

CLOSING ITEM NO.: A-11

CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY

AND

1475 WASHINGTON AVENUE ASSOCIATES, LLC

PROJECT BENEFITS AGREEMENT

DATED AS OF SEPTEMBER 1, 2015

RELATING TO FINANCIAL ASSISTANCE GRANTED BY THE
AGENCY WITH RESPECT TO A CERTAIN PROJECT LOCATED
AT 1475 WASHINGTON AVENUE IN THE CITY OF ALBANY,
ALBANY COUNTY, NEW YORK.

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and is for convenience of reference only.)

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PROJECT BENEFITS AGREEMENT

THIS PROJECT BENEFITS AGREEMENT dated as of September 1, 2015 (the "Project Benefits Agreement") by and between CITY OF ALBANY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York having an office for the transaction of business located at 21 Lodge Street, Albany, New York 12207 (the "Agency") and 1475 WASHINGTON AVENUE ASSOCIATES, LLC, a limited liability company duly organized and validly existing under the laws of the Commonwealth of Pennsylvania having an office for the transaction of business located at 910 Harvest Drive, Suite 105, Blue Bell, Pennsylvania 19422 (the "Company");

WITNESSETH:

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

WHEREAS, the Enabling Act authorizes and provides for the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State of New York (the "State") and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and dispose of land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes, in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency, for the purpose of carrying out any of its corporate purposes, to lease or sell any or all of its facilities, whether then owned or thereafter acquired; and

WHEREAS, the Agency was created, pursuant to and in accordance with the provisions of the Enabling Act, by Chapter 325 of the Laws of 1974 of the State (collectively, with the Enabling Act, the "Act") and is empowered under the Act to undertake the Project (as hereinafter defined) in order to so advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, in January, 2015, 1475 Washington Avenue Associates, LLC (f/k/a SUNY Associates, LLC), (the "Company"), a limited liability company duly organized and validly existing under the laws of the Commonwealth of Pennsylvania, presented an application (the "Application") to the Agency, which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project to include the following: (A) (1) the acquisition of an interest in an approximately one (1) acre parcel of land located at 1475 Washington Avenue in the City of Albany, Albany County, New York (the "Land"), (2) the construction on the Land of an approximately 183,750 square foot, four (4) story building over an approximately 145 space parking podium (the "Facility"), and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the "Equipment") (the Land, the Facility, and the Equipment being collectively referred to as the "Project Facility"), all of the foregoing to be owned by the Company and to constitute a student housing complex and other directly and indirectly related activities; (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect

to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, pursuant to the authorization contained in a resolution adopted by the members of the Agency on January 22, 2015 (the "Public Hearing Resolution"), the Chief Executive Officer of the Agency (A) caused notice of a public hearing of the Agency (the "Public Hearing") pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on January 27, 2015 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on January 27, 2015 on a public bulletin board located at the Albany City Hall located at 24 Eagle Street in the City of Albany, Albany County, New York, as well as on the Agency's website, (C) caused notice of the Public Hearing to be published on January 29, 2015 in the Albany Times Union, a newspaper of general circulation available to the residents of the City of Albany, Albany County, New York, (D) conducted the Public Hearing on February 11, 2015 at 12:00 o'clock noon, local time at the offices of the City of Albany Industrial Development Agency located at 21 Lodge Street in the City of Albany, Albany County, New York, and (E) prepared a report of the Public Hearing (the "Public Hearing Report") fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations (the "Regulations") adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, "SEQRA"), by resolution adopted by the members of the Agency on March 19, 2015 (the "SEQR Resolution"), the Agency (A) concurred in the determination that the City of Albany Planning Board (the "Planning Board") is the "lead agency" with respect to SEQRA and (B) acknowledged receipt of a negative declaration from the Planning Board issued on December 18, 2014 (the "Negative Declaration"), in which the Planning Board determined that the Project would not have a significant adverse environmental impact on the environment, and therefore, an environmental statement need not be proposed with respect to the Project; and

WHEREAS, by further resolution adopted by the members of the Agency on March 19, 2015 (the "Pilot Deviation Approval Resolution"), the members of the Agency determined to deviate from the Agency's uniform tax exemption policy with respect to the Project; and

