall neither take nor suffer or permit any action to prevent the Company during the Lease Term from having quiet and peaceable possession and enjoyment of the Facility and will, at the request of the Company and at the Company's cost, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Facility as hereinabove provided.

Section 5.3 Rents and Other Amounts Payable.

(a) The Company shall pay basic rent for the Facility as follows: One Dollar (\$1.00) per year commencing on the Closing Date and on each January 1 thereafter during the term of this Lease Agreement.

(b) In addition to the payments of rent pursuant to Section 5.3(a) hereof, throughout the Lease Term, the Company shall pay to the Agency as additional rent, within ten (10) days of receipt of demand therefor, the expenses of the Agency and the members thereof incurred (i) by reason of the Agency's ownership or leasing of the Facility, or (ii) in connection with the carrying out of the Agency's duties and obligations under the Agency Documents, the payment of which is not otherwise provided for under this Lease Agreement. The foregoing shall not be deemed to include any annual or continuing administrative or management fee beyond any initial administrative fee or fee for services rendered by the Agency.

(c) The Company, under the provisions of this Section 5.3, agrees to make the above-mentioned payments in immediately available funds and without any further notice in lawful money of the United States of America. In the event the Company shall fail timely to make any payment required in Section 5.3(a) or 5.3(b), the Company shall pay the same together with interest on such payment at a rate equal to two percent (2%) plus the Prime Rate, but in no event at a rate higher than the maximum lawful prevailing rate, from the date on which such payment was due until and including the date on which such payment is made.

Section 5.4 Obligations of Company Hereunder Unconditional. The obligations of the Company to make the payments required in Section 5.3 hereof, and to perform and observe any and all of the other covenants and agreements on its part contained herein, shall be a general obligation of the Company, and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it may otherwise have against the Agency. The Company agrees it will not (i) suspend, discontinue or abate any payment required hereunder, or (ii) fail to observe any of its other covenants or agreements in this Lease Agreement. Subject to the foregoing provisions, nothing contained in this Section shall be construed to release the Agency from the performance of any of the agreements on its part contained in this Lease Agreement or to affect the right of the Company to seek reimbursement, and in the event the Agency should fail to perform any such agreement, the Company may institute such separate action against the Agency as the Company may deem necessary to compel performance or recover damages for non-performance, and the Agency covenants that it will not, subject to the provisions of Sections 3.3 and 8.3 and Article X hereof, take, suffer or permit any action which will adversely affect, or create any defect in,

its title to the Facility or which will otherwise adversely affect the rights or estate of the Company hereunder, except upon written consent of the Company.

Section 5.5 Payment of Additional Moneys in Prepayment of Loan. In addition to any other moneys required or permitted to be paid pursuant to this Lease Agreement, the Company may, subject to the terms of the Notes, pay moneys to the Lender to be used for the prepayment of the Loan at such time or times and on such terms and conditions as are provided in the Notes.

Section 5.6 Rights and Obligations of the Company upon Prepayment of Loan. In the event the Loans shall have been paid in full prior to the termination date specified in Section 5.2(b) hereof (i) all references in this Lease Agreement to the Lender, the Notes and the Mortgage shall be ineffective, and (ii) the Company shall be entitled, at its option, to the exclusive use, occupancy and enjoyment of the Facility from the date of such payment until the scheduled expiration of the Lease Term, on all of the terms and conditions hereof, except that the Company shall not be required to carry any insurance for the benefit of the Lender, or the Company may, at its option, require the Agency to convey the Facility to the Company pursuant to the terms of Section 11.3 hereof. In the event of any such payment or the making of any such provision, the Agency, at the sole cost of the Company, shall obtain and record or file appropriate discharges or releases of the Mortgage and any other security interest relating to the Facility or this Lease Agreement.

ARTICLE VI

MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

Section 6.1 Maintenance and Modifications of Facility by Company.

(a) The Company shall not abandon the Facility or cause or permit any waste to the Improvements. During the Lease Term, the Company shall not remove any part of the Facility outside of the jurisdiction of the Agency and shall (i) keep the Facility in as reasonably safe condition as its operations shall permit; (ii) make all necessary repairs and replacements to the Facility (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen); and (iii) operate the Facility in a sound and economic manner.

(b) With the written consent of the Agency and the Lender, which shall not be unreasonably withheld, the Company from time to time may make any structural additions, modifications or improvements to the Facility or any part thereof, provided such actions do not adversely affect the structural integrity of the Facility. All such additions, modifications or improvements made by the Company shall become a part of the Facility and the Property of the Agency. The Company agrees to deliver to the Agency all documents which may be necessary or appropriate to convey to the Agency title to such Property and to perfect or protect the lien of the Mortgage.

Section 6.2 Installation of Additional Equipment. Subject to the provisions of Section 8.10 hereof, the Company or any permitted sublessee of the Company from time to time may install additional machinery, equipment or other personal property in the Facility

(which may be attached or affixed to the Facility), and such machinery, equipment or other personal property shall not become, or be deemed to become, a part of the Facility. The Company from time to time may create or permit to be created any Lien on such machinery, equipment or other personal property. Further, the Company from time to time may remove or permit the removal of such machinery, equipment and other personal property from the Facility, provided that any such removal of such machinery, equipment or other personal property shall not occur (i) if any Event of Default has occurred; or (ii) if any such removal shall adversely affect the structural integrity of the Facility or impair the overall operating efficiency of the Facility for the purposes for which it is intended, and provided further, that if any damage is occasioned to the Facility by such removal, the Company agrees promptly to repair such damage at its own expense.

Section 6.3 Taxes, Assessments and Utility Charges.

(a) The Company agrees to pay, as the same become due and before any fine, penalty, interest (except interest which is payable in connection with legally permissible installment payments) or other cost may be added thereto or become due or be imposed by operation of law for the non-payment thereof, (i) all taxes, payments in lieu of taxes and governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to the Facility and any machinery, equipment or other Property installed or brought by the Company therein or thereon, including, without limiting the generality of the foregoing, any sales or use taxes imposed with respect to the Facility or any part or component thereof, or the rental or sale of the Facility or any part thereof, and any taxes levied upon or with respect to the income or revenues of the Agency from the Facility; (ii) all utility and other charges, including service charges, incurred or imposed for or with respect to the operation, maintenance, use, occupancy, upkeep and improvement of the Facility; (iii) all assessments and charges of any kind whatsoever lawfully made by any governmental body for public improvements; and (iv) all payments under the PILOT Agreement; provided that, with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Company shall be obligated under this Lease Agreement to pay only such installments as are required to be paid during the Lease Term.

(b) The Company may in good faith contest any such taxes, assessments and other charges. In the event of any such proceedings, the Company may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such proceedings and any appeal therefrom, provided, however, that (i) neither the Facility nor any part thereof or interest therein would be in any immediate danger of being sold, forfeited or lost by reason of such proceedings, and (ii) the Company shall have set aside on its books adequate reserves with respect thereto and shall have furnished such security, if any, as may be required in such proceedings or requested by the Agency or the Lender.

(c) The Agency agrees that if it or the Company contests any taxes, assessments or other charges provided for in paragraph (b) hereof, all sums returned, as a result thereof, will be promptly transmitted by the Agency to the Company and that the Company shall be entitled to retain all such amounts.

(d) Within thirty (30) days of receipt of written request therefor, the Company shall deliver to the Agency and the Lender official receipts of the appropriate taxing authorities or other proof reasonably satisfactory to the Agency and the Lender evidencing payment of any tax.

Section 6.4 Insurance Required. At all times throughout the Lease Term, including, when indicated herein, during the Construction Period, the Company shall, at its sole cost and expense, maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type and shall pay, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(a) Insurance against loss or damage by fire, lightning and other casualties customarily insured against, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the completed Improvements, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Company, but in no event less than the principal amount of the Loan. During the Construction Period, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" and shall contain a provision granting the insured permission to complete and/or occupy.

