

CLOSING ITEM NO.: B-3

TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY

and

EDO LLC

LEASE AND PROJECT AGREEMENT

Dated as of February 1, 2017

Town of Babylon Industrial Development Agency
(EDO LLC – 1500 New Horizons Boulevard Facility)

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THIS LEASE AND PROJECT AGREEMENT, dated as of February 1, 2017 (this "Lease Agreement"), is between the TOWN OF BABYLON INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its office at 47 West Main Street, Suite 3, Babylon, New York 11702 (the "Agency"), and EDO LLC, a limited liability company, duly organized and validly existing under the laws of the State of Delaware and authorized to do business in the State of New York, having its principal office at 1500 New Horizons Boulevard, Amityville, New York 11701 (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 177 of the Laws of 1973 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) (1) the acquisition of a subleasehold interest in approximately 8 acres of land located at 1500 New Horizons Boulevard (Tax Map #0100-126.01-1-4.016) (the "Land"), in the Town of Babylon, Suffolk County, New York, the renovation and reconstruction of an existing approximately 125,000 square foot building located on the Land (the "Improvements") (the Land and the Improvements together, the "Facility"), which Facility is to be sub-subleased by the Agency to the Company and will be used by the Company as commercial office space and manufacturing facilities for the design and manufacture of electromechanical systems and performance electronic assemblies for military and space applications; (B) the granting of certain "financial assistance" (within the meaning of section 854(14) of the Act) with respect to the foregoing limited to potential exemptions from certain real property taxes (the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Company will be the operator of the Facility and the owner of the Land and the Improvements is Amity Steel, LLC (the "Owner"); 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 agreed to sublease the Land and the Improvements to the Agency pursuant to the terms of a certain Company Lease, dated as of February 1, 2017 (the "Company Lease"), by and between the Company and the Agency; 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; and

WHEREAS, contemporaneously with the Project, the Agency shall undertake an additional project (the "1250 New Horizons Project"), which shall consist of: (A) (1) the acquisition of a subleasehold interest in approximately 8 acres of land located at 1250 New Horizons Boulevard (Tax Map #0100-126.01-1-3.002) (the "1250 New Horizons Land"), in the Town of Babylon, Suffolk County, New York, the renovation and reconstruction of an existing approximately 100,000 square foot building located on the 1250 New Horizons Land (the "1250 New Horizons Improvements")(the 1250 New Horizons Land and the 1250 New Horizons Improvements together, the "1250 New Horizons Facility"), which 1250 New Horizons Facility is to be sub-subleased by the Agency to the Company and will be used by the Company as commercial office space and manufacturing facilities for the design and manufacture of electromechanical systems and performance electronic assemblies for military and space applications; (B) the granting of certain "financial assistance" (within the meaning of section 854(14) of the Act) with respect to the foregoing limited to potential exemptions from certain real property taxes (the "1250 New Horizons Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the 1250 New Horizons Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the Company has agreed to sublease the 1250 New Horizons Land and the 1250 New Horizons Improvements to the Agency pursuant to the terms of a certain Company Lease, dated as of February 1, 2017 (the "1250 New Horizons Company Lease"), by and between the Company and the Agency; and

WHEREAS, the Agency has agreed to sub-sublease and lease the 1250 New Horizons Facility to the Company, and the Company has agreed to rent the 1250 New Horizons Facility from the Agency, upon the terms and conditions set forth in a certain Lease and Project Agreement, dated as of February 1, 2017 (the "1250 New Horizons Lease Agreement"), by and between the Agency and the Company; and

WHEREAS, the primary consideration for the Agency's grant of Financial Assistance for the Project is to retain and create jobs in the Town;

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 will acquire a leasehold interest in the Land and Improvements and will sub-sublease the Facility to the Company pursuant to this Lease Agreement, all for the Public Purposes of the State.

(c) By resolution dated August 23, 2016, 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 renovation and equipping of the Facility is a Type II action within the meaning of the SEQR 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 Babylon, 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 limited liability company, organized and existing under the laws of the State of Delaware and authorized to do business in the State of New York, is in good standing under the laws of the State of Delaware and 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 (h) 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) RESERVED.

(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 Project Cost Budget attached as Exhibit C to this Lease Agreement represents a true, correct and complete budget as of the Commencement Date of the proposed costs of the Project. However, the Agency acknowledges that the primary purpose of the Project is to retain and create jobs and that it shall not be an Event of Default or a Recapture Event under this Lease Agreement or any other Transaction Document in the event that not all such costs listed in Exhibit C to this Lease Agreement are expended.

(n) The Company is not a Prohibited Person.

(o) RESERVED.

(p) Except as permitted by Section 9.3 hereof, no Person other than the Company, the Owner or any Affiliate thereof or any Guarantor hereunder is or will be in use, occupancy or possession of any portion of the Facility.

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 a leasehold interest in the Land, including any buildings, structures or other improvements thereon, and will convey or cause to be conveyed to the Agency lien-free title to or a leasehold interest in the Improvements acquired after the date hereof, in each case except for Permitted Encumbrances.

Section 3.2 Reserved.

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 leasehold 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, if any, in accordance with the Plans and Specifications, if any.

(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) Reserved.

(d) 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 3.4.

(e) The Company, as agent for the Agency, shall comply in all material respects 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 which may be required to be inserted therein by such provisions. Except as provided in the preceding sentence, 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 Reserved.

Section 3.6 Reserved.

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. 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 Construction Signage. During the construction period, if any, the Agency shall have the right to erect on the Facility site, subject to the approval of location by the Company, at the Agency's own cost and expense, an appropriate sign stating that financial assistance for the Facility has been provided through the Agency.

ARTICLE IV LEASE OF FACILITY RENTAL PROVISIONS

Section 4.1 Lease of Facility.

(a) The Agency hereby sub-subleases the Facility, consisting of the Land as more particularly described in Exhibit A attached hereto and the Improvements, to the Company and the Company hereby takes the Facility from the Agency upon the terms and conditions of this Lease Agreement. The Agency hereby delivers to the Company, and the Company hereby accepts, sole and exclusive possession of the Facility (it being understood by the parties hereto that delivery of possession to the Agency of the Facility as the same is acquired, constructed and renovated shall take no further act or deed by the parties hereto).

(b) The Company hereby unconditionally represents, warrants, covenants and agrees that throughout the term of this Lease Agreement: (i) the Facility will be an Approved Facility and a "project" within the meaning of the Act; (ii) the Company will not take any action, or suffer or permit any action, if such action would cause the Facility not to be an Approved Facility or a "project" within the meaning of the Act; and (iii) the Company will not fail to take any action, or suffer or permit the failure to take any action, if such failure would cause the Facility not to be an Approved Facility or a "project" within the meaning of the Act. The Company shall not occupy, use or operate the Facility, or allow the Facility or any part thereof to be occupied, used or operated, for any unlawful purpose or in violation of any certificate of occupancy affecting the Facility or for any use which may constitute a nuisance, public or private, or make void or voidable any insurance then in force with respect thereto.

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 9.3 and 10.2 hereof), and the leasehold and 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 February 29, 2032 (the "Lease Term").

(c) Except as provided in Sections 9.3 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 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) *Base Rent.* The Company shall pay to the Agency on the Closing Date Base Rent for the Facility as follows: on the Commencement Date, the Company shall pay, as the Base Rent due hereunder, (1) a single lump sum basic rental payment, equal to the Agency's administrative fee relating to the Project and the 1250 New Horizons Project; and (2) the fees and expenses of counsel to the Agency relating to the Project and the 1250 New Horizons Project.

