
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

SOUTHSIDE GENESEE ASSOCIATES, LLC PROJECT

TRANSCRIPT OF PROCEEDINGS

LEASE/LEASEBACK CLOSING DATE: MARCH 31, 2017

MORTGAGE CLOSING DATE: JUNE 30, 2017

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

SOUTHSIDE GENESEE ASSOCIATES, LLC PROJECT

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PROJECT AGREEMENT

THIS PROJECT AGREEMENT (the “*Project Agreement*”), made as of March 10, 2017, by and between the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, with offices at 201 East Washington Street, 7th Floor, Syracuse, New York 13202 (the “*Agency*”) and **SOUTHSIDE GENESEE ASSOCIATES, LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with offices at 3 East Stow Road, Marlton, New Jersey 08053 (the “*Company*”).

WITNESSETH:

WHEREAS, Title I 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 641 of the Laws of 1979 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, CG USL Ventures I, LLC, a New York limited liability company (the “*LLC*”), submitted an application dated December 6, 2016 (the “*Application*”) to the Agency requesting the Agency’s assistance with respect to a certain project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “*Existing Buildings*”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game

rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, it was the understanding of the LLC and the Agency that the LLC might create a single purpose entity to own and operate the Project Facility following submission of the Application and approval by the Agency; and the Company was thus created; and

WHEREAS, the Company is the fee owner of the Project Facility; and

WHEREAS, the Company acknowledges and agrees to be bound by the contents, terms and conditions of the Application as if the Company were the LLC thereunder and by executing this Agreement does hereby certify, under penalties of perjury, to the contents of the Application; and

WHEREAS, by resolutions of its members adopted on January 24, 2017 (collectively, the “*Resolutions*”), the Agency authorized certain financial assistance for the benefit of the Project consisting of: (a) an exemption from New York State and local sales and use taxes for purchases and rentals related to the Project with respect to qualifying personal property included in or incorporated into the Project Facility or used in the acquisition, construction or equipping of the Project Facility; and (b) an exemption from mortgage recording tax; (collectively, the sales and use tax exemption benefit and the mortgage recording tax benefit are hereinafter collectively referred to as the “*Financial Assistance*”); and

WHEREAS, it has been estimated and confirmed by the Company within its Application for Financial Assistance that: (i) the purchase of goods and services relating to the Project, and subject to New York State and local sales and use taxes, are estimated to cost an amount up to **\$18,000,000**; and therefore, the value of the State and local sales and use tax exemption benefits authorized and approved by the Agency cannot exceed **\$1,440,000**; and (ii) the mortgage recording tax exemption amount shall be approximately **\$367,000** (except as limited by Section 874 of the General Municipal Law). There are no real property tax abatement benefits to be provided to the Company; and

WHEREAS, the Company proposes to lease the Land and Facility to the Agency, and the Agency desires to lease the Land and Facility from the Company pursuant to the terms of a certain Company Lease Agreement dated as of March 10, 2017 (the “*Company Lease*”), by and between the Company and the Agency; and

WHEREAS, the Agency proposes to acquire an interest in the Equipment pursuant to a bill of sale from the Company dated as of March 10, 2017 (the “*Bill of Sale*”); and

WHEREAS, the Agency proposes to sublease the Project Facility to the Company, and the Company desires to lease the Project Facility from the Agency, upon the terms and conditions set forth in a certain Agency Lease Agreement dated as of March 10, 2017 (the “*Agency Lease*”); and

WHEREAS, by its Resolutions, the Agency authorized the Company to act as its agent for the purposes of undertaking the Project and the Agency delegated to the Company the authority to appoint sub-agents subject to the execution of this Project Agreement and compliance with the terms set forth herein and in the Resolutions; and

WHEREAS, in order to define the obligations of the Company regarding its ability to utilize the Agency’s sales and use tax exemption benefit as agent of the Agency to acquire, construct, renovate, equip and complete the Project Facility and to undertake the Project, the Agency and the Company will enter into this Project Agreement; and

WHEREAS, the Agency requires, as a condition and as an inducement for it to enter into the transactions contemplated by the Resolutions, and as more particularly described in this Project Agreement, that the Company provide assurances with respect to the terms and conditions herein set forth; and

WHEREAS, this Project Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no Financial Assistance shall be provided to the Company prior to the effective date of this Project Agreement.

