

At a meeting of the Suffolk County Industrial Development Agency, Suffolk County, New York (the “Agency”), held at H. Lee Dennison Building, 100 Veterans Memorial Highway, Hauppauge, New York and remotely by conference call or similar service pursuant to Chapter 417 of the Laws of 2021 of New York State, effective September 2, 2021 through January 15, 2022, on the 14th day of December, 2021, at 10:30 a.m., the following members of the Agency were:

Present: Natalie Wright, Chair
Kevin Harvey, Vice Chair
Anthony Giordano, Secretary
Sondra Cochran, Treasurer
Brian Beedenbender, Member
Gregory T. Casamento, Member
Joshua Slaughter, Member

Excused Absence:

Also Present: Anthony J. Catapano, Executive Director
Kelly Murphy, Deputy Executive Director
William D. Wexler, Agency Counsel
Melissa C. Bennett, Transaction Counsel

The following resolution was offered by _____, seconded by _____,
to wit:

RESOLUTION OF THE SUFFOLK COUNTY INDUSTRIAL DEVELOPMENT AGENCY APPROVING THE MODIFICATION OF CERTAIN PROJECT DOCUMENTS IN CONNECTION WITH CERTAIN PROJECT FOR HARTZ MOUNTAIN INDUSTRIES, INC., 235 PINELAWN ROAD NORTH LLC AND 235 PINELAWN ROAD SOUTH LLC AND DETERMINATION OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, Suffolk County Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of Laws of 1969 of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 675 of the Laws of 1975 of New York, as amended, constituting Section 911-a of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, renovating, improving, maintaining, equipping and furnishing of, among others, manufacturing, warehouse, research, commercial or industrial facilities, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install “projects” (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, pursuant to a resolution duly adopted on October 22, 2020 (the “Approving Resolution”), the Agency undertook a project (the “Project”) on behalf of Hartz Mountain Industries, Inc. (the “Company”), on behalf of itself and/or entities formed or to be formed on behalf of the foregoing, including but not limited to 235 Pinelawn Road South LLC (the “South Parcel Real Estate Holding Company”) and 235 Pinelawn Road North LLC (the “North Parcel Real Estate Holding Company” and together with the South Parcel Real Estate Holding Company, the “Real Estate Holding Companies”) consisting of the following: (A) (1) the acquisition of an interest in approximately 32.54 acres of real estate owned by the South Parcel Real Estate Holding Company located at 235 Pinelawn Road, Melville (Tax Map #400-270-1-24.1), in the Town of Huntington, Suffolk County, New York (the “South Parcel Land”), the demolition of an existing approximately 414,000 square foot building located thereon and the construction thereon of an approximately 669,186 square foot building (the “South Parcel Improvements”), and the acquisition and installation therein and thereon of certain equipment and personal property (the “South Parcel Equipment”; and, together with the South Parcel Land and the South Parcel Improvements, the “South Parcel Facility”), which South Parcel Facility is to be leased and subleased by the Agency to the South Parcel Real Estate Holding Company and further subleased by the South Parcel Real Estate Holding Company to third-party tenants for warehousing and distribution operations; and (2) the acquisition of an interest in approximately 15.98 acres of real estate owned by the North Parcel Real Estate Holding Company located at 235 Pinelawn Road, Melville (Tax Map #400-270-1-8.1), in the Town of Huntington, Suffolk County, New York (the “North Parcel Land”), the construction on the North Parcel Land of an approximately 276,500 square foot building (the “North Parcel Improvements”), and the acquisition and installation therein and thereon of certain equipment and personal property (the “North Parcel Equipment”; and, together with the North Parcel Land and the North Parcel Improvements, the “North Parcel Facility”)(the South Parcel Facility and the North Parcel Facility are sometimes collectively referred to as the “Facility”), which North Parcel Facility is to be leased and subleased by the Agency to the North Parcel Real Estate Holding Company and further subleased by the North Parcel Real Estate Holding Company to third-party tenants for warehousing and distribution operations; (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 sales and use taxes, transfer taxes, mortgage recording taxes (except as limited by Section 874 of the Act) and real property taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the South Parcel Facility to the South Parcel Real Estate Holding Company or such other person as may be designated by the South Parcel Real Estate Holding Company and the Company and agreed upon by the Agency and the lease (with an obligation to purchase) or sale of the North Parcel Facility to the North Parcel Real Estate Holding Company or such other person as may be designated by the North Parcel Real Estate Holding Company and the Company and agreed upon by the Agency; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance, on February 25, 2021 (the “Closing”) the Agency entered into the following documents (hereinafter collectively referred to as the “Project Documents”): (A)(1) a company lease agreement (and a memorandum thereof) (each, a “Company Lease”) by and between the respective Real Estate Holding Company and the Agency, pursuant to which, among other things, the Agency acquired leasehold interests in the South Parcel Land or the North Parcel Land, as applicable, and the improvements now or thereafter located thereon from the respective Real Estate Holding Company; and (2) a lease and project agreement (and memorandums thereof) (each, a “Lease and Project Agreement”) by and between the Agency and the respective Real Estate Holding Company, pursuant to which, among other things, the respective Real Estate Holding Company agreed to undertake and complete the respective Facility as agents of the Agency, the respective Real Estate Holding Company agreed to lease the respective Facility from the Agency and, as rental thereunder, to pay the Agency’s administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project and the respective Real Estate Holding Company further agreed to make certain payment in lieu of taxes; (B) the Company and the Agency executed and delivered a guaranty agreement relating to each Facility (each a “Guaranty Agreement”) by and between the Agency and the Company, pursuant to which the Company agreed to certain obligations with respect to each respective Facility; (C) the Agency filed with the assessor and mailed 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 relating to each respective Facility (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) (each a “Real Property Tax Exemption Form”) relating to the respective Facility and the Payment in Lieu of Tax Agreement; (D) the Agency issued Sales Tax Agent Authorization Letters for each respective Facility (each a “Sales Tax Agent Authorization Letter”) for purposes of completing the Project and benefitting from the sales and use tax exemption and authorized the Company and the respective Real Estate Holding Company to appoint additional agents; and (E) the Agency filed with the New York State Department of Taxation and Finance the forms entitled “IDA Appointment of Project Operator or Agency for Sales Tax Purposes” (the form required to be filed pursuant to Section 874(9) of the Act) for each respective Facility (each a “Thirty-Day Sales Tax Report”); and