WHEREAS, by further resolution adopted by the members of the Agency on March 19, 2015 (the "Commercial/Retail Findings Resolution"), the Agency (A) determined that the Project constituted a "commercial project" within the meaning of the Act, (B) found that although the Project Facility appears to constitute a project where facilities or properties that are primarily used in making the retail sales of goods or services to customers who personally visit such facilities may constitute more than one-third of the costs of the Project, the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act because the Project Facility is located in a highly distressed area, (C) determined, following a review of the Public Hearing Report, that the Project would serve the public purposes of the Act by preserving permanent private sector jobs in the State of New York, and (D) determined that the Agency would proceed with the Project and the granting of the Financial Assistance; provided however, that no financial assistance would be provided to the Project by the Agency unless and until the Mayor of City of Albany, as chief executive officer of City of Albany, New York, pursuant to Section 862(2)(c) of the Act, confirmed the proposed action of the Agency with respect to the Project; and

WHEREAS, by further resolution adopted by the members of the Agency on March 19, 2015 (the "Approving Resolution"), the Agency determined to grant the Financial Assistance and to enter into a lease agreement dated as of September 1, 2015 (the "Lease Agreement") between the Agency and the Company and certain other documents related thereto and to the Project (collectively with the Lease Agreement, the "Basic Documents"). Pursuant to the terms of the Lease Agreement, (A) the Company will agree (1) to cause the Project to be undertaken and completed, and (2) as agent of the Agency, to undertake and complete the Project and (B) the Agency has leased the Project Facility to the Company for a lease term ending on the earlier to occur of (1) December 31, 2023 or (2) the date on which the Lease Agreement is terminated pursuant to the optional termination provisions thereof. The Lease Agreement grants to the Company certain options to acquire the Project Facility from the Agency; and

WHEREAS , by certificate dated April 8, 2015 (the "Public Approval"), the Mayor, as chief executive officer of the City of Albany, New York, approved the proposed action to be taken by the Agency with respect to the Project for purposes of Section 862(2)(c) of the Act; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the "Closing"), (A) the Company will execute and deliver to the Agency (1) a certain lease to agency dated as of September 1, 2015 (the "Lease to Agency") by and between the Company, as landlord, and the Agency, as tenant, pursuant to which the Company will lease to the Agency a portion of the Land and all improvements now or hereafter located on said portion of the Land (collectively, the "Leased Premises") for a lease term ending on December 31, 2023; (2) a certain license agreement dated as of September 1, 2015 (the "License to Agency") by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company will grant to the Agency (a) a license to enter upon the balance of the Land (the "Licensed Premises") for the purpose of undertaking and completing the Project and (b) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement; and (3) a bill of sale dated as of September 1, 2015 (the "Bill of Sale to Agency"), which conveys to the Agency all right, title and interest of the Company in the Equipment, (B) the Company and the Agency will execute and deliver (1) a payment in lieu of tax agreement dated as of September 1, 2015 (the "Payment in Lieu of Tax Agreement") by and between the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility, (2) a project benefits agreement dated as of September 1, 2015 (the "Project Benefits Agreement") by and between the Agency and the Company relating to the terms of the granting by the Agency of the Financial Assistance to the Company, (3) a recapture agreement (the "Section 875 GML Recapture Agreement") by and between the Company and the Agency, required by the Act, regarding the recovery or recapture of certain sales and use taxes; (C) the Agency will file with the assessor and mail to the chief executive officer of each "affected tax jurisdiction" (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the "Real Property Tax Exemption Form") relating to the Project Facility and the Payment in Lieu of Tax Agreement, (D) the Agency will execute and deliver to the Company a sales tax exemption letter (the "Sales Tax Exemption Letter") to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance and (E) the Agency will file with the New York State Department of Taxation and Finance the form entitled "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report"); and

WHEREAS, (A) the Agency has established certain policies allowing denial of Financial Assistance to any project which does not deliver the public benefits promised at the time said project was approved by the Agency (the "Public Benefits"), (B) the Agency is unwilling to grant Financial Assistance to a project unless the beneficiary of such project agrees that the amount of Financial

Assistance to be received by such beneficiary with respect to such project shall be contingent upon, and shall bear a direct relationship to, the success or lack of success of such project in delivering the promised Public Benefits, and (C) the Agency has created this Project Benefits Agreement in order to establish the conditions under which the Agency will be entitled to recapture some or all of the Financial Assistance that has been granted to the Company under the Basic Documents if the Project is unsuccessful in whole or in part in delivering the promised Public Benefits; and

WHEREAS, the Company desires to receive certain Financial Assistance from the Agency with respect to the Project, and accordingly is willing to enter into this Project Benefits Agreement in order to secure such Financial Assistance from the Agency: and

WHEREAS, all things necessary to constitute this Project Benefits Agreement a valid and binding agreement by and between the parties hereto in accordance with the terms hereof have been done and performed, and the creation, execution and delivery of this Project Benefits Agreement have in all respects been duly authorized by the Agency and the Company;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS HEREINAFTER CONTAINED, THE PARTIES HERETO HEREBY FORMALLY COVENANT, AGREE AND BIND THEMSELVES AS FOLLOWS TO WIT:

ARTICLE I

DEFINITIONS

SECTION 1.01. DEFINITIONS. All defined terms used herein and not otherwise defined herein shall have the same meanings as set forth in the Lease Agreement. The following words and terms used in this Project Benefits Agreement shall have the respective meanings set forth below unless the context or use indicates another or different meaning or intent.