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

**ARTICLE I
PURPOSE OF PROJECT**

Section 1.01 Recitals. The foregoing recitals are incorporated by referenced as if fully set forth herein.

Section 1.02 Purpose of Project. It is understood and agreed by the parties that the purpose of the Agency’s provision of Financial Assistance with respect to the Project is to, and that the Agency is entering into the Company Lease, Agency Lease and this Project Agreement in order to, promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping, furnishing and completing of the Project Facility to advance job opportunities, health, general prosperity and economic welfare of the people of the City of Syracuse and to otherwise accomplish the public purpose of the Act.

**ARTICLE II
REAL PROPERTY TAX EXEMPTION**

Section 2.01. PILOT Agreement. The Company is not receiving an exemption from real property taxes from the Agency; and notwithstanding the Agency's interest in the Project Facility, the Company shall pay real property taxes as if privately owned.

**ARTICLE III
SALES AND USE TAX EXEMPTION**

Section 3.01. Scope of Agency. The Company agrees to limit its activities as agent for the Agency under the authority of the Resolutions and this Project Agreement to acquisition, reconstruction, installation and completion of the Project Facility. The right of the Company to act as agent of the Agency shall expire on the earlier of March 31, 2019, or sixty days after the issuance of a certificate of occupancy, unless extended by a resolution adopted by the members of the Agency, or unless terminated early in accordance with the terms of the Agency Lease. The value of the sales and use tax exemption benefits shall not exceed the amounts described in the Application and as set forth in Section 3.03(b) unless approved by a resolution adopted by the members of the Agency. All contracts entered into by the Company as agent for the Agency shall include the following language:

“This contract is being entered into by _____ (the “*Agent*”), as agent for and on behalf of the City of Syracuse Industrial Development Agency (the “*Agency*”), in connection with a certain project of the Agency for the benefit of the Agent consisting in part of the acquisition and installation of certain machinery, equipment and building materials, all for use in construction and/or incorporation and installation in certain premises located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the “*Premises*”). The machinery, equipment and building materials (collectively, the “*Equipment*”) to be used in the construction and/or incorporated and installed in the Premises shall be exempt from the sales and use taxes levied by the State of New York if the use and/or acquisition of the Equipment is effected in accordance with the terms and conditions set forth in the Project Agreement dated as of March 10, 2017 by and between the Agency and the Company (the “*Project Agreement*”); and the Agent represents that this contract is in compliance with the terms of the Project Agreement. This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor acknowledges and agrees to the terms and conditions set forth in this paragraph.”

Section 3.02. Appointment of Sub-Agents. Subject to the terms and conditions of this Project Agreement and pursuant to the Resolutions, the Agency hereby delegates to the Company the authority to appoint sub-agents of the Agency in connection with the Project, which may be agents, subagents, contractors, subcontractors, contractors and subcontractors of such agents and subagents and other parties as the Company chooses (each, a “*Sub-Agent*”).

The appointment of each such Sub-Agent will be effective only upon: (1) the execution by the Sub-Agent and the Company of the Sub-Agent Appointment Agreement attached as Exhibit F to the Agency Lease (the “*Sub-Agent Agreement*”), the terms and provisions of which are incorporated herein; (2) the receipt by the Agency of a completed Form ST-60 in accordance with Section 3.03(e) below; and (3) receipt of any required insurance as set forth in the Sub-Agent Agreement.

Section 3.03. Representations and Covenants of the Company.

(a) The Company hereby incorporates and restates its representations, covenants and warranties made in the Agency Lease.

(b) The Company further covenants and agrees that the purchase of goods and services relating to the Project and subject to State and local sales and use taxes are estimated in the amount up to \$18,000,000, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$1,440,000.

(c) The Company further covenants and agrees to complete “IDA Appointment of Project Operator or Agent For Sales Tax Purposes” (Form ST-60) for itself and each Sub-Agent and to provide said form to the Agency within fifteen (15) days of appointment such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment.

