

INTERCOUNTY ASSOCIATES II LLC,
formerly known as Intercounty Yaphank LLC, as Company

and

TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY, as Issuer

FIRST AMENDMENT TO INSTALLMENT SALE AGREEMENT

Originally dated as of January 1, 2005

First Amendment dated as of September 1, 2013

\$4,500,000

Town of Brookhaven Industrial Development Agency
Taxable Variable Rate Demand Industrial Development Revenue Bonds, Series 2013
(Intercounty Associates II LLC/Intercounty Appliance Corp. 2013 Facility)

THIS FIRST AMENDMENT TO INSTALLMENT SALE AGREEMENT, dated as of September 1, 2013 (this "**First Amendment to Installment Sale Agreement**"), is by and between INTERCOUNTY ASSOCIATES II LLC, formerly known as Intercounty Yaphank LLC, a New York limited liability company, having its principal office at 10 National Boulevard, Medford, New York 11763 (the "**Company**") and 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 "**Issuer**").

RECITALS

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, as amended (collectively, the "**Act**"); and

WHEREAS, the Issuer has previously provided its assistance to the Company and Intercounty Appliance Corp., a New York business corporation (the "**Lessee**"), by issuing its \$9,000,000 Taxable Variable Rate Demand Industrial Development Revenue Bonds, Series 2005 (Intercounty Associates II LLC/Intercounty Appliance Corp. Facility) (the "**Series 2005 Bonds**"), which Series 2005 Bonds were used to finance certain costs of an industrial development facility consisting of the acquisition of an approximately 29.77 acre parcel of land located at 10 National Boulevard, Medford, New York, and the construction and equipping thereon of an approximately 250,000 square foot building (the "**Original Facility**"); and

WHEREAS, the Series 2005 Bonds were issued pursuant to the Act, a resolution of the Issuer adopted on September 20, 2004, and an Indenture of Trust, dated as of January 1, 2005 (the "**Original Indenture**"), by and between the Issuer and The Bank of New York Mellon, formerly known as The Bank of New York, as trustee for the benefit of the owners of the Series 2005 Bonds (the "**Trustee**"); and

WHEREAS, the Issuer sold the Original Facility to the Company pursuant to an Installment Sale Agreement, dated as of January 1, 2005 (the "**Original Installment Sale Agreement**"), by and between the Issuer and the Company, and a memorandum of such Original Installment Sale Agreement dated January 26, 2005 and recorded on February 14, 2005 in Liber 12371 Page 326 in the Suffolk County Clerk's office; and

WHEREAS, the Company leased the Original Facility to the Lessee pursuant to a Lease Agreement, dated January 26, 2005 (the "**Lease Agreement**"), by and between the Company and the Lessee, and a memorandum of such Lease Agreement was to be recorded in the Suffolk County Clerk's office; and

WHEREAS, the Issuer assigned its rights and remedies under the Original Installment Sale Agreement to the Trustee and Capital One, National Association, successor in interest to North Fork Bank (the "**LOC Bank**"), pursuant to a certain Pledge and Assignment with Acknowledgment by the Company, dated as of January 1, 2005 (the "**Original Pledge and**

Assignment”), among the Issuer, the Trustee and the LOC Bank, which such Pledge and Assignment was to be recorded in the Suffolk County Clerk’s office; and

WHEREAS, the Series 2005 Bonds were secured pursuant to an irrevocable, direct-pay letter of credit (the “**Original Letter of Credit**”) issued by the LOC Bank, pursuant to a Letter of Credit Reimbursement Agreement, dated as of January 26, 2005 (the “**Original Reimbursement Agreement**”), among the Company, the Lessee and the LOC Bank; and