(b) *Additional Rent.* 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 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) *Missed Payments.* In the event the Company should fail to make or cause to be made any of the Rental Payments required under the foregoing provisions of this Section, the item or installment not so paid shall continue as an obligation of the Company until the amount not so paid has been paid in full, together with interest thereon from the date due, subject to applicable notice and cure period, at the applicable interest rate stated in this Lease Agreement where so provided, or if not so provided, at twelve percent (12%) per annum.

(d) *Rental Payments Payable Absolutely Net.* The obligation of the Company to pay Rental Payments provided for in this Lease Agreement shall be absolutely net to the Agency without any abatement, recoupment, diminution, reduction, deduction, counterclaim, set-off or offset whatsoever, so that this Lease Agreement shall yield, net, to the Agency, the Rental Payments provided for herein, and all costs, expenses and charges of any kind and nature relating

to the Facility, arising or becoming due and payable during or after the term of this Lease Agreement, shall be paid by the Company and the Agency shall be indemnified by the Company for, and the Company shall hold the Agency harmless from, any such costs, expenses and charges.

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, 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 AND RECAPTURE OF BENEFITS

Section 5.1 PILOT Payments.

(a) **Description and Address of Project:** The Project consists of the acquisition, renovation and equipping of an approximately 125,000 square foot building, on a certain lot of land for use by the Company as commercial office space and manufacturing facilities for the design and manufacture of electromechanical systems and performance electronic assemblies for military and space applications. The Land and Improvements are located at 1500 New Horizons Boulevard in the Town of Babylon, New York being District 0100, Section 126.01, Block 01.00, Lot 004.016.

(b) Payments Prior to PILOT Commencement Date: The PILOT Commencement Date shall be as defined in subsection (d) hereof. Until the PILOT Commencement Date, or such later date as the Land and Improvements are determined to be exempt from real estate taxes, the Company shall pay to the Town or the Agency as the case may be all real estate taxes with respect to the Land and Improvements at such times, in such manner and in such amounts as would be applicable if the Land and Improvements were owned by the Owner and the Agency did not have a leasehold interest therein.

(c) Payments in Lieu of Real Estate Taxes, Generally: It is recognized that under the provisions of the Act the Agency is generally required to pay no real estate taxes upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. The Agency and the Company agree, however, that the Company shall be required to make payments in lieu of real estate taxes with respect to the Land and Improvements, payable to the Agency, in the manner and at the time provided in subsection (d) below or at such other times as the Agency may designate in writing. The combined savings granted under this section and Section 5.1(c) of the 1250 New Horizons Lease Agreement are approximately \$5,773,600. Such savings are estimated based on the current assessed value and tax rates of the Taxing Jurisdictions. Actual savings are subject to change over the term of this Lease Agreement depending on any changes to assessed value and/or tax rates of the Taxing Jurisdictions.

THE AGENCY MAKES NO REPRESENTATION AS TO THE AVAILABILITY OF AN EXEMPTION FROM REAL ESTATE TAXES FOR THE LAND AND IMPROVEMENTS IN THE EVENT THAT THE TOWN COLLECTOR OF TAXES, THE ASSESSORS' OFFICE OF THE TOWN, THE TOWN SURVEYOR, OR ANY OTHER RELEVANT OFFICIAL OF THE TOWN FAILS TO RECOGNIZE THE AGENCY'S EXEMPTION FROM REAL ESTATE TAXES ON THE BASIS OF A DISCREPANCY EXISTING BETWEEN THE LAND AND IMPROVEMENTS AND THE TAX MAP OF THE TOWN OF BABYLON OR THE EXISTENCE OF ANOTHER IMPEDIMENT TO IMPLEMENTATION OF THE AGENCY'S EXEMPTION CONTEMPLATED HEREUNDER.

(d) Payments in Lieu of Taxes on the Land and the Improvements: For the period commencing on the PILOT Commencement Date (hereinafter defined) until the earlier of (i) February 29, 2032 (the "Abatement Termination Date") or (ii) the date on which the Agency no longer has a leasehold interest in the Land and the Improvements, the Company shall make payments in lieu of real estate taxes (the "PILOT Payments"), as follows:

Definitions

X = the then current assessed value of Land and Improvements from time to time.

PILOT Commencement Date = the Taxable Status Date of the Town immediately following the date hereof.

Normal Tax Due = those payments for taxes and assessments, other than special ad valorem levies, special assessments and service charges against

real property located in the Town of Babylon (including any existing incorporated village or any village which may be or may have been incorporated after the date hereof, within which the Project is wholly or partially located) which are or may be imposed for special improvements or special district improvements, which the Company would pay without exemption.

Tax Year = the Tax Year of the Town commencing each December 1 and ending the following November 30, commencing December 1, 2017 with the first Tax Year running from December 1, 2017 and ending the following November 30, 2018.

Payment

Tax Year

1	0.0% Normal Tax Due on X
2	6.667% Normal Tax Due on X
3	13.334% Normal Tax Due on X
4	20.000% Normal Tax Due on X
5	26.667% Normal Tax Due on X
6	33.334% Normal Tax Due on X
7	40.000% Normal Tax Due on X
8	46.667% Normal Tax Due on X
9	53.334% Normal Tax Due on X
10	60.000% Normal Tax Due on X
11	66.667% Normal Tax Due on X
12	73.334% Normal Tax Due on X
13	80.000% Normal Tax Due on X
14	86.667% Normal Tax Due on X
15	93.334% Normal Tax Due on X
16 and thereafter	100% Normal Tax Due on X

The tax benefits provided for in this subsection (d) shall be deemed to commence on the PILOT Commencement Date. In no event shall the Company be entitled to receive real property tax benefits due to the Project under this Lease Agreement for a period longer than the period set forth in the formula immediately above. Notwithstanding the foregoing schedule, the Company further covenants and agrees that for any period that the Agency continues to hold a leasehold interest in the Land and Improvements after February 29, 2032, the Company shall pay 100% of the Normal Tax Due on X together with any special assessment and services charges relating to the Facility whichever may be imposed for special district improvements in accordance with the provisions of this Section 5.1.

(e) The Company shall pay, the amounts set forth in paragraph (d) above, as applicable, within 40 days after receipt of each bill therefor from the Agency. Failure to receive a bill shall not relieve the Company, of its obligation to make all payments provided for hereunder, but no penalties or interest shall accrue for any bills not received by the Company.

Payments shall be made directly to the Agency. Payments made after the due date(s) as set forth in the applicable bills shall accrue interest (and penalties) at the rates applicable to late payments of taxes for the respective Taxing Jurisdictions.

(f) The Agency may file a lien on the Facility in order to secure amounts due the Agency hereunder or, at its election, may at any time require that the Company grant such lien to the Agency as a condition to any lease of the Facility to the Company pursuant to the terms hereof. This Lease Agreement may be filed in the real property records of the County of Suffolk pertaining to the Project at the expense of the Company.