(d) The Company further covenants and agrees to file an annual statement with the State Department of Taxation and Finance an “Annual Report of Sales and Use Tax Exemptions” (Form ST-340) regarding the value of sales and use tax exemptions the Company and its Sub-Agents have claimed pursuant to the agency conferred on the Company with respect to the Project in accordance with Section 874(8) of the Act. The Company further covenants and agrees that it will, within thirty (30) days of each filing, provide a copy of their filed ST-340 to the Agency, but in no event later than March 29 of each year. The Company understands and agrees that the failure to file such annual statement will result in the removal of: (1) the Company’s authority to act as agents for the Agency; and (2) the authority of any Sub-Agent of the Agency appointed by the Company pursuant to Section 3.02 hereof to act as agent for the Agency.

(e) The Company further acknowledges and agrees that all purchases made in furtherance of the Project by the Company and any Sub-Agent shall be made using “IDA Agent or Project Operator Exempt Purchase Certificate” (Form ST-123, a copy of which is attached to the Sub-Agent Agreement), and it shall be the responsibility of the Company and the Sub-Agent, as the case may be, (and not the Agency) to complete Form ST-123. The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the bill of invoice should state, “I, [NAME OF AGENT], certify that I am a duly appointed agent of the City of Syracuse Industrial Development Agency and that I am purchasing the tangible personal

property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my Project Agreement with the City of Syracuse Industrial Development Agency.” The Company further acknowledges and agrees that the following information shall be used by the Company to identify the Project on each bill and invoice: SOUTHSIDE GENESEE ASSOCIATES, LLC PROJECT, 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, Syracuse, NY; Project No. 31021707.

(f) The Company acknowledges and agrees that the Agency shall not be liable, either directly or indirectly or contingently, upon any contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder.

Section 3.04. Hold Harmless Provisions.

(a) The Company releases the Agency and its members, officers, agents (other than the Company) and employees from, agrees that the Agency and its members, officers, agents (other than the Company) and employees shall not be liable for and agrees to indemnify, defend and hold the Agency and its members, officers, agents (other than the Company) and employees harmless from and against any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses arising as a result of the Agency’s undertaking the Project, including, but not limited to: (1) liability for loss or damage to property or bodily injury to or death of any and all persons that may be occasioned, directly or indirectly, by any cause whatsoever pertaining to the Project Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any person or property on, in or about the Project Facility; (2) liability arising from or expense incurred by the Agency’s acquiring, constructing, equipping, installing, owning, leasing or selling the Project Facility, including, without limiting the generality of the foregoing, any sales or use taxes which may be payable with respect to goods supplied or services rendered with respect to the Project Facility, all liabilities or claims arising as a result of the Agency’s obligations under this Project Agreement or the enforcement of or defense of validity of any provision of this Project Agreement; (3) all claims arising from the exercise by the Company of the authority conferred on it pursuant to Sections 1 and 2 hereof; and (4) all causes of action and reasonable attorneys’ fees and other expenses incurred in connection with any suits or actions that may arise as a result of any of the foregoing; provided that any such claims, causes of action, judgments, liabilities, damages, losses, costs or expenses of the Agency are not incurred or do not result from the gross negligence or intentional wrongdoing of the Agency or any of its members, officers, agents (other than the Company) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its officers, members, agents (other than the Company) or employees and notwithstanding the breach of any statutory obligation or any rule of comparative or apportioned liability.

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

payable by or for the Company or such contractor under workers' compensation laws, disability benefits laws or other employee benefit laws.

(c) To effectuate the provisions of this Section 3.04, the Company agrees to provide for and insure, in the liability policies required by Section 3.05 of this Project Agreement, its liabilities assumed pursuant to this Section 3.04.

(d) Notwithstanding any other provisions of this Project Agreement, the obligations of the Company pursuant to this Section 3.04 shall remain in full force and effect after the termination of this Project Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and the payment in full or the satisfaction of such claim, cause of action or prosecution and the payment of all expenses, charges and costs incurred by the Agency, or its officers, members, agents (other than the Company) or employees, relating thereto.

Section 3.05. Insurance Required.

(a) The Company agrees that it shall maintain all insurance required under the Agency Lease.