WHEREAS, in order to facilitate the financing and leasing of each Facility, pursuant to correspondence dated September 10, 2021 (the “Request”), attached hereto as Exhibit A, the Company has requested that the Agency modify the Project Documents to amend certain provisions and certain obligations of the Company and each respective Real Estate Holding Company, as identified in the Request (the “Modification”); and

WHEREAS, the Agency desires to consent to the Modification and amend and modify certain Project Documents; and

WHEREAS, to effectuate the Modification, the Agency, the Company and the respective Real Estate Holding Company will execute and deliver an Omnibus Amendment of Project Documents with respect to the respective Facility (together, the “Omnibus Amendments of Project Documents”), the forms of which were presented at this meeting and are attached hereto as Exhibit B; 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”), the Agency must determine the potential environmental significance of the Modification and the execution and delivery of the Omnibus Amendments of Project Documents;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE SUFFOLK COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Pursuant to SEQRA, the Agency hereby finds and determines that:

(A) Pursuant to Section 617.5(c)(26) of the Regulations, the Modification is a “Type II action” (as said quoted term is defined in the Regulations); and

(B) Therefore, the Agency hereby determines that no environmental impact statement or any other determination or procedure is required under the Regulations with respect to the Modification.

Section 2. The Agency, based upon the representations made by the Company and/or the respective Real Estate Holding Company to the Agency in the Request and the Project Documents, hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act;

(B) The Modification will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Suffolk County and the State of New York and improve their standard of living and will serve the public purposes of the Act.

Section 3. The Agency hereby (A) consents to the Modification and (B) determines to enter into the Omnibus Amendments of Project Documents.

Section 4. The form and substance of the Omnibus Amendments of Project Documents (in substantially the forms presented to this meeting and attached hereto as Exhibit B) are hereby approved.

Section 5. The Chairman (or Vice Chairman) or Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Omnibus Amendments of Project Documents, the Forms ST-60 to be filed in connection therewith and any other document or certificate required in connection therewith, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the forms thereof presented to this meeting with such changes, variation, omissions and insertions as the Chairman (or Vice

Chairman) or Executive Director shall approve, the execution thereof by the Chairman (or Vice Chairman) or Executive Director to constitute conclusive evidence of such approval.

Section 6. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Omnibus Amendments of Project Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Omnibus Amendments of Project Documents binding upon the Agency.

Section 7. Neither the members nor officers of the Agency, nor any person executing the Omnibus Amendments of Project Documents on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution, issuance or delivery thereof or the transaction contemplated thereby.

Section 8. The Chairman, Vice Chairman and/or Executive Director of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Company and the Real Estate Holding Companies, and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 9. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
Natalie Wright			
Kevin Harvey			
Sondra Cochran			
Anthony Giordano			
Brian Beedenbender			
Gregory T. Casamento			
Joshua Slaughter			

The Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of the Suffolk County Industrial Development Agency (the “Agency”), do hereby certify that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on December 14, 2021, with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the “Open Meetings Law”), as modified by Chapter 417 of the Laws of 2021 of New York State (effective September 2, 2021 through January 15, 2022), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of December, 2021.

(Assistant) Secretary

Exhibit A

REQUEST

- SEE ATTACHED -



HARTZ

HARTZ MOUNTAIN INDUSTRIES, INC.