(g) As long as provisions of this Section 5.1 are in effect, the Agency and the Company agree that (i) the Owner is the owner of the Land and Improvements and has the right to file grievances and protests and institute judicial review of the current and any future assessment of the Land and Improvements pursuant to, and, subject to the requirements of, Articles 5 and 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 Company and the Owner shall accept as valid any and all final assessments placed on the Land and Improvements by the Assessor of the Town of Babylon after the final determination of any grievance, protest, or judicial review contemplated under clause (i) above. The Agency, as holder of a leasehold interest in the Land and Improvements, will reasonably cooperate with the Company or the Owner in the filing of any grievance or protest of any present or future assessment permitted hereunder. Notwithstanding the foregoing, in the event that the assessment of the real estate with respect to the Land and Improvements, including any additions thereto, is reduced as a result of any such grievance, protest or judicial review so that the Company or the Owner would be entitled to receive a refund or refunds of taxes paid to the respective Taxing Jurisdictions, the Company and the Owner shall not be entitled to receive a refund or refunds of the payments in lieu of taxes paid pursuant to this Lease Agreement. In such event, the Company's and the Owner's sole relief and remedy shall be the receipt of a credit against prospective payments in lieu of taxes to be paid to the Agency pursuant to this Lease Agreement measured from the date the credit is granted in the amount, within the below described limits, equal to the refund or refunds of taxes. Provided however, that (i) such credit shall be available and payable only to the Company and the Owner during the Company's occupancy of the Land and Improvements under this Lease Agreement and (ii) the amount of such credit shall not exceed aggregate payments in lieu of taxes to be paid under this Lease Agreement measured from the date of the settlement of such grievance or protest or the date the judgment respecting such credit is entered. In no event shall the Company or the Owner have any claim against funds of the Agency with respect to credits provided for in this paragraph (g).

(h) Subject to the provision of paragraph (g) hereof, the Company and the Owner shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Land and Improvements with respect to any proposed assessment or change in assessment with respect to the Land and Improvements by any of the Taxing Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein, provided, however, that the Company and the Owner agree that any action taken by the Company, the Owner or an Affiliate of any of them to reduce the assessed value of the Land and Improvements below any such assessed value extant on the date

hereof shall constitute a default hereunder and give rise to the remedies provided in Section 10.2 hereof.

(i) To the extent the Facility is declared to be subject to real property taxation or assessment by a final judgment of a court of competent jurisdiction, or pursuant to an amendment to the Act, or other legislative change, or by final judgment of a court of competent jurisdiction or otherwise, the obligations of the Company to make payments in lieu of real estate taxes under this Section 5.1 shall, to such extent, be null and void.

To the extent permitted by law, any payments previously made shall be credited against any taxes then due and payable and nothing herein contained shall prohibit the Company from contesting the validity or constitutionality of any such amendment, legislative change or judicial decision.

(j) If the Company or the Owner enters into any written agreement with any Taxing Jurisdiction providing for payments in lieu of taxes by the Company or the Owner to any or all of them, so much of this Section 5.1 as it relates to the Taxing Jurisdiction with which the Company or the Owner has entered into said written agreement shall be automatically modified to reflect the terms of any such written agreement, and any such written agreement shall be deemed to be incorporated into this Section 5.1 by reference and made a part hereof as an amendment or modification hereof. Should the Company or the Owner receive any real property tax exemption from any of the Taxing Jurisdictions, this Section 5.1 shall automatically be modified to reflect the extent of such exemption.

(k) Subsequent Alterations and Improvements: If, at any time after completion of the Project, the Company or the Owner shall make any alterations of or additions to the Land and Improvements (but specifically excluding equipment), the aggregate value of which in each instance shall equal or exceed \$75,000 (the "Additional Improvements"), the Company shall deliver written notice to an Authorized Representative of the Agency of same within thirty (30) days after the completion thereof. The Agency shall thereupon request that the Improvements constituting a part of the Land and Improvements (including any such Additional Improvements) be reassessed by the appropriate officer or officers of the Town and the Company shall make additional payments in lieu of taxes equal to:

(1) the amount of increase in assessed valuation of the Land and Improvements resulting from the Additional Improvements when the Additional Improvements are first assessed as completed, as above provided, multiplied by

(2) the Town's real property tax rate prevailing after such first assessment and thereafter.

(l) Withdrawal of Real Estate Tax Abatements: The Company understands and agrees that the Company is required to pay or cause to be paid, as additional payments in lieu of real estate taxes, the amount of taxes that the Company would have been required to pay as if the applicable Owner were the owner of the Land and Improvements (assuming that the Agency did not have a leasehold interest therein) for that portion of the Land and Improvements, if any, utilized or occupied by any Person other than the Company or any Affiliate thereof for so

long as such utilization or occupation shall continue. The Company hereby represents to the Agency that no portion of the Land and Improvements is utilized or occupied or is intended to be utilized or occupied by Persons other than the Company or any Affiliate thereof. The Company agrees that it shall immediately notify in writing the Agency or cause said written notice to be given in the event that there shall be any change in the portion of the Land and Improvements utilized or occupied by any Person other than the Company or Affiliates thereof. The Company understands and agrees that in such event, unless the Agency in its sole discretion shall determine otherwise, the amounts payable by the Company as additional payments in lieu of taxes shall be adjusted to an amount equal to the amount of taxes that the Company would have been required to pay as if it were the owner of the Land and Improvements (and assuming that the Agency did not have a leasehold interest therein) for that portion of the Land and Improvements utilized or occupied by Persons other than the Company or Affiliates thereof for so long as such utilization or occupation shall continue.

Commencing as of the date on which the Facility is not used in accordance with the Act and this Lease Agreement or upon the occurrence of an Event of Default under this Lease Agreement, the Company shall be required to make payments in lieu of real estate taxes on the Land and Improvements in such amounts as would result from taxes levied on the Land and Improvements if the Land and Improvements were owned by the Company. For purposes of the determination of such payments in lieu of real estate taxes, the tax rate shall be the rate then in effect as shown on the records of the proper Town department.

(m) Survival of Obligations. The obligations of the Company under this Section 5.1 shall survive the termination or expiration of this Lease Agreement for any reason whatsoever. The Agency, in its sole discretion and in furtherance of the purposes of the Act, may waive, in whole or in part, payments in lieu of taxes set forth in this Section 5.1, for good cause shown.

(n) Additional Covenants:

(i) The Company covenants and agrees that in the event of any Non-Relocation Reduction occurring during the term of this Lease Agreement that there shall not be two consecutive Annual Periods where the Base Employment Reduction Percentage is greater than thirty percent (30%) for each such Annual Period.

(ii) In the event there shall have been a Base Employment Reduction Percentage greater than thirty percent (30%) (the "Applicable Base Employment Reduction Percentage"), due to a Non-Relocation Reduction occurring in any Annual Period, PILOT Payments due under Section 5.1 (d) hereof for the Tax Year immediately following such Annual Period shall equal the amount set forth in the schedule contained in Section 5.1 (d) for the appropriate Tax Year (the "Applicable PILOT Payment") plus an amount equal to the product of (A) the Applicable PILOT Payment, and (B) the Applicable Base Employment Reduction Percentage.

Section 5.2 Reserved.

Section 5.3 Reserved.

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 Project and to accomplish the public purposes of the Act. In consideration therefor, the Company hereby agrees if there shall occur a Recapture Event (as defined below) after the date hereof, the Company shall pay to the Agency as a return of public benefits conferred by the Agency, the following amounts:

(i) one hundred per cent (100%) of the Benefits (as defined below) if the Recapture Event occurs within the first five (5) years after the date hereof;

(ii) eighty per cent (80%) of the Benefits if the Recapture Event occurs during the period from the sixty (6th) year through and including the eighth (8th) year after the date hereof;

(iii) sixty per cent (60%) of the Benefits if the Recapture Event occurs during the ninth (9th) year after the date hereof;

(iv) forty per cent (40%) of the Benefits if the Recapture Event occurs during the tenth (10th) year after the date hereof; or

(v) twenty per cent (20%) of the Benefits if the Recapture Event occurs during the eleventh (11th) year after the date hereof.