(b) Workers' compensation insurance, disability benefits insurance and each other form of insurance which the Company or any permitted sublessee is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company or any permitted sublessee who are located at or assigned to the Facility. This coverage shall be in effect from and after the Completion Date or on such earlier date as any employees of the Company, any permitted sublessee, or any contractor or subcontractor first occupy the Facility.

(c) Insurance protecting the Agency and the Company against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 8.2 hereof) or arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or other occurrence, with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage); comprehensive automobile liability insurance covering all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit or equivalent for personal injury, including bodily injury or death, and property damage); and blanket excess liability coverage, in an amount not less than \$5,000,000 combined single limit or equivalent, protecting the Agency and the Company against any loss or liability or damage for personal injury, including bodily injury or death, or property damage. This coverage shall also be in effect during the Construction Period.

(d) During the Construction Period (and for at least one year thereafter in the case of Products and Completed Operations as set forth below), the Company shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

- (i) Workers' compensation and employer's liability with limits in accordance with applicable law.
- (ii) Comprehensive general liability providing coverage for:
 - Premises and Operations
 - Products and Completed Operations
 - Owners Protective
 - Contractors Protective
 - Contractual Liability
 - Personal Injury Liability
 - Broad Form Property Damage
(including completed operations)
 - Explosion Hazard
 - Collapse Hazard
 - Underground Property Damage Hazard

Such insurance shall have a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

- (iii) Comprehensive auto liability, including all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).
- (iv) Excess "umbrella" liability providing liability insurance in excess of the coverages in (i), (ii) and (iii) above with a limit of not less than \$5,000,000.

(e) A policy or policies of flood insurance in an amount not less than the principal amount of the Loan or the maximum amount of flood insurance available with respect to the Facility under the Flood Disaster Protection Act of 1973, as amended, whichever is less. This requirement will be waived upon presentation of evidence satisfactory to the Lender that no portion of the Land is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards.

Section 6.5 Additional Provisions Respecting Insurance.

(a) All insurance required by Section 6.4 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State. The company issuing the policies required by Section 6.4(a) shall be rated "A" or better by A.M. Best Co., Inc. in Best's Key Rating Guide. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All policies evidencing the insurance required by

Sections 6.4(a) hereof shall contain a standard New York non-contributory mortgagee clause showing the interest of the Lender and shall provide for payment to the Lender of the Net Proceeds of insurance resulting from any claim for loss or damage thereunder, and all policies of insurance required by Section 6.4 hereof shall provide for at least thirty (30) days prior written notice of the restriction, cancellation or modification thereof to the Agency and the Lender. The policy evidencing the insurance required by Section 6.4(c) hereof shall name the Agency and the Lender as additional insureds. All policies evidencing the insurance required by Sections 6.4(d)(ii), (iii) and (iv) shall name the Agency and the Company as additional insureds. The Company acknowledges that mortgage and security interests in the policies of insurance required by Section 6.4(a) and the Net Proceeds thereof have been or may be granted by the Agency to the Lender pursuant to the Mortgage and the Company consents thereto. Upon request of the Lender, the Company will assign and deliver (which assignment shall be deemed to be automatic and to have occurred upon the occurrence of an Event of Default under the Mortgage) to the Lender, the policies of insurance required under Section 6.4(a), so and in such manner and form that the Lender shall at all times, upon such request and until the payment in full of the Loans, have and hold said policies and the Net Proceeds thereof, as collateral and further security under the Mortgage for the payment of the Loans. The policies under Section 6.4(a) shall contain appropriate waivers of subrogation.

(b) The policies (or certificates and binders) of insurance required by Sections 6.4(a) and (e) hereof shall be deposited with the Lender on or before the Closing Date. A copy of the policy (or certificates and binders) of insurance required by Section 6.4(c) hereof shall be delivered to the Agency on or before the Closing Date. A copy of the policies (or certificates and binders) of insurance required by Sections 6.4(d)(ii), (iii) and (iv) hereof shall be delivered to the Agency on or before the Closing Date. The Company shall deliver to the Agency and the Lender before the first Business Day of each calendar year thereafter a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance of the types and in the amounts required by Section 6.4 hereof and complying with the additional requirements of Section 6.5(a) hereof. Prior to the expiration of each such policy or policies, the Company shall furnish to the Agency and any other appropriate Person a new policy or policies of insurance or evidence that such policy or policies have been renewed or replaced or are no longer required by this Lease Agreement. The Company shall provide such further information with respect to the insurance coverage required by this Lease Agreement as the Agency and the Lender may from time to time reasonably require.

Section 6.6 Application of Net Proceeds of Insurance. The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.4 hereof shall be applied as follows: (i) the Net Proceeds of the insurance required by Sections 6.4(a) and (e) hereof shall be applied as provided in Section 7.1 hereof, and (ii) the Net Proceeds of the insurance required by Sections 6.4(b), (c), and (d) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

Section 6.7 Right of Bank to Pay Taxes, Insurance Premiums and Other Charges. If the Company fails (i) to pay any tax, together with any fine, penalty, interest or cost which may have been added thereto or become due or been imposed by operation of law for nonpayment thereof, payments in lieu of taxes pursuant to the PILOT Agreement, assessment or other governmental charge required to be paid by Section 6.3 hereof, (ii) to maintain any insurance required to be maintained by Section 6.4 hereof, (iii) to pay any amount required to be paid by any law or ordinance relating to the use or occupancy of the Facility or by any requirement, order or notice of violation thereof issued by any governmental person, (iv) to pay any mechanic's Lien which is recorded or filed against the Facility or any part thereof (unless contested in accordance with the provisions of Section 8.9(b) hereof), or (v) to pay any other amount or perform any act hereunder required to be paid or performed by the Company, the Agency or the Lender may pay or cause to be paid such tax, payments in lieu of taxes pursuant to the PILOT Agreement, assessment or other governmental charge or the premium for such insurance or any such other payment or may perform any such act. No such payment shall be made or act performed by the Agency or the Lender until at least ten (10) days shall have elapsed since notice shall have been given by the Lender to the Agency, with a copy of such notice being given to the Company (or by the Agency to the Company and the Lender), and in the case of any tax, assessment or governmental charge or the amounts specified in clauses (iii) and (iv) hereof, no such payment shall be made in any event if the Company is contesting the same in good faith to the extent and as permitted by this Lease Agreement unless an Event of Default hereunder shall have occurred and be continuing. No such payment by the Agency or the Lender shall affect or impair any rights of the Agency hereunder or of the Lender under the Mortgage arising in consequence of such failure by the Company. The Company shall, on demand, reimburse the Agency or the Lender for any amount so paid or for expenses or costs incurred in the performance of any such act by the Agency or the Lender pursuant to this Section (which shall include all reasonable legal fees and disbursements), together with interest thereon from the date of payment of such amount, expense or cost by the Agency or the Lender at one percent (1%) in excess of the rate set forth in the Note, and such amount, together with such interest, shall become additional indebtedness secured by the Mortgage.

ARTICLE VII

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1 Damage or Destruction of the Facility.

(a) If the Facility or any part or component thereof shall be damaged or destroyed (in whole or in part) at any time during the Lease Term:

- (i) the Agency shall have no obligation to replace, repair, rebuild, restore or relocate the Facility; and
- (ii) there shall be no abatement or reduction in the amounts payable by the Company under this Lease Agreement or the PILOT Agreement (whether or not the Facility is replaced, repaired, rebuilt, restored or relocated); and

- (iii) the Company shall promptly give written notice thereof to the Agency and the Lender; and
- (iv) upon the occurrence of such damage or destruction, the Net Proceeds derived from the insurance shall be paid to the Lender and except as otherwise provided in Section 11.1 and subsection (d) hereof, applied by the Lender pursuant to the terms of the Mortgage; and
- (v) if the Facility is not replaced, repaired, rebuilt, restored or relocated, as provided herein and in Section 7.1(b) hereof, this Lease Agreement shall be terminated at the option of the Agency and the provisions either of Sections 11.2, 11.3 and 11.4 hereof or Section 7.1(f) hereof shall apply.