500 Plaza Drive, P.O. Box 1515, Secaucus, New Jersey 07096-1515

Direct Dial: [REDACTED]

Telecopier: [REDACTED]

e-mail: james.rhatican@hartzmountain.com

September 10, 2021

Via Federal Express and Electronic Mail

Anthony Catapano
Executive Director
Suffolk County Industrial Development Agency
H. Lee Dennison Building
100 Veterans Memorial Highway
Hauppauge, NY 11788

**Re: Former Newsday Site
90 Ruland Road and 235 Pinelawn Road, Melville**

Dear Mr. Catapano,

I write in reference to the financial assistance previously granted by the Suffolk County IDA to Hartz Mountain Industries, Inc. through its affiliates 235 Pinelawn Road North LLC and 235 Pinelawn Road South LLC (collectively, "Hartz Mountain") for the former Newsday site in Melville. In particular, I write to request technical modifications to the Lease and Project Agreements entered into by the Suffolk County IDA with each of 235 Pinelawn Road North LLC and 235 Pinelawn Road South LLC, to address impediments to financing and leasing that have only recently become evident as we have begun efforts to finance the projects and negotiate with prospective tenants.

Although the project was conceived from the start to consist of two independent buildings on two distinct tax lots, Hartz Mountain filed a single application with the Suffolk County IDA for financial assistance for both buildings. That financial assistance was granted pursuant to a single approval, but ultimately, at Hartz Mountain's request, was memorialized in two distinct Lease and Project Agreements and related other agreements, one for what has been described as the North Parcel (now identified by the mailing address of 90 Ruland Road), and one for what has been described as the South Parcel (still identified as 235 Pinelawn Road). At the time of the grant and the closing on the financial assistance, it was the intention of Hartz Mountain to develop the two distinct parcels independently of one another, on separate construction schedules, and to lease the parcels independently of one another. This continues to be Hartz Mountain's plan. Construction on both parcels is proceeding according to schedule, and the building on the North Parcel is

scheduled to be completed long in advance of the larger building on the South Parcel, construction of which was commenced several months later.

As Hartz Mountain is presently marketing the building on the North Parcel and looking at financing options for that parcel, two provisions of the Lease and Project Agreement for that parcel are creating some difficulties, and we request that they be modified to facilitate the successful financing and leasing of the project.

Specifically, the cross-default provision in Section 10.1(a)(x) of the Lease and Project Agreement is proving to be an impediment. As written, the tenant of one building could lose the financial assistance if there is a default on the other building. Likewise, Section 5.4(c)(7) stipulates that a Recapture Event on one parcel causes a Recapture Event on the other parcel. Prospective lenders and tenants will not take on that risk.

In addition, the provisions dealing with early termination of the Lease and Project Agreement would be an impediment to financing and leasing the project. Section 11.1 ties possible early termination of the Lease and Project Agreement to termination of the Lease and Project Agreement for the South Parcel. As with the cross-default provision, this provision impacts a tenant in one building if a tenant in another building requests that we exercise this option. Prospective lenders and prospective tenants would balk at this provision due to the risk of negative impact.

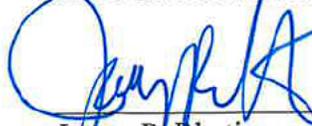
Attached is an email from a mortgage broker explaining these concerns from the perspective of prospective lenders.

While this is presently only an immediate concern with respect to the Lease and Project Agreement for the North Parcel, we request that the Lease and Project Agreement for the South Parcel be modified as well, as these same issues will arise when Hartz Mountain seeks to lease and finance that parcel.

Please let me know if you need anything else. Thank you for your continued efforts.

Sincerely yours,

HARTZ MOUNTAIN INDUSTRIES, INC.



James P. Rhatican
Vice President, Land Use and Development
Assistant General Counsel

Enc.

Killough, Mark

From: Gunning, James F. @ Saddle Brook <James.Gunning@cbre.com>
Sent: Friday, September 10, 2021 7:31 AM
To: Killough, Mark
Subject: [EXTERNAL] 90 Ruland Road Melville NY

Mark:

We have reviewed the materials you provided us in order to identify financing opportunities for the project being constructed on the north parcel. We have been advised of the tax incentives awarded for the projects on both the north parcel and the south parcel, and we are aware that they are subject to separate agreements. We also understand that the agreements contain cross-default provisions as well as a provision that links the termination rights of the two projects. In discussing this opportunity with prospective lenders, those lenders have expressed concern about these provisions. In my opinion, the individual parcels will be difficult to finance independently unless these provisions are removed or substantially modified. No lender of either property would finance a project if there were a possibility of a default of the incentive package which can be caused by a default from another property. Likewise, the termination provision will be of concern to lenders for similar reasons. I understand that you may want to share this with the Suffolk County IDA.

James F. Gunning | Executive Vice President
Debt & Structured Finance
CBRE | Capital Markets
Park 80 W. Plaza Two, 250 Pehle Ave., Suite 600 | Saddle Brook, NJ 07663
T +1 201 712 5855 | F +1 201 712 5650 | C +1 908 391 4074
james.gunning@cbre.com | www.cbre.com/james.gunning

Exhibit B

FORMS OF OMNIBUS AMENDMENTS OF PROJECT DOCUMENTS

-SEE ATTACHED -

SUFFOLK COUNTY INDUSTRIAL DEVELOPMENT AGENCY

AND

235 PINELAWN ROAD SOUTH LLC

OMNIBUS AMENDMENT TO PROJECT DOCUMENTS

DATED AS OF [DECEMBER 14, 2021]

Suffolk County Industrial Development Agency
235 Pinelawn Road South LLC Facility

Record and Return to:

Barclay Damon LLP
80 State Street
Albany, New York 12207
Attention: Melissa C. Bennett, Esq.