(b) As used in this Section 5.4, the term "Benefits" shall mean, collectively:

(i) all real estate tax benefits which have accrued to the benefit of the Company, commencing from and after the Closing Date, and during the period of time that the Agency maintains a leasehold interest in the Facility (the "Real Property Tax Abatements"), such tax benefits to be computed by subtracting the payments in lieu of taxes paid pursuant to Section 5.1 from those payments which the Company would have been required to pay during the term of this Lease Agreement (within the meaning of Section 5.2 hereof) had the Town of Babylon determined the amount of such real estate taxes as would be due if the Agency had not had a leasehold interest in the Facility during such term; and

(ii) all miscellaneous benefits derived from the Agency's participation in the straight-lease transaction contemplated by this Lease Agreement;

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 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 Company shall have liquidated its operations and/or assets (absent a showing of extreme hardship);

(ii) The Company shall have ceased all or substantially all of its operations at the Facility through no force majeure event;

(iii) The Company shall have transferred all or substantially all of their employees within the Town to a location outside of the Town through no force majeure event;

(iv) The Company shall have subleased all or any portion of the Facility in violation of the limitations imposed by Section 9.3 of this Lease Agreement, without the prior written consent of the Agency;

(v) The Company shall have sold, leased, transferred or otherwise disposed of all or substantially all of its interest in the Facility;

(vi) Base Employment Reduction Percentage shall be greater than fifteen percent (15%) due to a Relocation Reduction occurring with respect to an Annual Period; or

(vii) A "Recapture Event" occurs under the 1250 New Horizons Lease Agreement.

(d) Notwithstanding the foregoing, a Recapture Event shall not be deemed to have occurred if the Recapture Event shall have arisen as a direct, immediate result of (i) a taking or condemnation by governmental authority of all or substantially all of the Facility, or (ii) the inability at law of the Company to rebuild, repair, restore or replace the Facility after the occurrence of a Loss Event to substantially its condition prior to such Loss Event, which inability shall have arisen in good faith through no fault on the part of the Company.

(e) The Company covenants and agrees to furnish the Agency with (1) the employment report required under Sections 8.11 and 8.12 and the additional annual report required under Section 8.5, all within the timeframes referenced therein, and (2) written notification upon any Recapture Event or disposition of the Facility or any portion thereof made within twelve (12) years of the Commencement Date, which notification shall set forth the terms of such Recapture Event and/or disposition.

(f) 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).

(g) The Agency shall be entitled to deduct 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, from amounts received by the Agency pursuant to this Section 5.4.

(h) The Agency, in its sole discretion, may waive all or any portion of any payment owing by the Company under this Section 5.4.

(i) The provisions of this Section 5.4 shall survive the termination of this Lease Agreement for any reason whatsoever, notwithstanding any provision of this Lease Agreement to the contrary.

ARTICLE VI MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

Section 6.1 Maintenance and Modifications of Facility by Company.

(a) During the term of this Lease Agreement, the Company will keep, or use reasonable efforts to cause the Owner to keep in strict accordance with the Prime Lease, the Facility in good and safe operating order and condition, ordinary wear and tear excepted, will occupy, use and operate the Facility in the manner for which it was intended and contemplated by this Lease Agreement, and will make to the extent required under the Prime Lease, or use reasonable efforts to cause the Owner to make in strict accordance with the Prime Lease, all replacements, renewals and repairs thereto (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen) necessary to ensure that the operations of the Company at the Facility shall not be impaired or diminished in any way. All replacements, renewals and repairs shall be equal in quality, class and value to the original work and be made and installed in compliance with the requirements of all governmental bodies. The Agency shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of the Facility, to effect the replacement of any inadequate, obsolete, worn-out or unsuitable parts of the Facility, or to furnish any utilities or services for the Facility and the Company hereby agrees to assume full responsibility therefor. The foregoing sentence shall not increase the obligations of the Owner as set forth in the Prime Lease.

(b) Subject to the provisions of the Prime Lease, the Company shall have the privilege of making such alterations of or additions to the Facility or any part thereof from time to time as it in its discretion may determine to be desirable for its uses and purposes, provided that

(i) as a result of such alterations or additions, the fair market value of the Facility is not reduced below its value immediately before such alteration or addition and the usefulness, the structural integrity or operating efficiency of the Facility is not impaired,

(ii) such additions or alterations are effected with due diligence, in a good and workmanlike manner and in compliance with all applicable legal requirements,

(iii) such additions or alterations are promptly and fully paid for by the Company in accordance with the terms of the applicable contract(s) therefor, and in order that the Facility shall at all times be free of any mortgage, lien, charge, encumbrance, security interest or claim other than Permitted Encumbrances, and

(iv) such additions or alterations do not change the nature of the Facility so that it would not constitute an Approved Facility and a "project" within the meaning of the Act.

All alterations of and additions to the Facility shall constitute a part of the Facility, subject to this Lease Agreement, and the Company shall deliver or cause to be delivered to the Agency appropriate documents as may be necessary to convey title to such property to the Agency and to subject such property to this Lease Agreement, free and clear of all liens, charges, encumbrances, security interests or claims other than Permitted Encumbrances.

(c) The Company shall have the right to install or permit to be installed at the Facility machinery, equipment and other personal property at the Company's own cost and expense (the "Company's Property") without conveying title to such Company's Property to the Agency nor subjecting such Company's Property to this Lease Agreement. The Company's Property shall not constitute part of the Facility leased hereunder. The Agency shall not be responsible for any loss of or damage to the Company's Property. The Company shall have the right to create or permit to be created any mortgage, encumbrance, lien or charge on, or conditional sale or other title retention agreement with respect to, the Company's Property, without the consent of or notice to the Agency.

(d) The Company shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Facility or any part thereof, or the interest of the Agency or the Company in the Facility or this Lease Agreement except for Permitted Encumbrances.

Section 6.2 Removal of Property of the Facility.

(a) The Company shall have the privilege from time to time of removing from the Facility any machinery or equipment (in either case, the "Existing Facility Property") and thereby acquiring such Existing Facility Property, provided, however, no such removal shall be effected if (v) such removal is to another location other than the Land and Improvements, (w) such removal would change the nature of the Facility as an Approved Facility or a "project" within the meaning of the Act, (x) such removal would impair the usefulness, structural integrity or operating efficiency of the Facility, or (y) such removal would materially reduce the fair market value of the Facility below its value immediately before such removal. The evaluations made under (v), (w), (x) or (y) of this Section 6.3(a) may be made after taking into account property installed or placed upon the Facility in substitution or replacement of such removed property.

(b) The Company shall deliver or cause to be delivered to the Agency any necessary documents conveying to the Agency title to any property installed or placed upon the Facility pursuant to Section 6.3(a) hereof and subjecting such substitute or replacement property to this Lease Agreement, and upon written request of the Company, the Agency shall deliver to the Company appropriate documents conveying to the Company all of the Agency's right, title and interest in any property removed from the Facility pursuant to Section 6.3(a) hereof. The Company agrees to pay all costs and expenses (including reasonable counsel fees) incurred by the Agency in subjecting to this Lease Agreement any property installed or placed on the Facility as part of the Facility pursuant to this Section 6.3 or Sections 6.1 or 6.2 hereof.

(c) The removal from the Facility of any Existing Facility Property pursuant to the provisions of Section 6.3(a) hereof shall not entitle the Company to any abatement or reduction in the Rental Payments payable by the Company under this Lease Agreement.

Section 6.3 Taxes, Assessments and Utility Charges.