(b) Any such replacements, repairs, rebuilding, restorations or relocations of the Facility by the Company after the occurrence of such damage or destruction shall be subject to the following conditions:

- (i) the Facility shall be in substantially the same condition and value as an operating entity as existed prior to the damage or destruction; and
- (ii) the Facility shall continue to constitute a "project" as such term is defined in the Act; and
- (iii) the Facility will be subject to no Liens, other than Permitted Encumbrances; and
- (iv) any other conditions the Lender may reasonably impose.

(c) All such repair, replacement, rebuilding, restoration or relocation of the Facility shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements, shall be promptly and fully paid for by the Company in accordance with the terms of the applicable contracts, and shall automatically become a part of the Facility as if the same were specifically described herein.

(d) If the Company shall exercise its option to terminate this Lease Agreement pursuant to Section 11.1 hereof, the Net Proceeds derived from such insurance shall be applied to the payment of the amounts required to be paid by Section 11.2 hereof. If an Event of Default hereunder shall have occurred and the Lender shall have exercised its remedies under Section 10.2 hereof, such Net Proceeds shall be applied to the payment of the amounts required to be paid by Section 10.2 and Section 10.4 hereof.

(e) If the entire amount of the Loans and interest thereon has been fully paid, all such remaining Net Proceeds shall be retained by the Company.

(f) If the Facility has been substantially damaged or destroyed and is not replaced, repaired, rebuilt, restored or relocated, the Facility will be reconveyed to the Company subject to the Mortgage.

Section 7.2 Condemnation.

(a) If title to or use of the Facility shall be taken by Condemnation (in whole or in part) at any time during the Lease Term:

- (i) the Agency shall have no obligation to replace, repair, rebuild, restore or relocate the Facility or acquire, by construction or otherwise, facilities of substantially the same nature as the Facility ("Substitute Facilities"); and
- (ii) there shall be no abatement or reduction in the amounts payable by the Company under this Lease Agreement or the PILOT Agreement (whether or not the Facility is replaced, repaired, rebuilt, restored or relocated or Substitute Facilities acquired); and
- (iii) the Company shall promptly give written notice thereof to the Agency and the Lender; and
- (iv) upon the occurrence of such Condemnation, the Net Proceeds derived therefrom shall be paid to the Lender except as otherwise provided in Section 11.1 and subsection (d) hereof, applied by the Lender pursuant to the terms of the Mortgage; and
- (v) if the Facility is not replaced, repaired, rebuilt, restored or relocated or Substitute Facilities acquired, as provided herein and in Section 7.2(b) hereof, this Lease Agreement shall be terminated at the option of the Agency and the provisions of Sections 11.2, 11.3 and 11.4 hereof or of Section 7.2(f) hereof shall apply.

(b) Any replacements, repairs, rebuilding, restorations or relocations of the Facility or acquisitions of Substitute Facilities by the Company after the occurrence of such Condemnation shall be subject to the following conditions:

- (i) the Facility or the Substitute Facilities shall be in substantially the same condition and value as an operating entity as existed prior to the Condemnation;
- (ii) the Facility or the Substitute Facilities shall continue to constitute a "project" as such term is defined in the Act;
- (iii) the Facility or the Substitute Facilities will be subject to no Liens, other than Permitted Encumbrances; and
- (iv) any other conditions the Lender may reasonably impose.

(c) All such repair, replacement, rebuilding, restoration or relocation of the Facility or acquisition of Substitute Facilities shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements, shall be

promptly and fully paid for by the Company in accordance with the terms of the applicable contracts, and shall automatically become a part of the Facility as if the same were specifically described herein. Any balance of the Net Proceeds from such condemnation remaining after payment of all costs of replacement, repair, rebuilding, restoration, relocation or acquisition of Substitute Facilities shall be retained by the Company.

(d) Except upon the occurrence of an Event of Default, the Company shall have the right to settle and adjust all claims under any Condemnation proceedings on behalf of the Agency and on its own behalf.

(e) If the Company shall exercise its option to terminate this Lease Agreement pursuant to Section 11.1 hereof, the Net Proceeds from such Condemnation shall be applied to the payment of the amounts required to be paid by Section 11.2 hereof and any balance remaining thereafter shall be retained by the Company. If an Event of Default hereunder shall have occurred and the Lender shall have exercised its remedies under Section 10.2 hereof, such Net Proceeds shall be applied to the payment of the amounts required to be paid by Section 10.2 and Section 10.4 hereof.

(f) If the entire amount of the Loan and interest thereon has been fully paid, all such remaining Net Proceeds shall be paid to the Company.

(g) If the Facility has been substantially condemned and is not replaced, repaired, rebuilt, restored or relocated or if a Substitute Facility is not acquired, constructed and equipped, the Facility will be reconveyed to the Company subject to the Mortgage.

Section 7.3 Condemnation of Company-Owned Property. The Company shall be entitled to the proceeds of any Condemnation award or portion thereof made for damage to or taking of any Property which, at the time of such damage or taking, is not part of the Facility.

Section 7.4 Waiver of Real Property Law Section 227. The Company hereby waives the provisions of Section 227 of the Real Property Law of the State or any law of like import now or hereafter in effect.

ARTICLE VIII

SPECIAL COVENANTS

Section 8.1 No Warranty of Condition or Suitability by Agency. THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF, OR TITLE TO, THE FACILITY OR THAT IT IS OR WILL BE SUITABLE FOR THE COMPANY'S PURPOSES OR NEEDS.

Section 8.2 Hold Harmless Provisions.

(a) The Company agrees that the Agency, its directors, members, officers, agents (except the Company) and employees shall not be liable for and agrees to defend, indemnify, release and hold the Agency, its directors, members, officers, agents (except the Company) and employees harmless from and against any and all (i) liability for loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Facility or the Land, or (ii) liability arising from or expense incurred by the Agency's acquiring, constructing, equipping, owning and leasing of the Facility, including without limiting the generality of the foregoing all claims arising from the breach by the Company of any of its covenants contained herein, the exercise by the Company of the authority conferred upon it pursuant to Section 4.1(d) of this Lease Agreement and all causes of action and attorneys' fees (whether by reason of third party claims or by reason of the enforcement of any provision of this Lease Agreement (including without limitation this Section) or any of the other documents delivered on the Closing Date by the Agency) and any other expenses incurred in defending any claims, suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Agency are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Agency or any of its directors, members, agents (except the Company) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency, or any of its members, directors, officers, agents or employees, and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law, and upon the application of any such prohibition by the final judgment or decision of a competent court of law, the remaining provisions of these indemnities shall remain in full force and effect.

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

(c) In the event of any claim against the Agency or its respective members, directors, officers, agents or employees by any employee or contractor of the Company or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, disability benefits or other employee benefit acts.

Section 8.3 Right to Inspect Facility. The Agency and the Lender and the duly authorized agents of either of them shall have the right at all reasonable times to inspect the Facility upon delivery of prior written notice to the Company and the Sublessee.

Section 8.4 Company to Maintain Its Existence. The Company agrees that during the Lease Term it will maintain its existence and will not dissolve, liquidate or otherwise dispose of substantially all of its assets, will not consolidate with or merge into another entity or permit one or more entities to consolidate with or merge into it.

Section 8.5 Qualification in State. The Company agrees that throughout the Lease Term it shall continue to be duly authorized to do business in the State.