(b) The Company agrees that it shall cause its general contractor for the Project to maintain, effective as of the date of the Sub-Agent Agreement until the expiration or termination of the general contractor's employment by the Company, or its designee, with respect to the Project Facility, all of the same insurance with respect to the Project Facility, as set forth in Article 6 of the Agency Lease as if the general contractor were the Company thereunder. The Company further agrees that it shall cause its general contractor for the Project to comply and abide, effective as of the date of the Sub-Agent Agreement and until the expiration or termination of the general contractor's employment by the Company, or its designee, with respect to the Project Facility, with all of the terms and conditions set forth in Article 6 of the Agency Lease with respect to the type, nature and proof of insurance required thereunder.

ARTICLE IV COMMITMENTS AND REPORTING

Section 4.01. Compliance Commitments. The Company agrees and covenants that it shall meet and maintain the commitments set forth in (a) below beginning in the first year after completion of the Project. The Company further agrees and covenants that it shall meet and maintain the commitments set forth in (b) below with respect to retained jobs set forth in the Application starting in the first year in which Financial Assistance is claimed and/or provided; and with respect to new jobs, the Company shall create, in years one (1) through five (5) following completion of the Project the new jobs set forth in the Company's Application. The reporting of, and the commitment to, each of (a), (b) and (c) below continuing for a five (5) year period following completion of the Project (the "***Term***"):

(a) The total investment actually made with respect to the Project at the Project's completion date shall equal to or exceed \$39,423,276.25 (which represents the product of 85% multiplied by \$46,380,325.00, being the total project cost as stated in the Company's Application for Financial Assistance (the "***Investment Commitment***")).

(b) There were no full time equivalent ("***FTE***") employees retained by the Project Facility as of the date of the Application for Financial Assistance (the "***Baseline FTE***"). The Company's application estimated the creation of fourteen (14) new FTEs (the "***New FTEs***") at the Project Facility within the first five (5) years following completion of the Project Facility. The Company covenants and agrees to create 85% of the New FTEs set forth in each of the first five (5) years following completion of the Project Facility as of and in the years set forth in the Application. The Company shall be required to meet and maintain all of the foregoing employment commitments during the Term hereof (the "***Employment Commitment***").

(c) The Company shall annually provide to the Agency certain information to confirm that the Project is achieving the investment, job retention, job creation, and other objectives of the Project for the Term (the "***Reporting Commitment***").

Section 4.02. Reporting Requirement. As part of the commitments set forth in Section 4.01, the Company shall provide annually, to the Agency, a certified statement and supporting documentation: (i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Project location, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. **Exhibit "A"** contains a form of annual certification that the Company must complete and submit to the Agency on an annual basis. The Agency reserves the right to modify such form to require additional information that the Agency must have in order to comply with its reporting requirements under the Act.

ARTICLE V
SUSPENSION, DISCONTINUATION, RECAPTURE AND/OR TERMINATION OF
FINANCIAL ASSISTANCE

Section 5.01. Suspension, Discontinuation, Recapture and/or Termination of Financial Assistance. It is understood and agreed by the Parties that the Agency is entering into the Company Lease, the Agency Lease and this Project Agreement in order to provide Financial Assistance to the Company for the Project Facility and to accomplish the public purposes of the Act.

(a) In accordance with Section 875(3) of the New York General Municipal Law, the policies of the Agency, and the Resolutions, the Company covenants and agrees that it is subject to recapture of all State sales and use tax exemption benefits if:

(1) the Company or its Subagents, if any, authorized to make purchases for the benefit of the Project are not entitled to the State sales and use tax exemption benefits; or

(2) the State sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its Subagents, if any; or

(3) the State sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or

(4) the Project has failed to comply with a material term or condition to use the property or services in the manner required by any project document between the Company and the Agency.

Each of the foregoing four events are hereinafter referred to as a “***State-Mandated Recapture Event***”. The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a State-Mandated Recapture Event has occurred.

(b) In addition to Section 5.01(a), in accordance with the policies of the Agency and the Resolutions, the Company covenants and agrees that the Agency shall have the right to suspend, discontinue, recapture or terminate all or any portion of any Financial Assistance to the extent any of the following occur (each a “***Deficit***”):

- a) for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency, and/or such exemptions were for property or services not authorized by the Agency (each, a “***Local Sales Tax Benefit Violation***”);

- b) the company, upon completion of the project, fails to reach and maintain at least 85 percent of its employment requirements for job creation and/or retention (“**Job Deficit**”);
- c) the total investment actually made with respect to the project at the project’s completion date is less than 85 percent of its investment requirement (“**Investment Deficit**”);
- d) the company fails to provide annually to the Agency certain information to confirm that the project is achieving the investment, job retention, job creation, and other objectives of the Project (“**Reporting Failure**”); or
- e) there otherwise occurs any event of default under any project document (each, an “Event of Default”) or a material violation of the terms and conditions of any project document (a “**Material Violation**”).