OMNIBUS AMENDMENT TO PROJECT DOCUMENTS

THIS OMNIBUS AMENDMENT TO PROJECT DOCUMENTS (the “Omnibus Amendment”), dated as of the 14th day of December, 2021 is by and between the SUFFOLK COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York, having its office at H. Lee Dennison Building, 3rd Floor, 100 Veterans Memorial Highway, Hauppauge, New York 11788 (the “Agency”) and 235 PINELAWN ROAD SOUTH LLC, a limited liability company organized and existing under the laws of the State of Delaware, having an office for the transaction of business located at 500 Plaza Drive, Secaucus, New Jersey 07094 (the “Company”).

W I T N E S S E T H:

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 (the “State”); 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 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, 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 675 of the Laws of 1975 of the State, as amended (collectively, with the Enabling Act, the “Act”) and is empowered under the Act to undertake the Project (as hereinafter defined) in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, pursuant to resolution duly adopted on October 22, 2020 (the “Approving Resolution”), the Agency undertook a project (the “Project) on behalf of the Company consisting of the following: (A) the acquisition of an interest in approximately 32.54 acres of real estate owned by the Company located at 235 Pinelawn Road, Melville (Tax Map #400-270-1-24.1), in the Town of Huntington, Suffolk County, New York (the “Land”), the demolition of an existing approximately 414,000 square foot building located thereon and the construction thereon of an approximately 669,186 square foot building (the “Improvements”), and the acquisition and installation therein and thereon of certain equipment and personal property (the “Equipment”; and, together with the Land and the Improvements, the “Facility”), which Facility is to be leased and subleased by the Agency to the Company and further subleased by the Company to third-

party tenants for warehousing and distribution operations; (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 sales and use taxes, transfer taxes, mortgage recording taxes (except as limited by Section 874 of the Act) and real property taxes (collectively, 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, contemporaneously with the Project, the Agency undertook an additional project (the “235 Pinelawn Road North Project”), consisting of the following: (A) the acquisition of an interest in approximately 15.98 acres of real estate owned by 235 Pinelawn Road North LLC located at 235 Pinelawn Road, Melville (Tax Map #400-270-1-8.1), in the Town of Huntington, Suffolk County, New York (the “North Parcel Land”), the construction on the Land of an approximately 276,500 square foot building (the “North Parcel Improvements”), and the acquisition and installation therein and thereon of certain equipment and personal property (the “North Parcel Equipment”; and, together with the North Parcel Land and the North Parcel Improvements, the “235 Pinelawn Road North Facility”), which 235 Pinelawn Road North Facility is to be leased and subleased by the Agency to 235 Pinelawn Road North LLC and further subleased by 235 Pinelawn Road North LLC to third-party tenants for warehousing and distribution operations; (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 sales and use taxes, transfer taxes, mortgage recording taxes (except as limited by Section 874 of the Act) and real property taxes; and (C) the lease (with an obligation to purchase) or sale of the 235 Pinelawn Road North Facility to the Company or such other person as may be designated by 235 Pinelawn Road North LLC and agreed upon by the Agency; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance, the Agency entered into the following documents (hereinafter collectively referred to as the “Project Documents”): (A) a company lease agreement (and a memorandum thereof), dated as of February 1, 2021 (the “Company Lease”) by and between the Company and the Agency, pursuant to which, among other things, the Agency acquired a leasehold interest in the Land and the improvements now or hereafter located on the Land from the Company; (B) a lease and project agreement (and a memorandum thereof) dated as of February 1, 2021 (the “Lease and Project Agreement”) by and between the Agency and the Company, pursuant to which, among other things, the Company agreed to undertake and complete the Project as agent of the Agency and the Company further agreed to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency’s administrative fee relating to the Project, to pay all expenses incurred by the Agency with respect to the Project, and to make certain payments in lieu of real property taxes; and (C) various certificates relating to the Project; and

WHEREAS, a Memorandum of Company Lease was recorded in the Office of the Suffolk County Clerk on May 10, 2021 in Liber 13103 page 751; and

WHEREAS, a Memorandum of Lease and Project Agreement was recorded in the Office of the Suffolk County Clerk on May 10, 2021 in Liber 13103 page 752; and

WHEREAS, the PILOT Agreement was filed with the assessor of the Suffolk County (the “Assessor”) on February 25, 2021; and

WHEREAS, in order to facilitate the financing and leasing of the Facility, pursuant to correspondence from Hartz Mountain Industries, Inc. (the “Guarantor”) (as defined in the Lease and Project Agreement) on behalf of the Company, dated September 10, 2021 (the “Request”), requested that the Agency modify the Project Documents to amend certain provisions and certain obligations of the Company, as identified in the Request (the “Modification”); and

WHEREAS, by resolution duly adopted on [December 14, 2021], the members of the Agency consented to the Modification and approved the execution and delivery of this Omnibus Amendment; and

WHEREAS, to effectuate the Modification, the Agency and the Company will execute and deliver this Omnibus Amendment;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged it is mutually agreed as follows:

SECTION 1. AMENDMENTS OF LEASE AND PROJECT AGREEMENT.