Section 8.6 Agreement to File Annual Statements and Provide Information. The Company shall file with the New York State Department of Taxation and Finance an annual statement of the value of all sales and use tax exemptions claimed in connection with the Facility in compliance with Sections 874(8) and (9) of the New York State General Municipal Law. The Company shall submit a copy of such annual statement to the Agency at the time of filing with the Department of Taxation and Finance. The Company further agrees whenever requested by the Agency to provide and certify or cause to be provided and certified such information concerning the Company, its finances, its operations, its employment and its affairs necessary to enable the Agency to make any report required by law, governmental regulation, including, without limitation, any reports required by the Act, the Public Authorities Accountability Act of 2005 or the Public Authorities Reform Act of 2009, as amended from time to time, or any of the Agency Documents or Company Documents. Such information shall be provided within thirty (30) days following written request from the Agency.

Section 8.7 Books of Record and Account; Financial Statements. The Company at all times agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all transactions and events relating to the business and affairs of the Company. The Company shall furnish to the Agency and to the Lender, within thirty (30) days of their filing, copies of all reports, if any, filed with the Securities and Exchange Commission, pursuant to the Securities Exchange Act of 1934, as amended, relative to the Company.

Section 8.8 Compliance With Orders, Ordinances, Etc.

(a) The Company, throughout the Lease Term, agrees that it will promptly comply, and cause any sublessee or occupant of the Facility to comply, with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof or to the acquisition, construction and equipping thereof, or to any use, manner of use or condition of the Facility or any part thereof, of all federal, state, county, municipal and other governments, departments, commissions, boards, courts, authorities, officials and officers having jurisdiction of the Facility or any part thereof, or to the acquisition, construction and equipping thereof, or to any use, manner of use or condition of the Facility or any part thereof or of companies or associations insuring the premises.

(b) The Company shall keep or cause the Facility to be kept free of Hazardous Substances. Without limiting the foregoing, the Company shall not cause or permit the

Facility to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Substances, except in compliance with all applicable federal, state and local laws or regulations, nor shall the Company cause or permit, as a result of any intentional or unintentional act or omission on the part of the Company or any contractor, subcontractor, tenant or subtenant, a release of Hazardous Substances onto the Facility or onto any other property. The Company shall comply with and ensure compliance by all contractors, subcontractors, tenants and subtenants with all applicable federal, state and local laws, ordinances, rules and regulations, whenever and by whomever triggered, and shall obtain and comply with, and ensure that all contractors, subcontractors, tenants and subtenants obtain and comply with, any and all approvals, registrations or permits required thereunder. The Company shall (i) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Substances, on, from or affecting the Facility (A) in accordance with all applicable federal, state and local laws, ordinances, rules, regulations and policies, (B) to the satisfaction of the Lender and the Agency, and (C) in accordance with the orders and directives of all federal, state and local governmental authorities; and (ii) defend, indemnify and hold harmless the Lender and the Agency, their employees, agents, officers, members and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to (A) the presence, disposal, release or threatened release of any Hazardous Substances which are on, from or affecting the soil, water, vegetation, buildings, personal property, persons, animals or otherwise, (B) any bodily injury, personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Substances, (C) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Substances, and/or (D) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of the Lender and the Agency, which are based upon or in any way related to such Hazardous Substances, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses. In the event the Mortgage is foreclosed, or the Company tenders a deed in lieu of foreclosure, the Company shall deliver the Facility free of any and all Hazardous Substances so that the condition of the Facility shall conform with all applicable federal, state and local laws, ordinances, rules or regulations affecting the Facility. The provisions of this Section shall be in addition to any and all other obligations and liabilities the Company may have to the Agency and the Lender at common law, and shall survive the transactions contemplated herein.

(c) Notwithstanding the provisions of subsections (a) and (b) hereof, the Company may in good faith contest the validity or the applicability of any requirement of the nature referred to in such subsections (a) and (b) by appropriate legal proceedings conducted in good faith and with due diligence. In such event, the Company may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom, unless the Agency or the Lender shall notify the Company that by failure to comply with such requirement or requirements, the lien of the Mortgage as to any part of the Facility may be materially endangered or the Facility or any part thereof may be subject to loss (including loss of value), penalty or forfeiture, in which event the Company shall

promptly take such action with respect thereto or provide such security as shall be satisfactory to the Lender and to the Agency. If at any time the then existing use or occupancy of the Facility shall, pursuant to any zoning or other law, ordinance or regulation, be permitted only so long as such use or occupancy shall continue, the Company shall use its best efforts not to cause or permit such use or occupancy to be discontinued without the prior written consent of the Agency and the Lender.

(d) Notwithstanding the provisions of this Section 8.8, if, because of a breach or violation of the provisions of subsections (a) or (b) hereof (without giving effect to subsection (c) hereof), either the Agency, the Lender or any of their respective members, directors, officers, agents or employees shall be threatened with a fine, liability, expense or imprisonment, then, upon notice from the Agency or the Lender, the Company shall immediately provide legal protection and/or pay amounts necessary in the opinion of the Agency or the Lender, as the case may be, and their respective members, directors, officers, agents and employees, to the extent permitted by applicable law, to remove the threat of such fine, liability, expense or imprisonment.

(e) Notwithstanding any provisions of this Section, the Lender and the Agency each retain the right to defend themselves in any action or actions which are based upon or in any way related to such Hazardous Substances. In any such defense of themselves, the Lender and the Agency shall each select their own counsel, and any and all costs of such defense, including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs and litigation expenses, shall be paid by the Company.

Section 8.9 Discharge of Liens and Encumbrances.

(a) The Company, throughout the Lease Term, shall not permit or create or suffer to be permitted or created any Lien, except for Permitted Encumbrances, upon the Facility or any part thereof by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied with respect to the Facility or any part thereof.

(b) Notwithstanding the provisions of subsection (a) hereof, the Company may in good faith contest any such Lien. In such event, the Company may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Agency or the Lender shall notify the Company that by nonpayment of any such item or items, the lien of the Mortgage may be materially endangered or the Facility or any part thereof may be subject to loss (including loss of value) or forfeiture, in which event the Company shall promptly secure payment of all such unpaid items by filing a bond, in form and substance satisfactory to the Lender and the Agency, thereby causing such Lien to be removed or by taking such other actions as may be satisfactory to the Lender and the Agency to protect their respective interests. Mechanics' Liens shall be discharged or bonded within sixty (60) days of the filing or perfection thereof.

Section 8.10 Identification of Equipment. All Equipment which is or may become the Property of the Agency pursuant to the provisions of this Lease Agreement shall be properly identified by the Company by such appropriate records, including computerized records, as may be approved by the Agency and the Lender. All Equipment and other

Property of whatever nature affixed or attached to the Land or used or to be used by the Company in connection with the Land or the Improvements shall be deemed presumptively to be owned by the Agency, rather than the Company, unless the same were utilized for purposes of construction of the Facility or were installed by the Company and title thereto was retained by the Company as provided in Section 6.2 of this Lease Agreement and such Equipment and other Property were properly identified by such appropriate records as were approved by the Agency and the Lender.

Section 8.11 Depreciation Deductions and Investment Tax Credit. The parties agree that, as between them, the Company shall be entitled to all depreciation deductions with respect to any depreciable property comprising a part of the Facility and to any investment credit with respect to any part of the Facility.

Section 8.12 Employment Opportunities; Notice of Jobs. The Company covenants and agrees that, in consideration of the participation of the Agency in the transactions contemplated herein, it will and/or cause the Sublessee to, except as otherwise provided by collective bargaining contracts or agreements to which it or the Sublessee are a party, cause any new employment opportunities created in connection with the Facility to 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 Facility is located (collectively, the “**Referral Agencies**”). The Company also agrees that it will and/or cause the Sublessee to, except as otherwise provided by collective bargaining contracts or agreements to which it or the Sublessee are a party, 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.

ARTICLE IX

RELEASE OF CERTAIN LAND; ASSIGNMENTS AND SUBLEASING; MORTGAGE AND PLEDGE OF INTERESTS

Section 9.1 Restriction on Sale of Facility; Release of Certain Land.