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure Event of Default or Material Violation (each a “**Noncompliance Event**”) has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any Project Document in accordance with the terms of the Project Document.

At the time of any Noncompliance Event, the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance in accordance with its Recapture Policy; and shall consider the following criteria in determining whether to proceed to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance:

- i. Whether the Company has proceeded in good faith.
- ii. Whether the Project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the Company.
- iii. Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance would create a more adverse situation for the Company, such as the Company going out of business or declaring bankruptcy, which would not occur if the Agency’s rights were not exercised.
- iv. Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance would create an adverse situation for the residents of the City of Syracuse.

- v. The assessment prepared in accordance with the Agency's Annual Assessment Policy.
- vi. Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the Financial Assistance (the "**Determination**"). The Determination shall provide terms, if any, by which the Company may remedy any Noncompliance Event upon which the Determination was based. The Company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume Financial Assistance to the Company (which will be at the Agency's sole discretion).

(c) If a State-Mandated Recapture Event occurs or the Agency makes a Determination, the Company agrees and covenants that it will: (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company; and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction. The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine the State sales and use tax due from the Company, together with any relevant penalties and interest due on such amounts.

ARTICLE VI MISCELLANEOUS PROVISIONS

Section 6.01. Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Project Agreement to the Agency regardless of any investigation made by the Agency.

Section 6.02. Notices. All notices, certificates and other communications under this Project Agreement shall be in writing and shall be deemed given when delivered personally or when sent by certified mail, postage prepaid, return receipt requested, or by overnight delivery service, addressed as follows:

If to the Agency:

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202
Attn: Chairman

With a copy to: Corporation Counsel
City of Syracuse
233 East Washington Street
Syracuse, New York 13202

If to the Company: Southside Genesee Associates, LLC
3 East Stow Road
P.O. Box 994
Marlton, New Jersey 08053
Attn: James A. Malesich, Jr.

With a copy to: Carol Zenzel, Esq.
6362 Fly Road, Suite 207
East Syracuse, New York 13057

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when received or delivery of same is refused by the recipient or personally delivered in the manner provided in this Section.

Section 6.03. Amendments. No amendment, change, modification, alteration or termination of this Project Agreement shall be made except in writing upon the written consent of the Company and the Agency.

Section 6.04. Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Project Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Project Agreement or any part thereof.

Section 6.05. Counterparts. This Project Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

Section 6.06. Governing Law. This Project Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Onondaga County, New York.

Section 6.07. Term. Except as specifically provided otherwise, the term of this Project Agreement shall be the longer of: (1) the term of the Agency Lease : or (2) five years following the Project's substantial completion date as evidenced by a certificate of occupancy. The Project will remain "active" for purposes of Section 874(12) of General Municipal Law and the Agency's Annual Assessment Policy during the term of this Project Agreement.

Section 6.08. Section Headings. The headings of the several Sections in this Project Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Project Agreement.

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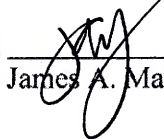
IN WITNESS WHEREOF, the parties hereto have executed this Project Agreement as of the day and year first above written.

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

By: 
William M. Ryan, Chairman

SOUTHSIDE GENESEE ASSOCIATES, LLC
By: CG USL VENTURES I, LLC,
its Managing Member


By: SYRACUSE-MICHAELS, LLC,
its Managing Member

By: 
James A. Malesich, Jr., Vice President

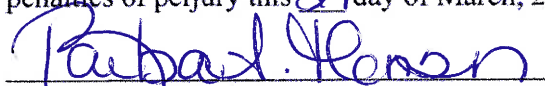
New Jersey
STATE OF ~~NEW YORK~~
COUNTY OF *Burlington*) ss.:

James A. Malesich, Jr., being first duly sworn, deposes and says:

1. That I am the Vice President of Syracuse-Michaels, LLC, the managing member of CG USL Ventures I, LLC, the managing member of Southside Genesee Associates, LLC (the "Company"); and I am duly authorized on behalf of the Company to bind the Company and to execute this Project Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.