“Application” means the application submitted by the Company to the Agency in January, 2015 with respect to the Project, in which the Company (A) described the Project, (B) requested that the Agency grant certain Financial Assistance with respect to the Project, and (C) indicated the Public Benefits that would result from approval of the Project by the Agency.

“Basic Documents” shall have the meaning set forth in the Lease Agreement, and includes this Project Benefits Agreement.

“Completion Date” means the earlier to occur of (A) December 31, 2016 or (B) such date as shall be certified by the Company to the Agency as the date of completion of the Project pursuant to Section 4.2 of the Lease Agreement, or (C) such earlier date as shall be designated by written communication from the Company to the Agency as the date of completion of the Project.

“Contract Employee” means (A) a full-time, private-sector employee (or self-employed individual) that is not on the Company’s payroll but who has worked for the Company at the Project Facility for a minimum of 35 hours per week for not less than 4 consecutive weeks providing services that are similar to services that would otherwise be performed by a Full Time Equivalent Employee (i.e., a job existing at the site of the Project Facility year-round), or (B) 2 part-time, private-sector employees (or self-employed individuals) that are not on the Company’s payroll but who have worked for the Company at the Project Facility for a combined minimum of 35 hours per week for not less than 32 consecutive weeks providing services that are similar to services that would otherwise be performed by a Full Time Equivalent Employee.

“Conveyance Documents” shall have the meaning set forth in the Lease Agreement.

“Equipment” shall have the meaning set forth in the Lease Agreement.

“Facility” shall have the meaning set forth in the Lease Agreement.

“Financial Assistance” means exemptions from certain sales and use taxes, real property taxes, real property transfer taxes and mortgage recording taxes as more particularly described in the Basic Documents.

“Full Time Equivalent Employee” means (A) a full-time, permanent, private-sector employee on the Company’s payroll, who has worked at the Project Facility for a minimum of 35 hours per week for not less than 4 consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by the Company to other employees with comparable rank and duties; or (B) two part-time, permanent, private-sector employees on Company’s payroll, who have worked at the Project Facility for a combined minimum of 35 hours per week for not less than 4 consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by the Company to other employees with comparable rank and duties; or (C) a Contract Employee.

“Land” means an approximately one (1) acre parcel of land located at 1475 Washington Avenue in the City of Albany, Albany County, New York.

“Lease Agreement” means the lease agreement dated as of September 1, 2015 by and between the Agency, as landlord, and the Company, as tenant, pursuant to which, among other things, the Agency has leased the Project Facility to the Company, as said lease agreement may be amended or supplemented from time to time.

“Payment in Lieu of Tax Agreement” means the payment in lieu of tax agreement dated as of September 1, 2015 by and between the Agency and the Company, pursuant to which the Company has agreed to make payments in lieu of taxes with respect to the Project Facility, as such agreement may be amended or supplemented from time to time.

“Project” shall have the meaning set forth in the Lease Agreement.

“Project Facility” means, collectively, the Land, the Facility and the Equipment.

“Recapture Events” shall mean the following:

(1) failure to complete the acquisition, construction and installation of the Project Facility;

(2) failure by the Company to meet at least eighty percent (80%) of the Employment Level requirements contained in Section 3.02(E) hereof;

(3) liquidation of substantially all of the Company’s operating assets and/or cessation of substantially all of the Company’s operations;

(4) relocation of all or substantially all of Company’s operations at the Project Facility to another site, or the sale, lease or other disposition of all or substantially all of the Project Facility;

(5) transfer of jobs equal to at least fifteen percent (15%) of the Company’s Employment Level out of the City of Albany, New York;

(6) failure by the Company to comply with the annual reporting requirements or to provide the Agency with requested information;

(7) sublease of all or part of the Project Facility in violation of Basic Documents; or

(8) a change in the use of the Project Facility, other than as a privately owned student housing complex.