(a) Except as otherwise specifically provided in this Article IX and in Article X hereof, the Agency shall not sell, convey, transfer, encumber or otherwise dispose of the Facility or any part thereof or any of its rights under this Lease Agreement without the prior written consent of the Company and the Lender. The Agency consents to the Sublease Agreement.

(b) With the prior written consent of the Lender (which consent may not be unreasonably withheld but may be subject to such reasonable conditions as the Lender may deem appropriate), the Agency and the Company from time to time may release from the provisions of this Lease Agreement and the leasehold estate created hereby any part of, or interest in, the Land which is not necessary, desirable or useful for the Facility. In such event, the Agency, at the Company’s sole cost and expense, shall execute and deliver, and request the Lender to execute and deliver, any and all instruments necessary or appropriate so

to release such part of, or interest in, the Land and convey such title thereto or interest therein, free from the Lien of the Mortgage, to the Company or such other Person as the Company may designate. As a condition to such conveyance, the Lender shall be provided with a copy of the instrument transferring such title or interest in such Land, an instrument survey (if the Lender so requests) of the Land to be conveyed, together with a certificate of an Authorized Officer of the Company stating that there is then no Event of Default under this Lease Agreement and that such part of, or interest in, the Land is not necessary, desirable or useful for the Facility.

(c) No conveyance of any part of, or interest in, the Land effected under the provisions of this Section 9.1 shall entitle the Company to any abatement or diminution of the rents payable by it under this Lease Agreement or any abatement or diminution of the amounts payable by it under the PILOT Agreement.

Section 9.2 Removal of Equipment.

(a) The Agency shall not be under any obligation to remove, repair or replace any inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary item of Equipment. In any instance where the Company determines that any item of Equipment has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company, with the prior written consent of the Lender (which consent may not be unreasonably withheld but may be subject to such reasonable conditions as the Lender may deem appropriate), may remove such items from the Facility and may sell, trade-in, exchange or otherwise dispose of the same, as a whole or in part, free from the Lien of the Mortgage, provided that such removal will not materially impair the operation of the Facility for the purpose for which it is intended or change the nature of the Facility so that it does not constitute a "project" under the Act.

(b) The Agency shall execute and deliver to the Company all instruments necessary or appropriate to enable the Company to sell or otherwise dispose of any such item of Equipment. The Company shall pay any costs (including counsel fees) incurred in transferring title to any item of Equipment removed pursuant to this Section 9.2.

(c) The removal of any item of Equipment pursuant to this Section shall not entitle the Company to any abatement or diminution of the rents payable by it under this Lease Agreement or any abatement or diminution of the amounts payable by it under the PILOT Agreement.

Section 9.3 Assignment and Subleasing.

(a) This Lease Agreement may not be assigned, in whole or in part, and the Facility may not be subleased, in whole or in part (except pursuant to the Sublease Agreement), without the prior written consent of the Lender and the Agency in each instance. Any assignment or sublease shall be on the following conditions, as of the time of such assignment or sublease:

- (i) no assignment or sublease shall relieve the Company from primary liability for any of its obligations hereunder, unless agreed to by the Agency;
- (ii) the assignee or sublessee (except in the case of a true sublease in the ordinary course of business) shall assume the obligations of the Company hereunder to the extent of the interest assigned or subleased;
- (iii) the Company shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Agency and to the Lender a true and complete copy of such assignment or sublease and the instrument of assumption;
- (iv) neither the validity nor the enforceability of the Lease Agreement or any of the Loan Documents shall be adversely affected thereby;
- (v) the Facility shall continue to constitute a “project” as such quoted term is defined in the Act; and
- (vi) the sublessee will execute and deliver an agency compliance agreement, in form and substance satisfactory to the Agency.

(b) If the Lender or the Agency shall so request, as of the purported effective date of any assignment or sublease pursuant to subsection (a) of this Section 9.3, the Company at its cost shall furnish the Lender and the Agency with an opinion, in form and substance satisfactory to the Lender and the Agency, (i) of Transaction Counsel as to item (v) above, and (ii) of Independent Counsel as to items (i), (ii) and (iv) above.

Section 9.4 Mortgage and Pledge of Agency’s Interests to Bank. The Agency shall (i) mortgage its interest in the Facility, and (ii) pledge and assign its rights to and interest in this Lease Agreement and in all amounts payable by the Company pursuant to Section 5.3 hereof and all other provisions of this Lease Agreement (other than Unassigned Rights) to the Lender as security for the payment of the principal of and interest on the Loans. The Company hereby acknowledges and consents to such mortgage and pledge and assignment by the Agency. Notwithstanding the foregoing, all indemnities herein contained shall subsequent to such mortgage, pledge and assignment continue to run to the Agency for its benefit as well as for the benefit of the Lender.

Section 9.5 Pledge of Company’s Interest to Bank. The Company shall pledge, assign and mortgage its rights to and interest in this Lease Agreement to the Lender as security for the payment of the principal of and interest on the Loans. The Agency hereby acknowledges and consents to such pledge and assignment by the Company.

Section 9.6 Merger of Agency.

(a) Nothing contained in this Lease Agreement shall prevent the consolidation of the Agency with, or merger of the Agency into, or transfer of title to the entire Facility to, any other public benefit corporation or political subdivision which has the legal authority to own and lease the Facility, provided that upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of this Lease Agreement to be kept and performed by the Agency shall be expressly assumed in writing by the public benefit corporation or political subdivision resulting from such consolidation or surviving such merger or to which the Facility shall be transferred.

(b) Within thirty (30) days after the consummation of any such consolidation, merger or transfer of title, the Agency shall give notice thereof in reasonable detail to the Company and the Lender and shall furnish to the Company and the Lender, at the sole cost and expense of the Company, a favorable opinion of Independent Counsel as to compliance with the provisions of Section 9.6(a) hereof. The Agency promptly shall furnish such additional information with respect to any such transaction as the Company or the Lender may reasonably request.

ARTICLE X

EVENT OF DEFAULT AND REMEDIES

Section 10.1 Event of Default Defined.

(a) The following shall be "Events of Default" under this Lease Agreement:

- (i) the failure by the Company to pay or cause to be paid, on the date due, the amount specified to be paid pursuant to Section 5.3 (a) and (b) hereof, and such failure continues for a period of 10 days after written notice thereof from the Agency to the Company;
- (ii) the failure by the Company to observe and perform any covenant contained in Sections 6.4, 6.5, 8.4, 8.6, 8.12 and 9.3 hereof;
- (iii) the failure by the Company and/or the Sublessee to pay or cause to be paid on the dates due, the amounts specified to be paid pursuant to the PILOT Agreement;
- (iv) the invalidity, illegality or unenforceability of the PILOT Agreement, or the failure due to an action or inaction on the part of the Company and/or the Sublessee to observe and perform any covenant contained in the PILOT Agreement;
- (v) significant employment reductions at the Facility not reflective of the Company's and/or the Sublessee's business cycles and/or local, national and international economic conditions or the failure of the

Company and/or Sublessee to materially fulfill its requirement to create or maintain 135 full time equivalent (“FTE”) employees at the Facility and maintain a total of 175 FTE jobs at all of the Company’s and/or the Sublessee’s locations in the Town of Brookhaven including the Facility, at all times throughout the term of this Lease Agreement and the PILOT Agreement, which is the number of permanent jobs at the Facility indicated in the Company and Sublessees’ application submitted to the Agency (FTE shall mean the number of employees of the Sublessees calculated on a 37.5 hours per week basis);