WHEREAS, in order to further secure the Series 2005 Bonds, (i) the Company entered into a Guaranty Agreement, dated as of January 1, 2005 (the “**Original Guaranty**”), from the Company and the Lessee to the Trustee and the Issuer, guaranteeing, among other things, the payment of the principal of, Redemption Price of, Purchase Price of, and interest on the Series 2005 Bonds, and (ii) the Issuer and the Company granted a mortgage lien on and a security interest in the Facility to the LOC Bank pursuant to a Mortgage and Security Agreement, dated January 26, 2005 (the “**2005 Mortgage**”), by and among the Company, the Issuer and the LOC Bank, which 2005 Mortgage was to be recorded in the Suffolk County Clerk’s office securing the principal amount of \$9,000,000; and

WHEREAS, in connection with the acquisition, construction and equipping of the Original Facility, the Issuer, the Trustee, the LOC Bank, the Company and the Lessee entered into a Payment-in-Lieu-of-Tax Agreement, dated as of January 1, 2005 (the “**Original PILOT Agreement**”), whereby the Company and the Lessee agreed to make certain payments-in-lieu-of real property taxes on the Original Facility (as defined therein); and

WHEREAS, in connection with the acquisition, construction and equipping of the Original Facility, the Issuer, the Company and the Lessee entered into an Environmental Compliance and Indemnification Agreement, dated as of January 1, 2005 (the “**Original Environmental Compliance and Indemnification Agreement**”), whereby the Company and the Lessee agreed to comply with all Environmental Laws (as defined therein) applicable to the Original Facility; and

WHEREAS, the Agency previously consented to a request from the Company that the Issuer join with the Company in executing and delivering to Intercounty Appliance Corp. (the “**2011 Lender**”), a certain Mortgage and Security Agreement, dated March 6, 2011 (the “**2011 Mortgage**”), which 2011 Mortgage was intended to be recorded in the office of the Clerk of Suffolk County, securing a principal amount of \$5,258,802.98 and in connection therewith, the Issuer and the Company executed and delivered to the 2011 Lender, an Assignment of Leases and Rents, dated March 6, 2011 (the “**2011 Assignment of Leases and Rents**”), from the Company and the Issuer to the 2011 Lender, which such 2011 Assignment of Leases and Rents was intended to be recorded in said Clerk’s office immediately after the recording of the 2011 Mortgage (the 2011 Mortgage and the 2011 Assignment of Leases and Rents are collectively, the “**2011 Loan Documents**”); and

WHEREAS, the Company and the Lessee have now requested the Issuer consent and approve pursuant to Section 2.10 of the Original Indenture the issuance of a series of Additional Industrial Development Revenue Bonds, Series 2013 (Intercounty Associates II LLC/Intercounty Appliance Corp. 2013 Facility) (the “**Additional Bonds**”); and

WHEREAS, the proceeds of the Additional Bonds will be used for the acquisition, construction, renovation and equipping of an approximately 75,000 square foot addition to an existing approximately 250,000 square foot building located at the Original Facility all for use by the Lessee as warehouse and office space for the distribution of appliances (collectively, the “**2013 Facility**”; and, together with the Original Facility, the “**Facility**”); and

WHEREAS, in connection therewith, the Company has requested that the Issuer amend the Original Installment Sale Agreement to include the 2013 Facility; and

WHEREAS, the Issuer and the Company hereto agree to amend the description of the Facility conveyed in the Original Installment Sale Agreement to include the 2013 Facility pursuant to this First Amendment to Installment Sale Agreement; and

WHEREAS, the Issuer and the Company deem it necessary and proper to enter into this First Amendment to Installment Sale Agreement in order to include the 2013 Facility in the Facility description.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree to amend the Original Installment Sale Agreement as follows:

1. The Issuer and the Company hereby incorporate the 2013 Facility into the Original Installment Sale Agreement as a part of the Facility.

2. Pursuant to Section 2.10 of the Original Indenture, the Issuer and the Organization hereby amend the Installment Payments payable under the Original Installment Sale Agreement so to increase and compute the same so as to amortize in full the principal of and interest on the Additional Bonds and any other costs in connection therewith.