“Recapture Period” means an approximately nine (9) year period, beginning the Closing Date and ending on December 31, 2023.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

SECTION 2.01. REPRESENTATIONS OF AND WARRANTIES BY THE AGENCY. The Agency does hereby represent, warrant and covenant as follows:

(A) Power. The Agency is a public benefit corporation of the State, has been duly established under the provisions of the Act, is validly existing under the provisions of the Act and has the power under the laws of the State of New York to enter into this Project Benefits Agreement and to carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement.

(B) Authorization. The Agency is authorized and has the corporate power under the Act, its by-laws and the laws of the State to enter into this Project Benefits Agreement and the transactions contemplated hereby and to perform and carry out all the covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement. By proper corporate action on the part of its members, the Agency has duly authorized the execution, delivery and performance of this Project Benefits Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Agency is not prohibited from entering into this Project Benefits Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement by the terms, conditions or provisions of any order, judgment, decree, law, ordinance, rule or regulation of any court or other agency or authority of government, or any agreement or instrument to which the Agency is a party or by which the Agency is bound.

SECTION 2.02. REPRESENTATIONS OF AND WARRANTIES BY THE COMPANY. The Company does hereby represent, warrant and covenant as follows:

(A) Power. The Company is limited liability company duly organized and validly existing under the laws of the Commonwealth of Pennsylvania, is duly authorized to do business in the State of New York and has the power under the laws of the Commonwealth of Pennsylvania to enter into this Project Benefits Agreement and to perform and carry out the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement, and by proper action of its board of directors has been duly authorized to execute, deliver and perform this Project Benefits Agreement.

(B) Authorization. The Company is authorized and has the power under its certificate of organization, operating agreement and the laws of the Commonwealth of Pennsylvania to enter into this Project Benefits Agreement and the transactions contemplated hereby and to perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement. By proper action of its members, the Company has duly authorized the execution, delivery and performance of this Project Benefits Agreement and the consummation of the transactions herein contemplated.

(C) Conflicts. The Company is not prohibited from entering into this Project Benefits Agreement and discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement by (and the execution, delivery and performance of this Project Benefits Agreement, the consummation of the transactions contemplated hereby and the fulfillment of and compliance with the provisions of this Project Benefits Agreement will not conflict

with or violate or constitute a breach of or a default under) the terms, conditions or provisions of its articles of organization or operating agreement or any other restriction, law, rule, regulation or order of any court or other agency or authority of government, or any contractual limitation, restriction or outstanding indenture, deed of trust, mortgage, loan agreement, other evidence of indebtedness or any other agreement or instrument to which the Company is a party or by which it or any of its property is bound, and neither the Company's entering into this Project Benefits Agreement nor the Company's discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Project Benefits Agreement will be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any of the foregoing, 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 of the foregoing, and this Project Benefits Agreement is the legal, valid and binding obligation of the Company enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws relating to or affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(D) Governmental Consent. No consent, approval or authorization of, or filing, registration or qualification with, any governmental or public authority on the part of the Company is required as a condition to the execution, delivery or performance of this Project Benefits Agreement by the Company or as a condition to the validity of this Project Benefits Agreement.

ARTICLE III

COVENANTS AND AGREEMENTS

SECTION 3.01. FINANCIAL ASSISTANCE. (A) Financial Assistance. In connection with the Project, and in reliance on the certifications provided by the Company in the Application, the Agency agrees to provide the Company with the following Financial Assistance related to the Project: (1) possible sales and use tax exemptions; (2) possible mortgage recording tax exemptions; and (3) possible real property tax exemptions.

(B) Public Purpose of Granting Financial Assistance to the Project. In the Application and in the discussions had between the Company and the Agency with respect to the Company's request for Financial Assistance from the Agency with respect to the Project, the Company has represented to the Agency that the Project will furnish the following benefits to the residents of City of Albany, New York (the "Public Benefits"): the development of the project site as a student housing facility.

(C) Contingent Nature of the Financial Assistance. Notwithstanding the provisions of Section 3.01(A) of this Project Benefits Agreement, the Agency and the Company agree that the amount of Financial Assistance to be received by the Company with respect to the Project shall be contingent upon, and shall bear a direct relationship to, the success or lack of success of the Project in delivering the promised Public Benefits.

SECTION 3.02. COMPANY AGREEMENTS. The Company hereby agrees as follows:

(A) Filing – Initial. To file with the Agency, prior to the Closing Date, an initial plan, based on the employment projections contained in the Application, regarding the number of people expected to be employed at the Project Facility and certain other matters, in substantially the form attached as Exhibit G to the Lease Agreement.