- (vi) sale or closure of the Facility and/or departure of the Company or the Sublessees from the Town of Brookhaven;
- (vii) any representation or warranty of the Company herein or in any of the Company Documents or the application for financial assistance filed by the Company and the Sublessee with the Agency shall prove to have been false or misleading in any material respect;
- (viii) the failure by the Company to observe and perform any covenant, condition or agreement hereunder on its part to be observed or performed (except obligations referred to in 10.1(a)(i), (ii) and (xi)) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, given to the Company by the Agency or the Lender;
- (ix) the dissolution or liquidation of the Company; or the failure by the Company to release, stay, discharge, lift or bond within thirty (30) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the Company generally to pay its debts as they become due; or an assignment by the Company for the benefit of creditors; or the commencement by the Company (as the debtor) of a case in Bankruptcy or any proceeding under any other insolvency law; or the commencement of a case in Bankruptcy or any proceeding under any other insolvency law against the Company (as the debtor) in which a court having jurisdiction in the premises enters a decree or order for relief against the Company as the debtor in such case or proceeding, or which case or proceeding is consented to by the Company or remains undismissed for forty (40) days, or in which the Company consents to or admits the material allegations against it; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the Company for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors;

- (x) an Event of Default under any of the Mortgage shall have occurred and be continuing;
- (xi) an Event of Default under the Company Documents or the Subleases shall have occurred and be continuing;
- (xii) the invalidity, illegality or unenforceability of any of the Loan Documents;
- (xiii) a breach of any covenant or representation contained in Section 8.8 hereof with respect to environmental matters shall have occurred; or
- (xiv) the breach of any covenant, representation or warranty by the Sublessee under the Agency Compliance Agreement; or
- (xv) an Event Default or a default by the Company or the Sublessee under the Recapture Agreement or the Environmental Compliance and Indemnification Agreement shall have occurred and be continuing.

(b) Notwithstanding the provisions of Section 10.1(a), if by reason of force majeure any party hereto shall be unable in whole or in part to carry out its obligations under Sections 4.1 and 6.1 of this Lease Agreement, and if such party shall give notice and full particulars of such force majeure in writing to the other party and to the Lender within a reasonable time after the occurrence of the event or cause relied upon, such obligations under this Lease Agreement of the party giving such notice (and only such obligations), so far as they are affected by such force majeure, shall be suspended during continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The term "force majeure" as used herein shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts, priorities or orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, governmental subdivisions or officials, any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, shortages of labor or materials or delays of carriers, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault. The party claiming such inability shall remove the cause for the same with all reasonable promptness. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout and other industrial disturbances by acceding to the demands of the opposing party or parties.

Section 10.2 Remedies on Default.

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

- (i) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable: (A) all unpaid installments of rent payable pursuant to Section 5.3(a) and (b) hereof, (B) all unpaid and past due payments in lieu of taxes pursuant to the PILOT Agreement, and (C) all other payments due under this Lease Agreement; provided, however, that if an Event of Default specified in Section 10.1(a)(ix) hereof shall have occurred, such installments of rent and other payments due under this Lease Agreement shall become immediately due and payable without notice to the Company or the taking of any other action by the Agency or the Lender;
- (ii) terminate this Lease Agreement, reconvey the Facility to the Company and terminate the PILOT Agreement (in connection with which the Agency shall have the right to execute an appropriate deed with respect to the Facility and to place the same on record in the Suffolk County Clerk's Office, at the expense of the Company, and in such event the Company waives delivery and acceptance of such deed and the Company hereby appoints the Agency its true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest), with full power of substitution to file on its behalf all affidavits, questionnaires and other documentation necessary to accomplish the recording of such deed; or
- (iii) take any other action at law or in equity which may appear necessary or desirable to collect the payments then due or thereafter to become due hereunder and under the PILOT Agreement, to secure possession of the Facility, and to enforce the obligations, agreements or covenants of the Company under this Lease Agreement and under the PILOT Agreement.

(b) Reserved.

(c) Any sums payable to the Agency as a consequence of any action taken pursuant to this Section 10.2 (other than those sums attributable to Unassigned Rights) shall be paid to the Lender and applied to the payment of the Loan.

(d) No action taken pursuant to this Section 10.2 (including repossession of the Facility) shall relieve the Company from its obligation to make all payments required by Section 5.3 hereof or under the PILOT Agreement.

(e) After an Event of Default shall have occurred, the Company shall have the right upon notice to the Agency and the Lender to enter the Facility with agents or representatives of the Agency and the Lender to remove any equipment or other personalty owned by the Company if such equipment or personalty is not part of the Facility.

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

Section 10.4 Agreement to Pay Attorneys' Fees and Expenses.

(a) In the event the Company should default under any of the provisions of this Lease Agreement and the Agency should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Agency the reasonable fees of such attorneys and such other expenses so incurred.

(b) In the event the Company should default under any of the provisions of this Lease Agreement and the Lender should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Lender the reasonable fees of such attorneys and such other expenses so incurred.

Section 10.5 No Additional Waiver Implied by One Waiver. In the event any agreement contained herein should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE XI

EARLY TERMINATION OF LEASE AGREEMENT; OPTION IN FAVOR OF COMPANY

Section 11.1 Early Termination of Lease Agreement. The Company shall have the option to terminate this Lease Agreement at any time upon filing with the Agency and the Lender a certificate signed by an Authorized Representative of the Company stating the Company's intention to do so pursuant to this Section and effective no earlier than the date upon which such payments required by Section 11.2 hereof shall be made (which date shall

not be less than forty-five (45) nor more than ninety (90) days from the date such certificate is filed) and upon compliance with the requirements set forth in Section 11.2 hereof.

Section 11.2 Conditions to Early Termination of Lease Agreement. In the event the Company exercises its option to terminate this Lease Agreement in accordance with the provisions of Section 11.1 hereof, the Company shall make the following payments:

(a) To the Agency or the Taxing Authorities (as such term is defined in the PILOT Agreement), as appropriate pursuant to the PILOT Agreement: all amounts due and payable under the PILOT Agreement as of the date of the conveyance described in Section 11.3 hereof.

(b) To the Agency: an amount certified by the Agency sufficient to pay all unpaid fees and expenses of the Agency incurred under the Agency Documents.

(c) To the appropriate Person: an amount sufficient to pay all other fees, expenses or charges, if any, due and payable or to become due and payable under the Company Documents.

Section 11.3 Obligation to Purchase Facility. Upon termination or expiration of the Lease Term, in accordance with Sections 5.2 or 11.1 hereof, the Company shall purchase the Facility from the Agency for the purchase price of One Dollar (\$1.00) plus all unpaid payments in lieu of taxes pursuant to the PILOT Agreement through the date upon which this Lease Agreement terminates or expires. The Company shall purchase the Facility by giving written notice to the Agency and to the Lender (which may be contained in the certificate referred to in Section 11.1 hereof) (i) declaring the Company's election to purchase, and (ii) fixing the date of closing of such purchase, which shall be the date on which this Lease Agreement is to be terminated.

Section 11.4 Conveyance on Purchase. At the closing of any purchase of the Facility pursuant to Section 11.3 hereof, the Agency shall, upon receipt of the purchase price, deliver to the Company all necessary documents (i) to convey to the Company title to the Property being purchased, as such Property exists, subject only to the following: (A) any Liens to which title to such Property was subject when conveyed to the Agency, (B) any Liens created at the request of the Company, to the creation of which the Company consented or in the creation of which the Company acquiesced, (C) any Permitted Encumbrances (other than the Lien of the Mortgage), and (D) any Liens resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Lease Agreement or arising out of an Event of Default hereunder, and (ii) to release and convey to the Company all of the Agency's rights and interest in and to any rights of action or any Net Proceeds of insurance or Condemnation awards with respect to the Facility (but not including any Unassigned Rights). Upon the conveyance of the Facility by the Agency to the Company pursuant to this Article XI, the PILOT Agreement shall terminate. All actions taken pursuant to this Section 11.4 shall be at the sole cost and expense of the Company.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Notices. All notices, certificates and other communications hereunder shall be in writing and shall be either delivered personally or sent by certified mail, postage prepaid, return receipt requested, addressed as follows or to such other address as any party may specify in writing to the other:

To the Agency

Town of Brookhaven Industrial Development Agency
1 Independence Hill, 3rd Floor
Farmingville, New York 11738
Attention: Executive Director

To the Company

Two-G Properties, LLC
2 Todd Court
Yaphank, New York 11980
Attention: L. Gordon Van Vechten, Member

Section 12.2 Binding Effect. This Lease Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

Section 12.3 Severability. In the event any provision of this Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 12.4 Amendments, Changes and Modifications. This Lease Agreement may not be amended, changed, modified, altered or terminated except in a writing executed by the parties hereto and only upon receipt of the concurring written consent of the Lender.