(a) Subject to 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) Subject to the provisions of the Real Property Tax Law, the Owner and/or the Company may in good faith contest any such taxes, assessments and other charges. In the event of any such proceedings, the Owner and/or 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 Owner and/or the Company, as the case may be, 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. (a) Notwithstanding any other provision of any agreement to the contrary, at all times throughout the Lease Term, including without limitation during any period of construction or reconstruction of the Facility, the Company shall maintain

or cause to be maintained insurance, with insurance companies licensed to do business in the State, against such risks, loss, damage and liability (including liability to third parties) and for such amounts as are customarily insured against by other enterprises of like size and type as that of the Company, including, without limitation:

(i) During any period of construction, renovation, improvement or reconstruction of the Company and to the extent not covered by the General Liability insurance referred to below, Owners & Contractors Protective Liability insurance for the benefit of the Company and the Agency in a minimum amount of \$2,500,000 aggregate coverage for personal injury and property damage;

(ii) (A) Property damage insurance and (B) during any period of construction, renovation, improvement or reconstruction or substantial renovation of the Facility (to the extent not otherwise covered by the property damage insurance), Builders' All Risk insurance, whether by endorsement or otherwise, written on 100% builders' risk completed value, non-reporting form including coverage therein for completion and/or premises occupancy, all of which insurance shall in each case include coverage for removal of debris, insuring the buildings, structures, facilities, machinery, equipment, fixtures and other property constituting a part of the Facility against loss or damage to the Facility by all risk of physical loss at all times in an amount such that the proceeds of such insurance shall be sufficient to prevent the Company and the Agency from becoming a co-insurer of any loss under the insurance policies but in any event in amounts equal to not less than 80% of the actual replacement value of the Facility as determined by a qualified insurance appraiser or insurer (selected by the Company and approved by the Agency) not less often than once every year, at the expense of the Company; any such insurance may provide that the insurer is not liable to the extent of the first \$50,000 with the result that the Company is its own insurer to the extent of \$50,000 of such risks;

(iii) General liability insurance and/or Umbrella Liability Insurance including contractual liability coverage in accordance with customary insurance practices for similar operations with respect to the Facility and the business thereby conducted in a minimum amount of \$2,500,000 per occurrence per aggregate, which insurance (A) will also provide coverage of the Company's obligations of indemnity under Section 8.2 hereof, to the extent not commercially reasonably available to the Company), and (B) may be effected under overall blanket or excess coverage policies of the Company or any Affiliate, **provided, however**, that at least \$500,000 is effected by General Liability insurance policy, any such insurance shall not contain any provisions for a deductible or retention amount in excess of such deductibles or retention amounts as are customarily provided by other enterprises of like size and type of that of the Company;

(iv) (Reserved).

(v) Workers' compensation insurance, disability benefits insurance and such other forms of insurance which the Company or the Agency is required by law to provide covering loss resulting from injury, sickness, disability or death of the employees of the Company or any contractor or subcontractor performing work with respect to the Project.

The Company shall require that all said contractors and subcontractors shall maintain all forms or types of insurance with respect to their respective employees required by law; and

(vi) Such other customary insurance in such amounts and against such insurable hazards as the Agency from time to time may reasonably require provided such coverage is reasonably available at commercially reasonable premiums and are of the types and level of coverage typically maintained by similar businesses, and buildings in the Town.

Section 6.5 Additional Provisions Respecting Insurance.

(a) All insurance required by Section 6.4(a) shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State, either (i) rated "A-/X" or better by AM. Best & Co., or (ii) approved by the Agency. The Agency may change such rating requirements if reasonably required by substantial changes in insurance industry premiums, risks or coverage provided that such change does not impose a substantial hardship of financial burden on the Company in comparison to the ratings of carriers typically providing average for similar business and buildings in the Town. Each of the policies or binders evidencing the insurance required above to be obtained shall designate (except in the case of workers' compensation, Builder All Risks, and property damage insurance) the Company and the Agency as additional insureds as their respective interests may appear, and, with respect to Builders All Risks Insurance designate the Agency as its interest may appear.

(b) Each of the policies or binders evidencing the insurance required above to be obtained shall:

(i) designate the Company as the named insured (except in the case of workers' compensation insurance) designate under the Comprehensive General Liability Policy, the Agency as additional insureds;

(ii) provide that all insurance proceeds with respect to loss or damage to the Facility be endorsed and made payable to the Owner;

(iii) provide that there shall be no recourse against the Agency for the payment of premiums or commissions or (if such policies or binders provide for the payment thereof) additional premiums or assessments;

(iv) provide that in respect of the interest of the Agency in such policies, the insurance shall not be invalidated by any action or inaction of the Company or any other Person and shall insure the Agency regardless of, and any losses shall be payable notwithstanding any act or negligence, including any breach of any condition, declaration or warranty contained in any such policy of insurance by the Agency, the Company or any other Person; the operation or use of the Facility for purposes more hazardous than permitted by the terms of the policy; any foreclosure or other proceeding or notice of sale relating to the Facility; or any change in the title to or ownership of all or any portion of the Facility;

(iv) provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried by the Agency to the extent that such other insurance provides the Agency with contingent and/or excess liability insurance with respect to its interest in the Facility;

(v) provide that if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Agency until at least thirty (30) days after receipt by the Agency of written notice by such insurers of such cancellation, lapse, expiration, reduction or change;

(vi) waive any right of subrogation of the insurers thereunder against the Agency, and waive any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of the Agency; and

(vii) contain such other terms and provisions as any owner or operator of facilities similar to the Facility would, in the prudent management of its properties, require to be contained in policies, binders or interim insurance contracts with respect to facilities similar to the Facility owned or operated by them or their Affiliates.

(c) The Net Proceeds of any insurance received with respect to any loss or damage to the property of the Facility shall be paid to the Owner so insured and applied in accordance with Section 6.6 hereof.

(d) On the date hereof, the Company shall deliver or cause to be delivered to the Agency, a broker's certificate of coverage, certificate of liability insurance, evidence of property insurance and certificates or other evidence of other required insurance, and as soon as possible thereafter, duplicate copies of insurance policies and/or binders evidencing compliance with the insurance requirements of this Section 6.5. At least seven (7) Business Days prior to the expiration of any such policy, the Company shall furnish the Agency with evidence that such policy has been renewed or replaced or is no longer required by this Lease Agreement.

(e) The Company or the Owner, as the case may be, shall, at its own cost and expense, make all proofs of loss and take all other steps necessary or reasonably requested by the Agency to collect from insurers for any loss covered by any insurance required to be obtained by this Section 6.5. The Company or the Owner, as the case may be, shall not do any act, or suffer or permit any act to be done, whereby any insurance required by this Section 6.5 would or might be suspended or impaired.

(f) THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED IN THIS ARTICLE XI, WHETHER IN SCOPE OR COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE BUSINESS OR INTERESTS OF THE COMPANY, THE OWNER OR ANY OTHER PERSONS.

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)(ii) hereof shall be applied as provided in Section 7.1 hereof, and (ii) the Net Proceeds of the insurance required by Section 6.4(a)(i), (iii), (iv), (v) and (vi) 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 8.9(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 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.