(A) Section 5.3 of the Lease and Project Agreement is hereby amended and restated in its entirety to read as follows:

Section 5.3 Mortgage Recording Tax Exemption. The Agency hereby grants to the Company an exemption from mortgage recording taxes (except to the extent limited by Section 874 of the Act) for one or more Mortgages securing an aggregate principal amount not to exceed \$88,452,457 (which shall constitute a mortgage recording tax exemption of not to exceed \$663,393), or such greater amount as approved by the Agency in its sole and absolute discretion, in connection with the financing of the Project Work and any future financing, refinancing or permanent financing of the costs of the Project Work (the “Mortgage Recording Tax Exemption”).

(B) Section 5.4(c) of the Lease and Project Agreement is hereby amended and restated in its entirety to read as follows:

Section 5.4 Recapture of Agency Benefits.

(c) The term “Recapture Event” shall mean any of the following events:

(1) The occurrence and continuation of an Event of Default under this Lease Agreement (other than as described in clause (4) below or in subsections (d) or (e) below) which remains uncured beyond any applicable notice and/or grace period, if any, provided hereunder; or

(2) The Facility shall cease to be a “project” within the meaning of the Act, as in effect on the Closing Date, through the act or omission of the Company; or

(3) The sale of the Facility or closure of the Facility and/or departure of the Company from Suffolk County, except as due to casualty, condemnation or force majeure as provided in subsection (e) below or as provided in Section 9.3 hereof; or

(4) Failure of the Company to create or cause to be maintained the number of FTE jobs at the Facility as provided in Section 8.11 of the Lease Agreement, which failure is not reflective of the business conditions of the Company or the subtenants of the Company, including without limitation loss of major sales, revenues, distribution or other adverse business developments and/or local, national or international economic conditions, trade issues or industry wide conditions; or

(5) Any significant deviations from the Project Application Information which would constitute a significant diminution of the Company's activities in, or commitment to, the County of Suffolk, New York; or

(6) The Company receives Sales Tax Savings in connection with the Project Work in excess of the Maximum Sales Tax Savings Amount; provided, however, that the foregoing shall constitute a Recapture Event with respect to such excess Sales Tax Savings only. It is further provided that failure to repay the Sales Tax Savings within thirty (30) days shall constitute a Recapture Event with respect to all Recapture Benefits.

(C) Section 8.11 of the Lease and Project Agreement is hereby amended and restated in its entirety to read as follows:

Section 8.11 Employment at the Facility. The Company hereby agrees to create and maintain at all times at the Facility: two hundred twelve (212) full time equivalent employees as of December 30, 2023 and four hundred twenty-five (425) full time equivalent employees as of December 30, 2024 and thereafter throughout the Lease Term, calculated on the basis of 35 hours per week who are employees of the Company or any subsidiary or affiliates of the Company, or any consultants, contractors or subcontractors of the Company, or any subsidiary or affiliates of the Company, whose place of employment or workplace is located at the Facility (including the full time equivalent employees of all tenants at the Facility) ("FTE").

(D) Section 10.1(a) of the Lease and Project Agreement is hereby amended and restated in its entirety to read as follows:

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(g), (j) or (n), 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 of the Company herein, in any of the Company Documents or in the Project Application Information shall prove to have been false or misleading in any material respect;
- (vi) the failure by the Company to observe and perform any covenant, condition or agreement hereunder on its part to be observed or performed (except obligations referred to in 10.1(a)(i), (ii) 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;
- (vii) the dissolution or liquidation of the Company; or the failure by the Company to release, stay, discharge, lift or bond within thirty (30) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the Company generally to pay its debts as they become due; or an assignment by the Company for the benefit of creditors; or the commencement by the Company (as the debtor) of a case in bankruptcy or any proceeding under any other insolvency law; or the commencement of a case in bankruptcy or any proceeding under any other insolvency law against the Company (as the debtor), wherein a court having jurisdiction in the premises enters a decree or order for relief against the Company as the debtor, or such case or proceeding is consented to by the Company or remains undismissed for forty (40) days, or the Company consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the Company for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors; or
- (viii) an Event of Default under the Mortgage, if any, shall have occurred and be continuing; or
- (ix) an Event of Default under the Guaranty Agreement shall have occurred and be continuing.

(E) Section 11.1 of the Lease and Project Agreement is hereby amended and restated in its entirety to read as follows:

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.

(F) The following definition within Schedule A – Schedule of Definitions in the Lease and Project Agreement is hereby amended and restated in its entirety to read as follows:

“Maximum Sales Tax Savings Amount” shall mean the aggregate maximum dollar amount of Sales Tax Savings that the Company and all Agents acting on behalf the Company are permitted to receive under this Lease Agreement, which shall equal **\$4,611,807**, or such maximum dollar amount as may be determined by the Agency pursuant to such additional documents as may be required by the Agency for such increase.