Section 12.5 Execution of Counterparts. This Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.6 Applicable Law. This Lease Agreement shall be governed exclusively by the applicable laws of the State, without regard or reference to its conflict of laws principles.

Section 12.7 List of Additional Equipment; Further Assurances.

(a) Upon the Completion Date with respect to the Facility and the installation of all of the Equipment therein, the Company shall prepare and deliver to the Agency and the Lender a schedule listing all of the Equipment not previously described in this Lease Agreement. If requested by the Agency or the Lender, the Company shall thereafter furnish

to the Agency and the Lender, within sixty (60) days after the end of each calendar year, a schedule listing all of the Equipment not theretofore previously described herein or in the aforesaid schedule.

(b) The Agency and the Company shall execute and deliver all instruments and shall furnish all information necessary or appropriate to perfect or protect any security interest created or contemplated by this Lease Agreement and the Mortgage.

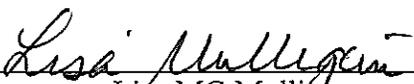
Section 12.8 Survival of Obligations. This Lease Agreement shall survive the making of the Loan and the performance of the obligations of the Company to make payments required by Section 5.3 and all indemnities shall survive the foregoing and any termination or expiration of this Lease Agreement and the payment of the Loan.

Section 12.9 Table of Contents and Section Headings Not Controlling. The Table of Contents and the headings of the several Sections in this Lease Agreement have been prepared for convenience of reference only and shall not control or affect the meaning of or be taken as an interpretation of any provision of this Lease Agreement.

(Remainder of Page Intentionally Left Blank – Signature Page Follows)

IN WITNESS WHEREOF, the Agency and the Company have caused this Lease Agreement to be executed in their respective names by their duly authorized officers, all as of October 1, 2012.

**TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY**

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

TWO-G PROPERTIES, LLC

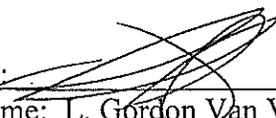
By: 
Name: L. Gordon Van Vechten
Title: Member

EXHIBIT A

Legal Description of Real Property

ALL that certain plot, piece or parcel of land together with the buildings and improvements thereon erected, situate, lying and being at West Yaphank in the Town of Brookhaven, County of Suffolk and State of New York being a portion of Lot 6 on that certain map entitled "Map Sills Industrial Park, Section 2" filed in the Office of the Clerk, County of Suffolk on December 2, 1986 as Map No. 8227 which said part of lot is more particularly bounded and described as follows:

BEGINNING at a point where the southerly side of Todd Court intersects the easterly side of Old Dock Road;

RUNNING THENCE the following five (5) courses and distances along the southerly side of Todd Court:

1. South 73 degrees 16 minutes 14 seconds East, 184.27 feet;
2. Generally easterly along the arc of a curve, bearing to the left having a radius of 1982.70 feet, a distance 304.01 feet;
3. South 82 degrees 03 minutes 21 seconds East, 39.47 feet; and
4. Generally easterly along the arc of a curve, bearing to the right having a radius of 20.00 feet, a distance of 17.91 feet, to a point of reverse curve;
5. Generally easterly along the arc of a curve, bearing to the left having a radius of 60.00 feet, a distance of 116.57 feet to a point on the westerly side of Manor Road;

THENCE along the westerly side of Manor Road, South 07 degrees 56 minutes 39 seconds West, 679.66 feet to a point;

THENCE North 82 degrees 03 minutes 44 seconds West, 638.73 feet to a point; and

THENCE North 07 degrees 56 minutes 16 minutes East, 731.14 feet to the southerly side of Todd Court the point or place of Beginning.

District 0200

Section 814.00

Block 01.00

Lot 003.008

EXHIBIT B

Equipment

All equipment, fixtures, machinery, building materials and items of personal property acquired, constructed or installed and/or to be acquired, constructed or installed in connection with the completion of the Town of Brookhaven Industrial Development Agency's Two-G Properties, LLC/Framerica Corporation 2012 Facility located at 2 Todd Court, Yaphank, Town of Brookhaven, Suffolk County, New York.

EXHIBIT C

COMPLIANCE WITH LABOR LAW, EXECUTIVE LAW AND CIVIL RIGHTS LAW

The purpose of the Town of Brookhaven Industrial Development Agency (the “**Agency**”) 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 of Brookhaven.

The Agency has consistently sought to ensure that skilled and fair paying construction jobs be encouraged in straight-lease transactions with the Agency.

Now therefor, the parties to the attached Lease Agreement (the “**Agreement**”) further agree to be bound by the following, which are hereby made a part of the Agreement.

I. The Company agrees that:

(a) no laborer, workman or mechanic, in the employ of the Company or any contractor, subcontractor or other person doing or contracting to construct and equip the Facility shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week, except in the emergencies set forth in the Labor Law; and

(b) to the extent applicable and required by law, the Company shall comply with the provisions of the Labor Law of the State of New York (the “**Labor Law**”), including Section 220 thereof. While such Labor Law does not presently require or obligate the Company to pay the prevailing rate of wages as such term is defined in Section 220-d thereof, the Company acknowledges that it has been advised that it is the policy of the Agency to encourage the Company to voluntarily comply with such provisions.

II. To the extent required by law, the Company agrees that:

(a) in the hiring of employees for the performance of work in acquiring, constructing and equipping the Facility, or for the manufacture, sale or distribution of materials, equipment or supplies in connection with the acquisition, construction and equipping of the Facility, neither the Company nor any contractor, subcontractor nor any person acting on behalf of the Company shall by reason of race, creed, color, disability, sex, or national origin, marital status or Vietnam veteran era status discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;

(b) neither the Company nor any contractor, subcontractor, nor any person on their behalf shall, in connection with the acquisition, construction and equipping of the Facility, discriminate against or intimidate any employee hired for the performance of work involved in acquiring, constructing and

equipping the Facility on account of race, creed, color, disability, sex, national origin, marital status or Vietnam era veteran status; and

(c) the aforesaid provisions of this section covering every contract for the manufacture, sale or distribution of materials, equipment or supplies in connection with the acquisition, construction and equipping of the Facility shall be limited to operations performed within the territorial limits of the State of New York.

III. To the extent required by law, the Company will comply with the applicable provisions of Sections 291-299 of the Executive Law, and with the Civil Rights Law, will furnish all information and reports deemed necessary by the State Division of Human Rights, and will permit access to its books, records and accounts by the State Division of Human Rights, the Attorney General and the Industrial Commissioner for the purposes of investigation to ascertain compliance with the non-discrimination clauses, the Executive Law and the Civil Rights Law.

SCHEDULE A

SCHEDULE OF DEFINITIONS

“Act” means, collectively, Title 1 of Article 18-A of the General Municipal Law of the State, enacted into law as Chapter 1030 of the Laws of 1969 of the State, as amended, together with Chapter 358 of the Laws of 1970 of the State, as amended.

“Agency” means (i) the Town of Brookhaven Industrial Development Agency, its successors and assigns, and (ii) any local governmental body resulting from or surviving any consolidation or merger to which the Agency or its successors may be a party.