Section 6.8 Advances by Agency. In the event the Company fails to make any payment or perform or observe any obligation required of it under this Lease Agreement, the Agency, after first notifying the Company of any such failure on its part (except that no prior notification of the Company shall be required in the event of an emergency condition that, in the reasonable judgment of the Agency, necessitates immediate action), may (but shall not be obligated to), and without waiver of any of the rights of the Agency under this Lease Agreement or any other Transaction Document to which the Agency is a party, make such payment or otherwise cure any failure by the Company to perform and observe its other obligations hereunder. All amounts so advanced therefor by the Agency shall become an additional obligation of the Company to the Agency, which amounts, together with interest thereon at the rate of twelve percent (12%) per annum, from the date advanced, the Company will pay upon demand therefor by the Agency. Any remedy herein vested in the Agency for the collection of

Rental Payments or other amounts due hereunder shall also be available to the Agency for the collection of all such amounts so advanced.

Section 6.9 Compliance with Law. The Company agrees that it will, throughout the term of this Lease Agreement and at its sole cost and expense, promptly observe and comply with all Federal, State and local statutes, codes, laws, acts, ordinances, orders, judgments, decrees, rules, regulations and authorizations, whether foreseen or unforeseen, ordinary or extraordinary, which shall now or at any time hereafter be binding upon or applicable to the Company, the Facility, any occupant, user or operator of the Facility or any portion thereof (including, without limitation, those relating to zoning, land use, building codes, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wages, and employment practices) (the "Legal Requirements"), and will observe and comply with all conditions, requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including, without limitation, zoning variances, special exception and non-conforming uses), privileges, franchises and concessions. Notwithstanding the foregoing, the Company shall not be responsible for the noncompliance by the Owner with any Legal Requirement with respect to the Facility: (i) if the Company has no right under the Prime Lease to compel the Owner to comply or cause compliance with such Legal Requirement with respect to the Facility; (ii) if the Owner is required, or the Company reasonably believes the Owner is required, under the terms of the Prime Lease to comply with such Legal Requirement, so long as the Company is exercising good faith diligent efforts to enforce such compliance; or (iii) if such non-compliance is the result of any action or failure to act on the part of the Owner (which action or failure to act is not a breach of any obligation of the Owner to the Company under the Prime Lease). The Company shall indemnify and hold harmless the Indemnified Parties (as defined in Section 8.2 hereof) from and against all loss, cost, liability and expense (a) in any manner arising out of or related to any violation of or failure by the Company (or any other Person occupying, operating or using the Facility or any part thereof) to comply with any Legal Requirement, or (b) imposed upon the Company or any of the Indemnified Parties by any Legal Requirement; in case any action or proceeding is brought against any of the Indemnified Parties in respect of any Legal Requirement, the Company shall upon notice from any of the Indemnified Parties defend such action or proceeding by counsel satisfactory to the Indemnified Party.

The Company may contest in good faith the validity, existence or applicability of any of the foregoing if (i) such contest shall not result in the Facility or any part thereof or interest therein being in any danger of being sold, forfeited or lost, and (ii) such contest shall not result in the Company or the Agency being in any danger of any criminal liability for failure to comply therewith provided, however, if such contest could result in the Agency being in any reasonable danger of civil liability (including accrual of interest, fines and/or penalties), (y) the Company shall deliver a written confirmation to the Agency that the Company shall indemnify and hold the Agency harmless for any such claims, liabilities, costs or expenses as may derive with respect thereto and (z) the Company shall deliver to the Agency such security as the Agency may reasonably require.

Section 6.10 Enforcement of Rights Under Prime Lease Against Owner. The Company covenants and agrees that to the extent that the Owner is obligated to the Company under the Prime Lease to comply with any Federal, State and local statutes, codes, laws, acts, ordinances,

orders, judgments, decrees, rules, regulations and authorizations (including, without limitation, those relating to zoning, land use, environmental protection, air, water and land pollution, asbestos removal, toxic wastes, hazardous wastes, solid wastes, health, safety, equal opportunity, minimum wages and employment practices), whether foreseen or unforeseen, ordinary or extraordinary, that shall now or at any time hereafter govern the ownership, improvement, maintenance and/or operation of the Facility (the foregoing covenants of the Owner being the "Owner Covenants"), the Company shall never amend, waive or modify, or permit the amendment, waiver or modification of, any of the Owner Covenants, if the same would materially adversely affect the interests of the Agency (unless the Agency shall consent in writing thereto), and upon the direction of the Agency, the Company shall promptly exercise good faith diligent efforts to enforce the Owner Covenants against the Owner.

ARTICLE VII DAMAGE, DESTRUCTION AND CONDEMNATION

Section 7.1 Damage or Destruction of the Company Facility.

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

(i) the Agency shall have no obligation to replace, repair, rebuild, restore or relocate the Company 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 Company 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 Company Facility as provided in Section 7.1(b) hereof or (B) applied pursuant to Section 7.1(e) hereof; and

(v) if the Company 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 Company Facility by the Company after the occurrence of such damage or destruction shall be subject to the following conditions:

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

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

(iii) the Company 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 Company 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 Company 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 Company Facility as if the same were specifically described herein.

(e) If the Company shall not repair, replace, rebuild, restore or relocate the Company 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 Company Facility shall be taken by Condemnation (in whole or in part) (a "Loss Event") at any time during the Lease Term:

(i) the Agency shall have no obligation to repair, replace, rebuild, restore or relocate the Company Facility or to acquire, by construction or otherwise, facilities of substantially the same nature as the Company 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 Company 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 Company 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 Company 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 Company 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 Company 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 Company Facility or the Substitute Facilities shall continue to constitute a "project" as such term is defined in the Act;

(iii) the Company 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 Company 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 Company 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 Company 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 Company Facility as if the same were specifically described herein.

(e) If the Company shall not repair, replace, rebuild or restore the Company 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 or applicable Owner 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. On no less than forty-eight (48) hours' prior written notice and subject to applicable law and the company's security rules as the same may be amended from time to time, the Agency and its duly authorized agents shall have the right during Tenant's normal business hours and only when accompanied by a representative of Tenant, 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 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 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, (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, the Owner 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, the Owner 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 or the Owner's respective 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) For the purposes of this Section 8.2, neither the Company nor the Owner shall be deemed employees, agents or servants of the Agency or a person under the Agency's control or supervision.

(e) The Company hereby indemnifies the Owner, its directors, members, officers, agents and employees (the "Owner Indemnified Parties") and agrees to protect, defend, indemnify, save, release and hold the Owner 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) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against the Owner Indemnified Parties relating to, resulting from or arising out of the Agency Documents and the transactions contemplated therein, except to the extent arising out of the negligence or willful misconduct of the Owner and/or any of the Owner Indemnified Parties. Notwithstanding the foregoing, in no event shall the foregoing indemnity alter the rights, remedies or obligations of either Landlord or Tenant under the Prime Lease, it being understood and agreed that to the extent any of the indemnified obligations are addressed in the Prime Lease, then the terms, covenants and conditions of the Prime Lease shall govern and control.

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, and (iv) not consolidate with or merge into another corporation or permit one or more corporations to consolidate with or merge into it, 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. Annually, by January 30 of each year during the term of this Lease Agreement, commencing January 30, 2018, the Company shall provide the Agency with a certified statement and documentation in the form attached hereto as Exhibit J (i) enumerating the 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 jobs created and/or retained. This information shall be in addition to the information required to be provided to the Agency pursuant to Sections 8.11 and 8.12. 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 necessary 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 Authorities 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. At the request of 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.

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 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 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 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 Calculation of Eligible Employees.

(a) Annually, by January 30 of each year during the term of this Lease Agreement, commencing on January 30, 2018, the Company shall submit to the Agency an employment report relating to the period commencing January 1 of the previous year and ending December 31 of such year, except that the first employment report shall relate to the period commencing the Commencement Date and ending December 31, 2017, substantially in the form of Exhibit O hereto, certified as to accuracy by the Authorized Representative of the Company.