SECTION 2. REPRESENTATIONS BY COMPANY. (A) The Company represents that (1) the Company has the legal authority to enter into this Omnibus Amendment, and (2) the Company has authorized the execution, delivery and performance of this Omnibus Amendment.

(B) The Company further represents that neither the execution and delivery of this Omnibus Amendment, the consummation of the transactions contemplated hereby and thereby nor the fulfillment of or compliance with the provisions of this Omnibus Amendment requires the approval of any governmental authority or will conflict with or result in a breach of any of the terms, conditions or provisions of or any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature whatsoever upon any of the properties of the Company under the terms of any such instrument or agreement.

(C) No Event of Default specified in any of the Project Documents, as amended to the date hereof, has occurred and no event which with notice or lapse of time or both would become such an Event of Default has occurred and is continuing.

(D) Each of the representations of the Company set forth in each of the Project Documents, as amended to the date hereof, is true and correct as of the date hereof.

SECTION 3. PROVISIONS OF THIS OMNIBUS AMENDMENT CONSTRUED WITH PROJECT DOCUMENTS. All of the covenants, agreements and provisions of this Omnibus Amendment shall be deemed to be and construed as part of the applicable Project Document and vice versa to the same extent as if fully set forth verbatim therein and herein. In the event of any variation or inconsistency between any covenant, agreement or provision contained in this Omnibus Amendment and any covenant, agreement or provision contained in the applicable Project Document, the covenant, agreement or provision contained herein shall govern.

SECTION 4. PROJECTS DOCUMENTS AS AMENDED TO REMAIN IN EFFECT. Except as amended by the this Omnibus Amendment, each of the Project Documents shall remain in full force and effect and the terms and conditions thereof are hereby confirmed.

SECTION 5. CAPITALIZED TERMS. Capitalized terms used herein but not otherwise defined herein shall have the meaning set forth in the Lease Agreement.

SECTION 6. EXECUTION OF COUNTERPARTS. This Omnibus Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Company and the Agency have caused this Omnibus Amendment to be executed in their respective names, all as of the date first above written.

SUFFOLK COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Anthony J. Catapano
Executive Director

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

On the ____ day of _____ in the year 2021, before me, the undersigned, personally appeared Anthony J. Catapano, 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

235 PINELAWN ROAD SOUTH LLC

By: _____
James Rhatican
Vice President, Land Use and
Development

STATE OF NEW JERSEY)
) SS.:
COUNTY OF HUDSON)

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

Notary Public

SUFFOLK COUNTY INDUSTRIAL DEVELOPMENT AGENCY

AND

235 PINELAWN ROAD NORTH LLC

OMNIBUS AMENDMENT TO PROJECT DOCUMENTS

DATED AS OF [DECEMBER 14, 2021]

Suffolk County Industrial Development Agency
235 Pinelawn Road North LLC Facility

Record and Return to:

Barclay Damon LLP
80 State Street
Albany, New York 12207
Attention: Melissa C. Bennett, Esq.

OMNIBUS AMENDMENT TO PROJECT DOCUMENTS

THIS OMNIBUS AMENDMENT TO PROJECT DOCUMENTS (the “Omnibus Amendment”), dated as of the 14th day of December, 2021 is by and between the SUFFOLK COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation organized and existing under the laws of the State of New York, having its office at H. Lee Dennison Building, 3rd Floor, 100 Veterans Memorial Highway, Hauppauge, New York 11788 (the “Agency”) and 235 PINELAWN ROAD NORTH LLC, a limited liability company organized and existing under the laws of the State of Delaware, having an office for the transaction of business located at 500 Plaza Drive, Secaucus, New Jersey 07094 (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 (the “State”); 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 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, 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 675 of the Laws of 1975 of the State, as amended (collectively, with the Enabling Act, the “Act”) and is empowered under the Act to undertake the Project (as hereinafter defined) in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State and improve their standard of living; and