(B) Filing – Annual. To file with the Agency, on an annual basis, within sixty (60) days after the end of each calendar year, reports regarding the number of people employed at the Project Facility and certain other matters, the annual employment report (the "Annual Report") to be in substantially the form annexed as Exhibit H to the Lease Agreement.

(C) Employment Listing. To list new employment opportunities created as a result of the Project with the following entities (hereinafter, the "JTPA Entities"): (1) the New York State Department of Labor Community Services Division and (2) the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Project Facility is located (while currently cited in Section 858-b of the Act, the Federal Job Training Partnership Act was repealed effective June 1, 2000, and has been supplanted by the Workplace Investment Act of 1998 (P.L. No. 105-220)).

(D) Employment Consideration. Except as otherwise provided by collective bargaining agreement, the Company agrees, where practicable, to first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the JTPA Entities.

(E) Employment Level. (1) In the Application, the Company certified to the Agency employment information with respect to the Project Facility and the operations of the Company.

(2) To maintain the following employment level (the "Employment Level") during the term of the Project Benefit Agreement, beginning on December 31, 2017:

Year	Total Employees
2015-2016	Not Applicable
2017	5 Full Time Equivalent Employees
2018 and thereafter	7 Full Time Equivalent Employees

(3) (a) To verify that the Employment Level is being achieved at the Project Facility and the information contained in the Annual Report, the Company is required to submit, or cause to be submitted, within sixty (60) days after the end of each calendar year, a form NYS-45 as of the last payroll date in the month of December (the "Quarterly Report," a copy of which is attached hereto as Schedule A and, together with the Annual Report described in Section 3.02(B) above, being collectively referred to as the "Employment Affidavits")) or some other form of reporting that is explicitly approved by the Agency. Full Time Equivalent Employees for each calendar year during the term of this Project Benefits Agreement shall be the number reported in the Employment Affidavits delivered by the Company pursuant to Section 3.02(B) and this Section 3.02(E)(3).

(b) In the event that some or all of the Full Time Equivalent Employees employed at the Project Facility constitute Contract Employees, it shall be the responsibility of the Company to deliver, or cause to be delivered, the Quarterly Reports of the employers relating to such Contract Employees. The Company hereby agrees to provide such Quarterly Reports in accordance with the terms contained in Section 3.02(E)(3)(a) above.

(F) Non-Discrimination. (1) At all times during the term of this Project Benefit Agreement, 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 Project 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.

(2) The Company agrees that, in all solicitations or advertisements for employees placed by or on behalf of the Company during the term of this Project Benefit Agreement, the Company will state in substance that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex.

ARTICLE IV

EVENTS OF DEFAULT AND REMEDIES

SECTION 4.01. EVENTS OF DEFAULT DEFINED. The following shall be “Events of Default” under this Project Benefits Agreement, and the terms “Event of Default” or “default” shall mean, whenever they are used in this Project Benefits Agreement, any one or more of the following events:

(A) A default in the performance or observance of any of the covenants, conditions or agreements on the part of the Company in this Project Benefits Agreement and the continuance thereof for a period of thirty (30) days after written notice thereof is given by the Agency to the Company, provided that, if such default is capable of cure but cannot be cured within such thirty (30) day period, the failure of the Company to commence to cure within such thirty (30) day period and to prosecute the same with due diligence.

(B) The occurrence of an “Event of Default” under any other Basic Document.

(C) Any representation or warranty made by the Company herein or in any other Basic Document proves to have been materially false at the time it was made.

SECTION 4.02. REMEDIES ON DEFAULT. (A) Whenever any Event of Default hereunder shall have occurred, the Agency may, to the extent permitted by law, take any one or more of the following remedial steps:

(1) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable, (a) all amounts payable pursuant to Section 5.3 of the Lease Agreement, and (b) all other payments due under this Project Benefits Agreement or any of the other Basic Documents; or

(2) terminate the Lease Agreement and the Payment in Lieu of Tax Agreement and convey to the Company all the Agency’s right, title and interest in and to the Project Facility (the conveyance of the Agency’s right, title and interest in and to the Project Facility shall be effected by the delivery by the Agency of the Termination of Lease to Agency and the Bill of Sale to Company. The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from any such transfer of title); or

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

(B) No action taken pursuant to this Section 4.01 (including repossession of the Project Facility) shall relieve the Company from its obligations to make any payments required by this Project Benefits Agreement and the other Basic Documents.