3. Section 4.4 of the Original Installment Sale Agreement is hereby amended and restated in its entirety to read as follows:


“Section 4.4 Certificates of Completion. To establish the Completion Date, the Company shall deliver to the Issuer, the LOC Bank and the Trustee a certificate signed by an Authorized Representative of the Company (i) stating that acquisition, furnishing, constructing, equipping and improvement of the Facility has been completed; (ii) stating that except for amounts retained in the Project Fund for the payment of incurred but unpaid items of the Costs of the Facility, the payment of all labor, services, materials and supplies used in such acquisition, construction and equipping has been made or provided for; and (iii) such certificates as may be reasonably satisfactory to the Issuer, the Trustee and the LOC Bank, including without limitation, a temporary or final certificate of occupancy, if applicable. The Company completed the acquisition, construction, furnishing, equipping and improvement of the Original Facility on or before December 1, 2006. The Company agrees to complete the acquisition, construction, renovation and equipping of the 2013 Facility on or before September 30, 2014.”

3. The Original Installment Sale Agreement as herein amended shall remain in full force and effect.

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


IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Installment Sale Agreement as of the day and year first above written.

INTERCOUNTY ASSOCIATES II LLC

By: 
Name: Vito Blandi
Title: Executive Manager

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

On the 24th day of September in the year 2013, before me, the undersigned, personally appeared **Vito Blandi**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the with instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.


Notary Public
WILLIAM F. WEIR
Notary Public, State of New York
Registration #: 02WE4991594
Qualified in Monroe County
Certificate Filed in Monroe County
Commission Expires: 02/03/14

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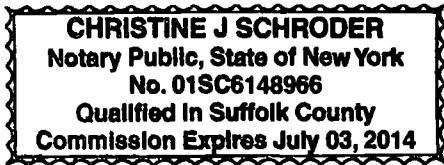
**TOWN OF BROOKHAVEN INDUSTRIAL
DEVELOPMENT AGENCY**

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

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

On the 1st day of September in the year 2013, 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 with instrument, the individual, or the person or entity on behalf of which the individual acted, executed the instrument.

Christine J Schroder
Notary Public



Signature Page 2 of 2
First Amendment to Installment Sale Agreement

EXHIBIT A

DESCRIPTION OF REAL PROPERTY

Exhibit A
Legal Description

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

BEGINNING at a point on the Westerly line of Patchogue-Yaphank Road (C.R. 101) said point being the intersection of the Westerly line of Patchogue-Yaphank Road (C.R. 101) with the Northerly line of Southaven Avenue, as widened;

RUNNING THENCE the following eleven (11) courses:

1. South 84 degrees 29 minutes 41 seconds West, a distance of 731.02 feet along the Northerly line of Southaven Avenue to a point;
2. North 06 degrees 02 minutes 16 seconds West, a distance of 1,600.47 feet to a point on the Southerly line of National Boulevard;
3. North 83 degrees 57 minutes 44 seconds East, a distance of 423.86 feet along the Southerly line of National Boulevard to a point;
4. along an arc bearing to the left, in a general Southwesterly direction, whose radius is 30.00 feet, a length of 47.12 feet to a point of tangency;
5. South 06 degrees 02 minutes 16 seconds East, a distance of 512.02 feet to a point;
6. North 83 degrees 57 minutes 44 seconds East, a distance of 627.80 feet to a point;
7. South 06 degrees 02 minutes 16 seconds East, 118.98 feet;
8. South 65 degrees 31 minutes 06 seconds East, a distance of 239.02 feet to a point on the Westerly line of Patchogue-Yaphank Road (C.R. 101);
9. along the Westerly line of Patchogue-Yaphank Road (C.R. 101) South 24 degrees 28 minutes 54 seconds West, a distance of 481.04 feet to a point;
10. continuing along the Westerly line of Patchogue-Yaphank Road (C.R. 101) South 24 degrees 27 minutes 08 seconds West, a distance of 446.96 feet to a point;
11. continuing along the Westerly line of Patchogue-Yaphank Road (C.R. 101) South 39 degrees 09 minutes 10 seconds West, a distance of 35.95 feet to the point of BEGINNING.