(b) In connection with the delivery of Exhibit O hereto the Company shall calculate the number of Eligible Employees during an Annual Period. The number of Eligible Employees during an Annual Period (each such Eligible Employee, an "Annual Period Eligible Employee", and collectively, the "Annual Period Eligible Employees") shall be calculated by the Company on the basis of the aggregate sum of the numbers of Eligible Employees employed on the last payroll date for each of the months (including any partial month) during such Annual Period divided by twelve (except that in the first Annual Period, the divisor will be the number of months, including any partial month, contained in such Annual Period), based upon the employment report set forth in Section 8.12 (a) hereof.

Section 8.12 Employment Information. The Company agrees that, upon request of the Agency, the Company shall furnish to the Agency such information as the Agency shall reasonably request as necessary to verify or confirm the information reported in Exhibit O. Upon request by the Agency, the Company shall submit to the Agency copies of each Form EEO-1 or the equivalent, with respect to the facilities of the Company and their Affiliates within the Town, as are required to be prepared and filed with Federal or State authorities pursuant to applicable law. In addition, the Company hereby authorizes any private or governmental entity, including but not limited to the New York State Department of Labor ("DOL"), to release to the Agency and/or to the successors and assigns of either (collectively, the "Information Recipients"), any and all employment information under DOL's control which is pertinent to the Company and the Company's employees.

Section 8.13 Compensation and Expenses of the Agency. The Company shall pay the fees, costs and expenses of the Agency together with any fees and disbursements incurred by the Agency's Transaction Counsel and the Agency's general counsel in performing services for the Agency in connection with this Lease Agreement or any other Transaction Document.

Section 8.14 Retention of Title to Facility; Grant of Easements; Release of Facility Realty.

(a) The Agency shall not sell, assign, encumber (other than for Permitted Encumbrances), convey or otherwise dispose of the Facility or any part thereof or interest therein during the term of this Lease Agreement, except as set forth in Sections 6.2, 7.1 and 10.2 hereof, without the prior written consent of the Company and any purported disposition without such consent shall be void.

(b) Notwithstanding any other provision of this Lease Agreement, so long as there exists no Event of Default hereunder, the Company may from time to time request in

writing to the Agency the release of and removal from this Lease Agreement, and the leasehold estate created hereby and by the Company Lease of any unimproved part of the Land (on which none of the Improvements is situated) provided that such release and removal will not adversely affect the use or operation of the Facility. Upon any such request by the Company, the Agency shall, at the sole cost and expense of the Company, execute and deliver any and all instruments necessary or appropriate to so release and remove such portion of the Land and Improvements and convey title thereto to the Owner or the Company as the case may be, subject to the following: (i) any liens, easements, encumbrances and reservations to which title to said property was subject at the time of recording of this Lease Agreement; (ii) any liens, easements and encumbrances created at the request of the Company or to the creation or suffering of which the Company consented; (iii) any liens and encumbrances or reservations resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Lease Agreement; (iv) Permitted Encumbrances (other than the lien of this Lease Agreement); and (v) any liens for taxes or assessments not then delinquent; provided, however, no such release shall be effected unless there shall be delivered to the Agency a certificate of an Authorized Representative of the Company, dated not more than sixty (60) days prior to the date of the release, stating that, in the opinion of the Person signing such certificate, the portion of the Land and Improvements so proposed to be released and the release of such portion of the Land and Improvements is not needed for the operation of the Facility, will not adversely affect the use or operation of the Facility and will not destroy the means of ingress thereto and egress therefrom.

Section 8.15 Recording and Filing. A memorandum of this Lease Agreement shall be recorded by the Company in the appropriate office of the Register of the County of Suffolk, or in such other office as may at the time be provided by law as the proper place for the recordation thereof.

Section 8.16 Further Encumbrances. The Company shall not create any mortgage, encumbrance, lien, security interest, claim or charge against the Facility or any part thereof, or the interest of the Company in the Facility or this Lease Agreement, except for Permitted Encumbrances.

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 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 any and all instruments necessary or appropriate so to release such part of, or interest in, the Land. As a condition to such release, the Agency shall be provided with a copy of the instrument

transferring such title or interest in such Land, an instrument survey of the Land 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 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 PILOT Payments.

Section 9.2 Reserved.

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, without the prior written consent of the Agency, in each instance, which consent shall not be unreasonably withheld, conditioned or delayed, 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 K by an Authorized Representative of the Agency. 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 an Approved Facility and 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;

(vi) any sublessee will execute and deliver a Tenant Agency Compliance Agreement, satisfactory to the Agency; and

(vii) the assignment or sublease also must include the assignment or sublease of the 1250 New Horizons Lease Agreement.

(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, the Facility 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 Facility 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 Facility is reasonably necessary to preserve the competitive position of the proposed 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), (h) or (j), 5.2, 6.3, 6.4, 6.5, 8.2, 8.4, 8.11, 9.3, 10.4 and 10.6 and Article XIII hereof;

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

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

(v) any representation or warranty made (i) by the Company or any Guarantor in the Project Application Information submitted to the Agency for approval of the Project or the transactions contemplated by this Agreement, or (ii) by the Company herein or by any Guarantor in any other Transaction Document, or (iii) in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing, shall prove to be false, misleading or incorrect in any material respect as of the date made;

(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) and (iii)) 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; provided, however, that if such failure is capable of cure but cannot be cured within such thirty (30) day period (but is susceptible of cure) and the Company promptly commences and diligently pursues cure of such failure during such thirty (30) day period, then such thirty (30) day period shall be extended for an additional consecutive period of thirty (30) days;

(vii) the dissolution or liquidation of the Company or any Guarantor; or the failure by the Company or any Guarantor 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 or any Guarantor generally to pay its debts as they become due; or an assignment by the Company or any Guarantor for the benefit of creditors; or the commencement by the Company or any Guarantor (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 or any Guarantor (as the debtor), wherein a court having jurisdiction in the premises enters a decree or order for relief against the Company or any Guarantor as the debtor, or such case or proceeding is consented to by the Company or any Guarantor or remains undismissed for forty (40) days, or the Company or any Guarantor 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 or any Guarantor 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) the removal of the Facility, or any portion thereof, outside the Town of Babylon, New York, without the prior written consent of the Agency;

(ix) the Company or any Affiliate thereof or any Guarantor shall become a Prohibited Person;

(x) the Base Employment Reduction Percentage shall be greater than thirty percent (30%) due to a Non-Relocation Reduction occurring in each of two consecutive Annual Periods;

(xi) at the sole and unlimited discretion of the Agency, the Base Employment Reduction Percentage shall be greater than fifteen percent (15%) due to a Relocation Reduction occurring in an Annual Period or continuing from a prior Annual Period;

(xii) an "event of default" by the Company under the Prime Lease shall occur and be continuing;

(xiii) an "Event of Default" under the Guaranty Agreement shall occur and be continuing; or

(xiv) an "Event of Default" under the 1250 New Horizons Lease Agreement shall occur 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 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 Recapture 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. 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;

(iii) bring an action for actual damages of the Agency, injunction or specific performance;

(iv) reserved;

(v) require the Company to make payments in lieu of real estate taxes under Section 5.1 hereof with respect to the Facility in an amount equal to that amount which the Company would otherwise be required to pay if the Agency did not have a leasehold interest in the Facility; or

(vi) 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 Recapture 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.