“Agency Compliance Agreement” means the Agency Compliance Agreement, dated as of October 1, 2012, by and between the Agency and the Sublessee.

“Agency Documents” means the Lease Agreement, the Environmental Compliance and Indemnification Agreement, the PILOT Agreement, the Recapture Agreement, the Mortgage, and the Agency Compliance Agreement.

“Approving Resolution” means the resolution adopted by the Agency on August 23, 2012, authorizing the execution and delivery of the Agency Documents, as such resolution may be amended and supplemented from time to time.

“Authorized Representative” means, in the case of the Agency, the Chairman, the Vice Chairman, the Secretary, the Assistant Secretary or the Chief Executive Officer of the Agency; in the case of the Company, any Member; in the case of the Sublessee, the President, Treasurer, any Vice President or the Secretary; and, in the case of any of the foregoing, such additional persons as, at the time, are designated to act on behalf of the Agency, the Company or the Sublessee, as the case may be, by written certificate furnished to the Lender and to the Agency, the Company or the Sublessee, as the case may be, containing the specimen signature of each such person and signed on behalf of (i) the Agency by the Chairman, the Vice Chairman, the Secretary, the Assistant Secretary or the Chief Executive Officer of the Agency, (ii) the Company by any Member of the Company or (iii) the Sublessee by the President, the Treasurer, any Vice President or the Secretary.

“Bank” shall mean Lender.

“Business Day” means any day other than a Saturday, a Sunday, a legal holiday or a day on which banking institutions in New York, New York or any city in which the principal office of the Lender is located are authorized by law or executive order to remain closed.

“Closing Date” means October 19, 2012.

“Company” means Two-G Properties, LLC, a limited liability company duly organized and validly existing under the laws of the State of New York, and its successors and assigns.

“Company Documents” means the Lease Agreement, the Environmental Compliance and Indemnification Agreement, the PILOT Agreement, the Recapture Agreement, the Sublease Agreement, the Mortgage, and the Loan Documents.

“Completion Date” means the date of completion of the Facility as previously certified pursuant to Section 4.3 of the Lease Agreement.

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

“Construction Period” means the period (a) beginning on the original date of commencement of acquisition, construction and equipping of the Facility and (b) ending on the Completion Date.

“Environmental Compliance and Indemnification Agreement” means the Environmental Compliance and Indemnification Agreement, dated as of October 1, 2012, among the Agency, the Company and the Sublessee.

“Equipment” means all machinery, equipment and other personal property used and to be used in connection with the Facility, as described in Exhibit B to the Lease Agreement.

“Event of Default” (a) when used with respect to the Lease Agreement, means any of the events defined as an Event of Default by Section 10.1 of the Lease Agreement, and (b) when used with respect to the Mortgage, means any of the events defined as an Event of Default in the Mortgage.

“Facility” means the Land, the Improvements and the Equipment leased to the Company under the Lease Agreement.

“Facility Services” means all services necessary for the acquisition, construction, equipping and operation of the Facility.

“Hazardous Substance” means, without limitation, any flammable, explosive, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum constituents, petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, pollutants, or toxic pollutants, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. Sections 1251 et seq.), Articles 17 and 27 of the New York State Environmental Conservation Law, or any other applicable Environmental Law and the regulations promulgated thereunder.

“Improvements” means all those buildings, improvements, structures and other related facilities (i) affixed or attached to the Land and (ii) not part of the Equipment, all as they may exist from time to time.

“Independent Counsel” means an attorney or attorneys or firm or firms of attorneys duly admitted to practice law before the highest court of any state of the United States of America or in the District of Columbia and not a full time employee of the Agency, the Company, the Sublessee or the Lender.

“Land” means the real property leased by the Agency to the Company pursuant to the Lease Agreement and more particularly described in Exhibit A attached thereto.

“Lease Agreement” means the Lease Agreement, dated as of October 1, 2012, between the Agency, as lessor, and the Company, as lessee, with respect to the Facility, as the same may be amended from time to time.

“Lease Term” means the duration of the leasehold estate created by the Lease Agreement as specified in Section 5.2 of the Lease Agreement.

“Lender” shall mean collectively, the Valley National Bank or their respective successors or assigns, or any surviving, resulting or transferee banking institution authorized to do business in the State.

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

“Loan” or “Loans” means collectively, the loan in the principal amount of \$6,500,000 given by the Lender to the Company and secured by the Mortgage.

“Loan Agreement” means the Loan Agreement dated as of October 19, 2012 pursuant to which the Lender has advanced the Loan to the Company.

“Loan Documents” means, collectively, the Loan Agreement, the Mortgage and any other documents executed and delivered to the Lender in connection with the Loan.

“Mortgage” means the Mortgage and Security Agreement, dated October 19, 2012 from the Company and the Agency to the Lender to secure the Loan.

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

“Note” means the Note dated October 19, 2012 from the Company to the Lender.

“Permitted Encumbrances” means (i) exceptions to title set forth in the Title Report, (ii) the Mortgage, (iii) the Lease Agreement, (iv) the Recapture Agreement, (v) utility, access and other easements and rights-of-way, restrictions and exceptions that do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (vi) mechanics’, materialmen’s, warehousemen’s, carriers’ and other similar Liens which are approved in writing by the Lender or its counsel, (vii) Liens for taxes not yet delinquent and (viii) the Sublease Agreement.

“Person” or “Persons” means an individual, partnership, limited liability company, corporation, trust or unincorporated organization, and a government or agency or political subdivision or branch thereof.

“PILOT Agreement” means the Payment-in-Lieu-of-Tax Agreement, dated as of October 1, 2012, among the Company, the Sublessee and the Agency, as amended from time to time.

“Plans and Specifications” means the plans and specifications for the Improvements, prepared for the Company and approved by the Lender and the Agency, as revised from time to time in accordance with the Lease Agreement.

“Prime Rate” means the rate designated by the Lender from time to time as its “prime rate.”

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

“Public Purposes” means the State’s objective to create industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and to empower such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, recreation or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living.

“Recapture Agreement” means the Recapture Agreement, dated as of October 1, 2012, among the Company, the Sublessee and the Agency, as may be amended from time to time.

“Schedule of Definitions” means the words and terms set forth in this Schedule of Definitions attached to the Lease Agreement, as the same may be amended from time to time.

“SEQR Act” means the State Environmental Quality Review Act and the regulations thereunder.

“State” means the State of New York.

“Sublease Agreement” means the Sublease, dated as of October 1, 2012, between the Company, as sublessor, and the Sublessee, as sublessee, as amended from time to time.

“Sublessee” means FramERICA Corporation (formerly known as FrameMica Corporation) a business corporation duly organized and validly existing under the laws of the State of New York, as sublessee under the Sublease Agreement and its successors and assigns.

“Sublessee Documents” means the Sublease Agreement, the Environmental Compliance and Indemnification Agreement, the PILOT Agreement, the Agency Compliance Agreement and certain of the Loan Documents.

“Substitute Facilities” means facilities of substantially the same nature as the proposed Facility.

“Title Report” means Certificate of Title No. 811381(D-NT-CR-MI) issued by Fidelity National Title Insurance Company to the Company Counsel on August 10, 2012, and redated and recertified on the Closing Date.

“Transaction Counsel” means the law firm of Nixon Peabody LLP.

“Transaction Documents” means the Agency Documents, the Company Documents, the Sublessee Documents and the Loan Documents.

“Unassigned Rights” means the rights of the Agency and moneys payable pursuant to and under Sections 5.3(b), 6.4(b), (c) and (d), 6.7, 8.1, 8.2, 8.4, 8.6, 8.8, 8.9, 8.12 and 10.2(a)(i)(B) (in each case with respect to Section 10.2 upon a continuing default in payment by the Company or the Sublessee under the PILOT Agreement), 10.4, 11.2(b) and 12.8 of the Lease Agreement.