SECTION 4.03. RECAPTURE OF FINANCIAL ASSISTANCE. (A) General. Upon the occurrence of a Recapture Event that occurs during the Recapture Period, the Agency may require the Company to provide for the recapture of the project financial assistance provided as of the date of determination (the “Project Financial Assistance”), all in accordance with the terms of this Section 4.03. The Company hereby agrees, if requested in writing by the Agency, to pay within thirty (30) days to the Agency the recapture of the Project Financial Assistance, as provided in this Section 4.03.

(B) Project Financial Assistance to be Recaptured. The Project Financial Assistance to be recaptured, as adjusted by the provisions of Section 4.03(C) below, by the Agency upon the occurrence of a Recapture Event during a Recapture Period shall be an amount equal to the sum of the following:

(1) the portion of the amount of New York State sales and use taxes allocable to Albany County that the Company would have paid as of the date of determination in connection with the undertaking of the Project if the Project Facility was privately owned by the Company and not deemed owned or under the jurisdiction and control of the Agency;

(2) the amount of any mortgage recording tax exemption provided by the Agency to the Company in connection with the undertaking of the Project; and

(3) the difference between the amount of the payment in lieu of tax payments paid by the Company under the Payment in Lieu of Tax Agreement and the amount of the general real property ad valorem taxes that would have been payable by the Company to the Taxing Entities if the Project Facility was privately owned by the Company and not deemed owned or under the jurisdiction and control of the Agency.

(C) Amount of Project Financial Assistance to be Recaptured. Upon the occurrence of a Recapture Event, the Company shall pay the following amounts as recapture:

Year	Amount of Recapture
2015	100.0% of the Project Financial Assistance
2016	100.0% of the Project Financial Assistance
2017	87.5% of the Project Financial Assistance
2018	75.0% of the Project Financial Assistance
2019	62.5% of the Project Financial Assistance
2020	50.0% of the Project Financial Assistance
2021	37.5% of the Project Financial Assistance
2022	25.0% of the Project Financial Assistance
2023	12.5% of the Project Financial Assistance

(D) Survival of Obligations. The Company acknowledges that the obligations of the Company in this Section 4.03 shall survive the conveyance of the Project Facility to the Company and the termination of the Lease Agreement.

SECTION 4.04. LATE PAYMENTS. (A) One Month. If the Company shall fail to make any payment required by this Project Benefits Agreement within thirty days of the date that written notice of such payment is sent from the Agency to the Company at the address provided in Section 4.05 of this Project Benefits Agreement, the Company shall pay the amount specified in such notice together with a late payment penalty equal to five percent (5%) of the amount due.

(B) Thereafter. If the Company shall fail to make any payment required by this Project Benefits Agreement when due and such delinquency shall continue beyond the thirty days after such notice, the Company's obligation to make the payment so in default shall continue as an obligation of the Company to the Agency until such payment in default shall have been made in full, and the Company shall pay the same to the Agency together with (1) a late payment penalty of one percent (1%) per month for each month, or part thereof, that the payment due hereunder is delinquent beyond the first month, plus

(2) interest thereon, to the extent permitted by law, at the greater of (a) one percent (1%) per month, or (b) the rate per annum which would be payable if such amount were delinquent taxes, until so paid in full.

SECTION 4.05. PAYMENT OF ATTORNEY'S FEES AND EXPENSES. If the Company should default in performing any of its obligations, covenants or agreements under this Project Benefits Agreement and the Agency should employ attorneys or incur other expenses for the collection of any amounts payable hereunder or for the enforcement of performance or observance of any obligation, covenant or agreement on the part of the Company herein contained, the Company agrees that it will, on demand therefor, pay to the Agency within thirty (30) days not only the amounts adjudicated due hereunder, together with the late payment penalty and interest due thereon, but also the reasonable fees and disbursements of such attorneys and all other expenses, costs and disbursements so incurred, whether or not an action is commenced.

SECTION 4.06. REMEDIES; WAIVER AND NOTICE. (A) No Remedy Exclusive. No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Project Benefits Agreement or now or hereafter existing at law or in equity or by statute.

(B) Delay. No delay or omission in exercising any right or power accruing upon the occurrence of Recapture Event or an Event of Default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient.

(C) Notice Not Required. In order to entitle the Agency to exercise any remedy reserved to it in this Project Benefits Agreement, it shall not be necessary to give any notice, other than such notice as may be expressly required in this Project Benefits Agreement.