WHEREAS, pursuant to resolution duly adopted on October 22, 2020 (the “Approving Resolution”), the Agency undertook a project (the “Project) on behalf of the Company consisting of the following: (A) the acquisition of an interest in approximately 15.98 acres of real estate owned by the Company located at 235 Pinelawn Road, Melville (Tax Map #400-270-1-8.1), in the Town of Huntington, Suffolk County, New York (the “Land”), the construction on the Land of an approximately 276,500 square foot building (the “Improvements”), and the acquisition and installation therein and thereon of certain equipment and personal property (the “Equipment”; and, together with the Land and the Improvements, the “Facility”), which Facility is to be leased and subleased by the Agency to the Company and further subleased by the Company to third-party tenants for warehousing and distribution operations; (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 sales and use taxes, transfer taxes, mortgage recording taxes (except as limited by Section 874 of the Act) and real property taxes (collectively, 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, contemporaneously with the Project, the Agency undertook an additional project (the “235 Pinelawn Road South Project”), consisting of the following: (A) the acquisition of an interest in approximately 32.54 acres of real estate owned by 235 Pinelawn Road South LLC located at 235 Pinelawn Road, Melville (Tax Map #400-270-1-24.1), in the Town of Huntington, Suffolk County, New York (the “South Parcel Land”), the demolition of an existing approximately 414,000 square foot building located thereon and the construction thereon of an approximately 669,186 square foot building (the “South Parcel Improvements”), and the acquisition and installation therein and thereon of certain equipment and personal property (the “South Parcel Equipment”; and, together with the South Parcel Land and the South Parcel Improvements, the “235 Pinelawn Road South Facility”), which 235 Pinelawn Road South Facility is to be leased and subleased by the Agency to 235 Pinelawn Road South LLC and further subleased by 235 Pinelawn Road South LLC to third-party tenants for warehousing and distribution operations; (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 sales and use taxes, transfer taxes, mortgage recording taxes (except as limited by Section 874 of the Act) and real property taxes; and (C) the lease (with an obligation to purchase) or sale of the 235 Pinelawn Road South Facility to the Company or such other person as may be designated by 235 Pinelawn Road South LLC and agreed upon by the Agency; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance, the Agency entered into the following documents (hereinafter collectively referred to as the “Project Documents”): (A) a company lease agreement (and a memorandum thereof), dated as of February 1, 2021 (the “Company Lease”) by and between the Company and the Agency, pursuant to which, among other things, the Agency acquired a leasehold interest in the Land and the improvements now or hereafter located on the Land from the Company; (B) a lease and project agreement (and a memorandum thereof) dated as of February 1, 2021 (the “Lease and Project Agreement”) by and between the Agency and the Company, pursuant to which, among other things, the Company agreed to undertake and complete the Project as agent of the Agency and the Company further agreed to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency’s administrative fee relating to the Project, to pay all expenses incurred by the Agency with respect to the Project, and to make certain payments in lieu of real property taxes; and (C) various certificates relating to the Project; and

WHEREAS, a Memorandum of Company Lease was recorded in the Office of the Suffolk County Clerk on May 10, 2021 in Liber 13103 page 749 and

WHEREAS, a Memorandum of Lease and Project Agreement was recorded in the Office of the Suffolk County Clerk on May 10, 2021 in Liber 13103 page 750; and

WHEREAS, the PILOT Agreement was filed with the assessor of the Suffolk County (the “Assessor”) on February 25, 2021; and

WHEREAS, in order to facilitate the financing and leasing of the Facility, pursuant to correspondence from Hartz Mountain Industries, Inc. (the “Guarantor”) (as defined in the Lease and Project Agreement) on behalf of the Company, dated September 10, 2021 (the “Request”), requested that the Agency modify the Project Documents to amend certain provisions and certain obligations of the Company, as identified in the Request (the “Modification”); and

WHEREAS, by resolution duly adopted on [December 14, 2021], the members of the Agency consented to the Modification and approved the execution and delivery of this Omnibus Amendment; and

WHEREAS, to effectuate the Modification, the Agency and the Company will execute and deliver this Omnibus Amendment;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged it is mutually agreed as follows:

SECTION 1. AMENDMENTS OF LEASE AND PROJECT AGREEMENT.

(A) Section 5.3 of the Lease and Project Agreement is hereby amended and restated in its entirety to read as follows:

Section 5.3 Mortgage Recording Tax Exemption. The Agency hereby grants to the Company an exemption from mortgage recording taxes (except to the extent limited by Section 874 of the Act) for one or more Mortgages securing an aggregate principal amount not to exceed \$36,547,543 (which shall constitute a mortgage recording tax exemption of not to exceed \$274,107), or such greater amount as approved by the Agency in its sole and absolute discretion, in connection with the financing of the Project Work and any future financing, refinancing or permanent financing of the costs of the Project Work (the “Mortgage Recording Tax Exemption”).

(B) Section 5.4(c) of the Lease and Project Agreement is hereby amended and restated in its entirety to read as follows:

Section 5.4 Recapture of Agency Benefits.

(c) The term “Recapture Event” shall mean any of the following events:

(1) The occurrence and continuation of an Event of Default under this Lease Agreement (other than as described in clause (4) below or in subsections (d) or (e) below) which remains uncured beyond any applicable notice and/or grace period, if any, provided hereunder; or

(2) The Facility shall cease to be a “project” within the meaning of the Act, as in effect on the Closing Date, through the act or omission of the Company; or

(3) The sale of the Facility or closure of the Facility and/or departure of the Company from Suffolk County, except as due to casualty, condemnation or force majeure as provided in subsection (e) below or as provided in Section 9.3 hereof; or

(4) Failure of the Company to create or cause to be maintained the number of FTE jobs at the Facility as provided in Section 8.11 of the Lease Agreement, which failure is not reflective of the business conditions of the Company or the subtenants of the Company, including without limitation loss of major sales, revenues, distribution or other adverse business developments and/or local, national or international economic conditions, trade issues or industry wide conditions; or

(5) Any significant deviations from the Project Application Information which would constitute a significant diminution of the Company's activities in, or commitment to, the County of Suffolk, New York; or

(6) The Company receives Sales Tax Savings in connection with the Project Work in excess of the Maximum Sales Tax Savings Amount; provided, however, that the foregoing shall constitute a Recapture Event with respect to such excess Sales Tax Savings only. It is further provided that failure to repay the Sales Tax Savings within thirty (30) days shall constitute a Recapture Event with respect to all Recapture Benefits.