Section 10.6 Certificate of No Default. The Company shall deliver to the Agency each year no later than January 15th, a certificate signed by an Authorized Representative of the Company stating that the Company is not in default under this Lease Agreement and that no Event of Default exists under this Lease Agreement or any other Company Document. Such certificate shall also contain all information required under Section 8.5 hereof.

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. Such option to terminate shall only be effective if the Company's option to terminate is also exercised under Section 11.1 of the 1250 New Horizons Lease Agreement.

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 Jurisdictions, 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) Reserved;
- (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, due and payable or to become due and payable under the Company Documents.

Section 11.3 Conveyance on Termination.

(a) At the closing of any expiration or termination of the Lease Agreement, the Agency shall, upon the satisfaction of the conditions set forth in Section 11.1, if applicable, and upon receipt of the amounts payable pursuant to Section 11.2 hereof, deliver to the Company all necessary documents (i) to terminate this Lease Agreement and the Company Lease, 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).

(b) The sale and conveyance of the Agency's right, title and leasehold interest in and to the Facility shall be effected by the execution and delivery by the Agency to the Company of the Assignment to Company (an unexecuted copy of which is attached hereto as Exhibit L and by this reference made a part hereof). The termination of this Lease Agreement shall be effected by the execution and delivery of the Company and the Agency of the Termination of Lease and Project Agreement (an unexecuted copy of which is attached hereto as Exhibit M and by this reference made a part hereof). The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from such transfers of leasehold interest. In the event of a termination of the Company Lease and this Lease Agreement resulting from the exercise by the Agency of its remedies under Section 10.2 hereof, the Agency shall have the right to execute an appropriate Assignment to Company and Termination of Lease and Project Agreement (collectively, the "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 the 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 execute such Termination Documents, together with all affidavits, questionnaires and other documentation necessary to accomplish the recording of such Termination Documents.

(c) The Company agrees to prepare the Assignment to Company and/or the Termination of Lease and Project Agreement and all schedules thereto, together with all equalization and assessment forms and other necessary documentation, and to forward same to the Agency at least thirty (30) days prior to the date that the Agency's interest in the Facility or any portion thereof is to be conveyed to the Company.

(d) The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from the transfers contemplated by this Section 11.3.

(e) This Lease Agreement shall survive the transfer of the Facility to the Company pursuant to this Section 11.3 and shall remain in full force and effect until all of the Indebtedness shall have been paid in full, and thereafter the obligations of the Company shall survive as set forth in Section 14.8 hereof.

(f) Upon the payment in full of all Indebtedness under or secured by this Lease Agreement, and notwithstanding the survival of certain obligations of the Company as described in Section 14.8 hereof, the Agency shall upon the request of the Company, execute and deliver to the Company such documents as the Company may reasonably request, in recordable form if so requested, to evidence the termination and release of all Liens granted to the Agency hereunder.

ARTICLE XII RESERVED

ARTICLE XIII ENVIRONMENTAL MATTERS

Section 13.1 Environmental Representations of the Company. Except as otherwise shown on Exhibit I 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:

IF TO THE AGENCY:

Town of Babylon Industrial Development Agency
47 West Main Street, Suite 3
Babylon, New York 11702
Attention: Chairman

WITH A COPY TO:

John Braslow, Esq.
816 Deer Park Avenue
North Babylon, New York 11703

and

Barclay Damon, LLP
80 State Street
Albany, New York 12207
Attention: M. Cornelia Cahill, Esq.

IF TO THE COMPANY:

EDO LLC c/o Harris Corporation
1500 New Horizons Boulevard
Amityville, New York 11701
Attention: Wayne Oettinger, Director of Operations

WITH A COPY TO:

Attention: Real Estate Department
EDO LLC c/o Harris Corporation
1025 W. NASA Boulevard
Melbourne, Florida 32940

and solely with respect to legal notices:

Attention: Legal Department
EDO LLC c/o Harris Corporation

1025 W. NASA Boulevard
Melbourne, Florida 32940

and solely with respect to legal notices:

Harris Beach PLLC
99 Garnsey Road
Pittsford, New York 14534
Attention: Charles W. Russell, Esq.

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.

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 Reserved.

Section 14.8 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 payment obligations of the Company to the Agency and all indemnities shall survive the foregoing and any termination or expiration of this Lease Agreement.

Section 14.9 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.

Section 14.10 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 14.11 Priority. This Lease Agreement shall be subject and subordinate to the Prime Lease.

Section 14.12 Third Party Beneficiaries. It is the intention of the parties hereto that nothing contained herein is intended to be for, or to inure to, the benefit of any Person other than the parties hereto.

Section 14.13 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. The provision of this Lease Agreement relating to waiver of a jury trial shall survive the termination or expiration of this Lease Agreement.

Section 14.14 Non-Discrimination. At all times during the maintenance and operation of the Facility, the Company shall not discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. The Company shall use its best efforts to ensure that employees and applicants for employment with the Company or any subtenant of the Facility are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term "treated" shall mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

Section 14.15 Recourse Under This Lease Agreement. All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Lease Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in such person's individual capacity, and no recourse shall be had for any reason whatsoever hereunder against any member, director, officer, employee or agent of the Agency or any natural person executing this Lease Agreement on behalf of the Agency. In addition, in the performance of the agreements of the Agency herein contained, any obligation the Agency may incur for the payment of money shall not create a debt of the State or the Town and neither the State nor the Town shall be liable on any obligation so incurred, by any such obligation shall be payable solely out of amounts payable to the Agency by the Company hereunder.

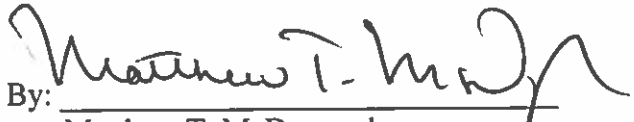
Section 14.16 Reporting Requirements. Notwithstanding anything to the contrary herein, all reporting required in this Lease Agreement, including but not limited to annual job reporting, shall be made collectively with the respective reporting required by the 1250 New Horizons Lease Agreement.

Section 14.17 Notice to Lender of Event of Default. . Upon the occurrence of an Event of Default under Section 10.1 hereof and under Section 4.1 of the Company Lease, the Agency shall send a notice of such Event of Default to:

Genworth Financial
Servicing Department
10851 Mastin, Suite 300
Overland Park, Kansas 66210

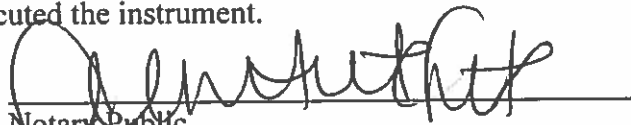
IN WITNESS WHEREOF, the Agency and the Company have caused this Lease Agreement to be executed in their respective names by their duly authorized representatives, all as of the day and year first above written.

**TOWN OF BABYLON INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
Matthew T. McDonough
Chief Executive Officer

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

On the 23 day of February in the year 2017, before me, the undersigned, a notary public in and for the State of New York, personally appeared Matthew T. McDonough, 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

CHRISTINE MONTEFORTE
Notary Public, State of New York
Qualified in Suffolk County
Reg No 01MO5052177
My Commission Expires Nov 20, 2017

EDO LLC (formerly EDO Corporation), a Delaware limited liability company, a wholly owned subsidiary of Harris Corporation, a Delaware corporation

By: Taylor
Todd Taylor
VP and Principal Accounting Officer

STATE OF FLORIDA)
)SS.:
COUNTY OF BREVARD)

On the 23 day of February in the year 2017, before me, the undersigned, a notary public in and for the State of Florida, personally appeared Todd Taylor, 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.

R. Cruey
Notary Public