(D) No Waiver. In the event any provision contained in this Project Benefits Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder. No waiver, amendment, release or modification of this Project Benefits Agreement shall be established by conduct, custom or course of dealing.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. TERM. This Project Benefits Agreement shall become effective and the obligations of the Company shall arise absolutely and unconditionally upon the execution and delivery of this Project Benefits Agreement by the Company and the Agency. Unless otherwise provided by amendment hereof, this Project Benefits Agreement shall continue to remain in effect until December 31, 2023.

SECTION 5.02. FORM OF PAYMENTS. The amounts payable under this Project Benefits Agreement shall be payable in such coin and currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

SECTION 5.03. COMPANY ACTS. Where the Company is required to do or accomplish any act or thing hereunder, the Company may cause the same to be done or accomplished with the same force and effect as if done or accomplished by the Company.

SECTION 5.04. AMENDMENTS. This Project Benefits Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

SECTION 5.05. NOTICES. (A) General. All notices, certificates or other communications hereunder shall be in writing and may be personally served, telecopied or sent by courier service or United States mail and shall be sufficiently given and shall be deemed given when (1) delivered in person or by courier to the applicable address stated below, (2) when received by telecopy or (3) three business days after deposit in the United States, by United States mail (registered or certified mail, postage prepaid, return receipt requested, property addressed), or (4) when delivered by such other means as shall provide the sender with documentary evidence of such delivery, or when delivery is refused by the addressee, as evidenced by the affidavit of the Person who attempted to effect such delivery.

(B) Addresses. The addresses to which notices, certificates and other communications hereunder shall be delivered are as follows:

IF TO THE COMPANY:

1475 Washington Avenue Associates, LLC
910 Harvest Drive, Suite 105
Blue Bell, Pennsylvania 19422
Attention: Nimish Sanghrajka

WITH A COPIES TO:

Aspen Heights
1301 S. Capital of Texas Highway, Suite 201
Austin, Texas 78746
Attention: Michael Riley

Donald Zee, Esq.
I Winners Circle
Albany, New York 12205

IF TO THE AGENCY:

City of Albany Industrial Development Agency
21 Lodge Street
Albany, New York 12207
Attention: Chairman

WITH A COPY TO:

Office of the Corporation Counsel
City Hall, Eagle Street - Room 106
Albany, New York 12207
Attention: John J. Reilly, Esq.

and

Hodgson Russ LLP
677 Broadway, Suite 301
Albany, New York 12207
Attention: A. Joseph Scott, III, Esq.

(C) Change of Address. The Agency and the Company may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

SECTION 5.06. BINDING EFFECT. This Project Benefits Agreement shall inure to the benefit of, and shall be binding upon, the Agency, the Company and their respective successors and assigns. The provisions of this Project Benefits Agreement are intended to be for the benefit of the Agency.

SECTION 5.07. SEVERABILITY. If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Project Benefits Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Project Benefits Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication.

SECTION 5.08. COUNTERPARTS. This Project Benefits Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 5.09. APPLICABLE LAW. This Project Benefits Agreement shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the Agency and the Company have caused this Project Benefits Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

CITY OF ALBANY INDUSTRIAL
DEVELOPMENT AGENCY

BY: Tacey Hotzger
Authorized Officer

1475 WASHINGTON AVENUE ASSOCIATES, LLC

BY: _____
Authorized Officer

IN WITNESS WHEREOF, the Agency and the Company have caused this Project Benefits Agreement to be executed in their respective names by duly authorized officers thereof, all being done as of the date first above written.

CITY OF ALBANY INDUSTRIAL
DEVELOPMENT AGENCY

BY: _____
Authorized Officer

1475 WASHINGTON AVENUE ASSOCIATES, LLC,
a Pennsylvania limited liability company

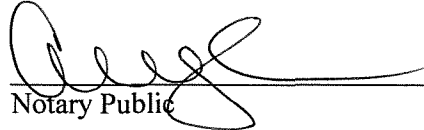
By: CS 1475 WASHINGTON AVENUE
ASSOCIATES, LP, a Pennsylvania limited
partnership, Its Managing Member

By: CS 1475 WASHINGTON AVENUE
GENERAL, LLC, a Pennsylvania
limited liability company,
Its General Partner

By: _____
Name: Greg Henry
Title: Manager

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

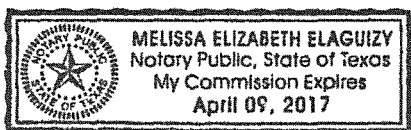
On the 18th day of August, in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared TRACY L. METZGER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she they executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

Allison J. Squires
Notary Public, State of New York
Qualified in Rensselaer County
No. 01SQ6208657
Commission Expires July 6, 2017

STATE OF Texas)
COUNTY OF Travis) ss.:

On the 1 day of September, in the year 2015, before me, the undersigned, a notary public in and for said state, personally appeared Greg Henry, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



M. Elaguizy
Notary Public

SCHEDULE A

**FORM OF NEW YORK STATE FORM
REGARDING EMPLOYMENT LEVEL**


41329412

Mark an X in only one box to indicate the quarter (a separate return must be completed for each quarter) and enter the year.