(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury this 29 day of March, 2017.


(Notary Public)

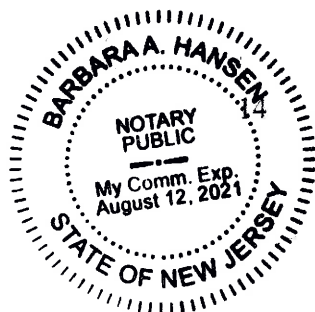


EXHIBIT A

FORM OF ANNUAL REPORTING QUESTIONNAIRE

SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
201 East Washington Street, 7th Floor, Syracuse, New York 13202

Date

COMPANY
COMPANY ADDRESS

Dear _____:

Our auditors, _____, CPAs are conducting an audit of our financial statements for the year ended December 31, _____. In connection with that audit, we request that you furnish certain information directly to our auditor with regard to the following security issued by/through the City of Syracuse Industrial Development Agency:

Sale - Leaseback Financing

Project: _____

Date of Financing:

Principal Amount Financed:

Maturity Date:

Original Interest Rate:

Please provide the following information as of December 31, [year]:

Name of Lender

Debt Retired in [year] Yes/No

Debt Refinanced in [year] Yes/No

(If Yes, please update information in Paragraph 1 above)

Debt in Default as of [date] Yes/No

Current Interest Rate(s)

Rate range, if Variable

Principal balance outstanding as of [date]

Principal payments made during [year]

Payments in Lieu of Taxes (PILOT)

paid in [year]

Total cost of goods/services purchased: \$ _____

New York State Sales Tax Exemptions Claimed [year]

New York Local Sales Tax Exemptions Claimed: [year]

New York State Mortgage Recording

Tax Exemption: [year]

Form of Syracuse Industrial Development Agency — Project Jobs Data [year]

From:

To: _____, CPAs

Re:

The following jobs information is furnished to you with regard to the above cited project:

Full Time Equivalent (FTE) Jobs Created and Retained – [year]

of Current FTE Employees as of [closing date]

of FTE Jobs Created during [year]

of FTE Jobs Retained during [year]

of FTE Construction Jobs Created during [year]

Comments:

Signature

Print Name

Title

Date

2

COMPANY LEASE AGREEMENT

THIS COMPANY LEASE AGREEMENT (the “*Company Lease*”), made and entered into as of March 10, 2017, by and between **SOUTHSIDE GENESEE ASSOCIATES, LLC** (the “*Company*”), a limited liability company organized under the laws of the State of New York with an office at 3 East Stow Road, Marlton, New Jersey 08053 and **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY** (the “*Agency*”), a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York, with an office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202.

WITNESSETH:

WHEREAS, Title 1 of Article 18-A of the New York General Municipal Law (the “*Enabling Act*”) was duly enacted into law as Chapter 1030 of the New York Laws of 1969; 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 and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip, and dispose of land and any buildings or other improvements, 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 of New York and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease or sell any or all of its properties, to mortgage and pledge any or all of its properties, whether then owned or thereafter acquired, and to pledge the revenues and receipts from the lease or sale thereof; and

WHEREAS, the Agency was created pursuant to and in accordance with the provisions of the Enabling Act by Chapter 641 of the Laws of 1979 of the State of New York (collectively with the Enabling Act, the “*Act*”) and is empowered under the Act to undertake the Project (as hereinafter defined); and

WHEREAS, the Agency, by resolution adopted on January 24, 2017, agreed, at the request of the Company to undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “*Existing Buildings*”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture,

fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Company is the current owner of the Project Facility; and

WHEREAS, the Agency proposes to assist the Company’s acquisition, construction and equipping of the Project Facility, and grant the Financial Assistance to the Project by, among other things: (1) appointing the Company, or its designee, as its agent with respect to the Project Facility; (2) accepting a leasehold interest in the Land and Facility from the Company pursuant to this Company Lease and acquiring an interest in the Equipment pursuant to a bill of sale from the Company; and (3) subleasing the Project Facility to the Company pursuant to the Agency Lease; and

WHEREAS, the Agency now proposes to lease the Land and Facility from the Company pursuant to the terms and conditions set forth herein; and

WHEREAS, all things necessary to constitute this Company Lease 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 Company Lease have, in all respects, been duly authorized.