(C) Section 8.11 of the Lease and Project Agreement is hereby amended and restated in its entirety to read as follows:

Section 8.11 Employment at the Facility. The Company hereby agrees to create and maintain at all times at the Facility: eighty-eight (88) full time equivalent employees as of December 30, 2023 and one hundred seventy-five (175) full time equivalent employees as of December 30, 2024 and thereafter throughout the Lease Term, calculated on the basis of 35 hours per week who are employees of the Company or any subsidiary or affiliates of the Company, or any consultants, contractors or subcontractors of the Company, or any subsidiary or affiliates of the Company, whose place of employment or workplace is located at the Facility (including the full time equivalent employees of all tenants at the Facility) ("FTE").

(D) Section 10.1(a) of the Lease and Project Agreement is hereby amended and restated in its entirety to read as follows:

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(g), (j) or (n), 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 of the Company herein, in any of the Company Documents or in the Project Application Information shall prove to have been false or misleading in any material respect;
- (vi) the failure by the Company to observe and perform any covenant, condition or agreement hereunder on its part to be observed or performed (except obligations referred to in 10.1(a)(i), (ii) 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;
- (vii) the dissolution or liquidation of the Company; or the failure by the Company to release, stay, discharge, lift or bond within thirty (30) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the Company generally to pay its debts as they become due; or an assignment by the Company for the benefit of creditors; or the commencement by the Company (as the debtor) of a case in bankruptcy or any proceeding under any other insolvency law; or the commencement of a case in bankruptcy or any proceeding under any other insolvency law against the Company (as the debtor), wherein a court having jurisdiction in the premises enters a decree or order for relief against the Company as the debtor, or such case or proceeding is consented to by the Company or remains undismissed for forty (40) days, or the Company consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the Company for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors; or
- (viii) an Event of Default under the Mortgage, if any, shall have occurred and be continuing; or
- (ix) an Event of Default under the Guaranty Agreement shall have occurred and be continuing.

(E) Section 11.1 of the Lease and Project Agreement is hereby amended and restated in its entirety to read as follows:

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.

(F) The following definition within Schedule A – Schedule of Definitions in the Lease and Project Agreement is hereby amended and restated in its entirety to read as follows:

“Maximum Sales Tax Savings Amount” shall mean the aggregate maximum dollar amount of Sales Tax Savings that the Company and all Agents acting on behalf the Company are permitted to receive under this Lease Agreement, which shall equal **\$1,905,546**, or such maximum dollar amount as may be determined by the Agency pursuant to such additional documents as may be required by the Agency for such increase.

SECTION 2. REPRESENTATIONS BY COMPANY. (A) The Company represents that (1) the Company has the legal authority to enter into this Omnibus Amendment, and (2) the Company has authorized the execution, delivery and performance of this Omnibus Amendment.

(B) The Company further represents that neither the execution and delivery of this Omnibus Amendment, the consummation of the transactions contemplated hereby and thereby nor the fulfillment of or compliance with the provisions of this Omnibus Amendment requires the approval of any governmental authority or will conflict with or result in a breach of any of the terms, conditions or provisions of or any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature whatsoever upon any of the properties of the Company under the terms of any such instrument or agreement.

(C) No Event of Default specified in any of the Project Documents, as amended to the date hereof, has occurred and no event which with notice or lapse of time or both would become such an Event of Default has occurred and is continuing.

(D) Each of the representations of the Company set forth in each of the Project Documents, as amended to the date hereof, is true and correct as of the date hereof.

SECTION 3. PROVISIONS OF THIS OMNIBUS AMENDMENT CONSTRUED WITH PROJECT DOCUMENTS. All of the covenants, agreements and provisions of this Omnibus Amendment shall be deemed to be and construed as part of the applicable Project Document and vice versa to the same extent as if fully set forth verbatim therein and herein. In the event of any variation or inconsistency between any covenant, agreement or provision contained in this Omnibus Amendment and any covenant, agreement or provision contained in the applicable Project Document, the covenant, agreement or provision contained herein shall govern.

SECTION 4. PROJECTS DOCUMENTS AS AMENDED TO REMAIN IN EFFECT. Except as amended by the this Omnibus Amendment, each of the Project Documents shall remain in full force and effect and the terms and conditions thereof are hereby confirmed.

SECTION 5. CAPITALIZED TERMS. Capitalized terms used herein but not otherwise defined herein shall have the meaning set forth in the Lease Agreement.

SECTION 6. EXECUTION OF COUNTERPARTS. This Omnibus Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Company and the Agency have caused this Omnibus Amendment to be executed in their respective names, all as of the date first above written.

SUFFOLK COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Anthony J. Catapano
Executive Director

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

On the ____ day of _____ in the year 2021, before me, the undersigned, personally appeared Anthony J. Catapano, 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

235 PINELAWN ROAD NORTH LLC

By: _____
James Rhatican
Vice President, Land Use and
Development

STATE OF NEW JERSEY)
) SS.:
COUNTY OF HUDSON)

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

Notary Public