1	2	3	4	Y	Y
Jan 1 - Mar 31	Apr 1 - Jun 30	July 1 - Sep 30	Oct 1 - Dec 31		Year

For office use only
Postmark

Are dependent health insurance benefits available to any employee? Yes ☐ No ☐

Received date

If seasonal employer, mark an X in the box

a. First month

b. Second month

c. Third month

U!

41

E1

W

Part B - Withholding tax (WT) information

- | | |
|--|---|
| <p>12. New York State
tax withheld</p> | |
| <p>13. New York City
tax withheld</p> | |
| <p>14. Yonkers tax
withheld</p> | |
| <p>15. Total tax withheld
(add lines 12, 13, and 14)</p> | |
| <p>16. WT credit from previous
quarter's return (see instr.)</p> | |
| <p>17. Form NYS-1 payments made
for quarter</p> | |
| <p>18. Total payments
(add lines 16 and 17)</p> | |
| <p>19. Total WT amount due (if line 15
is greater than line 18, enter difference) ...</p> | |
| <p>20. Total WT overpaid (if line 18
is greater than line 15, enter difference
here and mark an X in 20a or 20b)²⁰</p> | |
| <p>20a. Apply to outstanding
liabilities and/or refund</p> | OR |
| | <p>20b. Credit to next quarter
withholding tax</p> |

21. Total payment due (add lines 9 and 19; make one remittance payable to NYS Employment Contributions and Taxes).....

* An overpayment of either UI contributions or withholding tax cannot be used to offset an amount due for the other.

Complete Parts D and E on back of form, if required.

Part C – Employee wage and withholding information[illegible]**Totals** (column c must equal remuneration on line 1: see instructions for exceptions)

Sign your return: I certify that the information on this return and any attachments is to the best of my knowledge and belief true, correct, and complete.

Signature (see instructions)

Signer's name (please print)

Title

Date _____

Telephone number

Withholding
identification number



41329429

Part D - Form NYS-1 corrections/additions

Use Part D **only** for corrections/additions for the quarter being reported in Part B of **this** return. To correct original withholding information reported on Form(s) NYS-1, complete columns a, b, c, and d. To report additional withholding information not previously submitted on Form(s) NYS-1, complete only columns c and d. Lines 12 through 15 on the front of this return must reflect these corrections/additions.

a Original last payroll date reported on Form NYS-1, line A (mmdd)	b Original total withheld reported on Form NYS-1, line 4	c Correct last payroll date (mmdd)	d Correct total withheld
▶			
▶			
▶			
▶			
▶			
▶			

Part E - Change of business information

22. This line is not in use for this quarter.

23. If you **permanently ceased paying wages**, enter the date (mmddyy) of the final payroll (see Note below)

24. If you **sold or transferred all or part of your business**:

- Mark an X to indicate whether in whole ☐ or in part ☐
- Enter the date of transfer (mmddyy)

• Complete the information below about the acquiring entity

Legal name	EIN
Address	

Note: For questions about other changes to your withholding tax account, call the Tax Department at (518) 485-6654; for your unemployment insurance account, call the Department of Labor at (518) 485-8589 or 1 888 899-8810. If you are using a paid preparer or a payroll service, the section below must be completed.

Paid preparer's use	Preparer's signature	Date	Preparer's NYTPRIN	Preparer's SSN or PTIN	Mark an X if self-employed <input type="checkbox"/>
	Preparer's firm name (or yours, if self-employed)	Address	Firm's EIN	Telephone number ()	
Payroll service's name			Payroll service's EIN		

Checklist for mailing:

- File original return and keep a copy for your records.
- Complete lines 9 and 19 to ensure proper credit of payment.
- Enter your withholding ID number on your remittance.
- Make remittance payable to *NYS Employment Contributions and Taxes*.
- Enter your telephone number in boxes below your signature.
- See *Need help?* on Form NYS-45-1 if you need forms or assistance.

Mail to:

NYS EMPLOYMENT
CONTRIBUTIONS AND TAXES
PO BOX 4119
BINGHAMTON NY 13902-4119

NYS-45 (2/13) (back)