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 RECITALS AND DEFINITIONS

1.0 RECITALS.

The foregoing recitals are incorporated herein by reference as if fully set forth hereinbelow.

1.1 DEFINITIONS.

For all purposes of this Company Lease and any agreement supplemental thereto, all defined terms indicated by the capitalization of the first letter of such term shall have the meanings specified in the Table of Definitions which is attached to the Agency Lease as Exhibit “C” thereto except as otherwise expressly defined herein or the context hereof otherwise requires.

1.2 INTERPRETATION.

In this Company Lease, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “herein,” “hereunder,” and any similar terms as used in this Company Lease refer to this Company Lease; the term “heretofore” shall mean before and the term “hereafter” shall mean after the date of this Company Lease;

(b) Words of masculine gender shall mean and include correlative words of feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa; and

(c) Any certificates, letters, or opinions required to be given pursuant to this Company Lease shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law, or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Company Lease.

ARTICLE II DEMISE; PREMISES; TERM

2.1 DEMISE.

The Company hereby leases to the Agency, and the Agency hereby leases from the Company, the Land and the Facility for the stated term for the rents, covenants and conditions set forth herein subject only to the Permitted Encumbrances.

2.2 DESCRIPTION OF PREMISES LEASED.

The leased premises is the Land and the Facility described in the recitals of this Company Lease and as more fully described on **Exhibit “A”** attached hereto.

2.3 TERM.

The Project is leased for a term which shall commence as of March 10, 2017, and shall end on the expiration or earlier termination of the Agency Lease.

2.4 MANDATORY CONVEYANCE.

At the expiration of the term hereof or any extension thereof by mutual agreement, or as otherwise provided in the Agency Lease, this Company Lease shall automatically expire without any further action by the parties hereto. The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing, delivering and recording terminations of leases and bill of sale together with any other documents therewith and to take such other and further actions reasonably necessary to confirm the termination of the Agency’s interest in the Project, all at the Company’s sole cost and expense.

2.5 CONSIDERATION.

The Agency is paying to the Company concurrently with the execution hereof consideration of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Company.

2.6 REPRESENTATIONS AND COVENANTS OF THE COMPANY.

The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company duly organized, validly existing and in good standing under the laws of New York, has the power to enter into this Company Lease and the other Company Documents and to carry out its obligations hereunder and thereunder, and has duly authorized the execution, delivery, and performance of this Company Lease and the other Company Documents.

(b) The Company acknowledges and agrees to be bound by the contents, terms and conditions of the Application as if the Company were the applicant thereunder and by executing this Company Lease does hereby certify, under penalties of perjury, to the contents of the Application; and

(c) This Company Lease and the other Company Documents constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Company, enforceable in accordance with their respective terms.

(d) The Company has a valid and enforceable fee interest in the Land and the Facility and shall remain and retain such interests for the term of this Company Lease unless otherwise consented to in writing by the Agency.

(e) Neither the execution and delivery of this Company Lease and the other Company Documents, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions thereof will:

(1) Result in a breach of, or conflict with any term or provision in, the Company's Articles of Organization and Operating Agreement;

(2) Require consent under (which has not been heretofore received) or result in a breach of or default under any credit agreement, indenture, purchase agreement, mortgage, deed of trust indenture, commitment, guaranty or other agreement or instrument to which the Company is a party or by which the Company or any of its property may be bound or affected; or

(3) Conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction, or decree of any Governmental Authority or court (domestic or foreign) having jurisdiction over the Company or any of the property of the Company.

(f) So long as the Agency holds an interest in the Project Facility, the Project Facility is and will continue to be a “project” (as such quoted term is defined in the Act), and the Company will not take any action (or omit to take any action required by the Company Documents or which the Agency, together with Agency’s counsel, advise the Company in writing should be taken), or allow any action to be taken, which action (or omission) would in any way cause the Project Facility not to constitute a “project” (as such quoted term is defined in the Act).

(g) The Company shall cause all notices as required by law to be given and shall comply or cause compliance with all laws, ordinances, municipal rules, and regulations and requirements of all Governmental Authorities applying to or affecting the construction, equipping and operation of the Project Facility (the applicability of such laws, ordinances, rules, and regulations to be determined both as if the Agency were the owner of the Project Facility and as if the Company, were the owner of the Project Facility), and the Company will defend and save the Agency and its officers, members, agents (other than the Company), and employees harmless from all fines and penalties due to failure to comply therewith.

(h) The Company shall perform, or cause to be performed, for and on behalf of the Agency, each and every obligation of the Agency (which is within the control of the Company) under and pursuant to the Agency Lease, this Company Lease and the other Company Documents and shall defend, indemnify, and hold harmless the Agency and its members, officers, agents (other than the Company), servants and employees from and against every expense, liability, or claim arising out of the failure of the Company to fulfill its obligations under the provisions of this Section 2.6.

(i) The Company acknowledges, restates and affirms the obligations, representations, warranties and covenants set forth in Sections 2.2 and 11.12 of the Agency Lease as if fully set forth herein.

ARTICLE III DISPUTE RESOLUTION

3.1 GOVERNING LAW.

This Company Lease shall be governed in all respects by the laws of the State of New York.

3.2 WAIVER OF TRIAL BY JURY.

THE COMPANY AND THE AGENCY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY DISPUTE ARISING UNDER THIS COMPANY LEASE, AND THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS COMPANY LEASE.

**ARTICLE IV
MISCELLANEOUS CLAUSES**

4.1 NOTICES.

All notices, certificates, and other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the Person who attempted to effect such delivery. The addresses to which notices, certificates, and other communications hereunder shall be delivered are as follows:

(a) To the Agency:

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202
Attn: Chairman

With copies to:

Corporation Counsel
City of Syracuse
233 East Washington Street
Syracuse, New York 13202

(b) To the Company:

Southside Genesee Associates, LLC
3 East Stow Road
Marlton, New Jersey 08053
Attn: James A. Malesich, Jr.

With a copy to:

Carol Zenzel, Esq.
6320 Fly Road, Suite 207
East Syracuse, New York 13057

4.2 NO RECOURSE UNDER THIS COMPANY LEASE.

No provision, covenant or agreement contained herein, in any other agreement entered into in connection herewith, or any obligations herein imposed, upon the Agency, or any breach thereof, shall constitute or give rise to or impose upon the Agency, a debt or other pecuniary liability or a charge upon its general credit, and all covenants, stipulations, promises, agreements and obligations of the Agency contained in this Company Lease shall be deemed to

be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in his individual capacity.

4.3 ENTIRE AGREEMENT.

This Company Lease contains the entire agreement between the parties and all prior negotiations and agreements are merged in this Company Lease. This Company Lease may not be changed, modified or discharged, in whole or in part, except by a written instrument executed by the party against whom enforcement of the change, modification or discharge is sought.

4.4 AGENCY REPRESENTATIONS.

The Company expressly acknowledges that neither the Agency nor the Agency's directors, members, employees or agents has made or is making, and the Company, in executing and delivering this Company Lease, is not relying upon warranties, representations, promises or statements, except to the extent that the same are expressly set forth in this Company Lease, and no rights, easements or licenses are or shall be acquired by the Company by implication or otherwise unless expressly set forth in this Company Lease.

4.5 BINDING EFFECT.

This Company Lease shall be binding upon and inure to the benefit of the parties, their respective successors and assigns.

4.6 PARAGRAPH HEADINGS.

Paragraph headings are for convenience only and shall not affect the construction or interpretation of this Company Lease.

4.7 CONSENT TO AGENCY LEASE; SUBORDINATION.

The Company hereby consents to the sublease by the Agency of the Project Facility to the Company pursuant to the Agency Lease. The Company acknowledges and agrees that this Company Lease and the Agency Lease shall be subordinate in all respects to the Mortgages.

4.8 HOLD HARMLESS PROVISIONS.

(a) The Company hereby releases the Agency and its members, officers, agents, and employees from, agree that the Agency and its members, officers, agents, and employees shall not be liable for, and agree to indemnify, defend, and hold the Agency and its members, officers, agents, and employees harmless from and against any and all claims arising as a result of the Agency's undertaking of the Project, including, but not limited to:

(1) Liability for loss or damage to Property or bodily injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project

Facility, or arising by reason of or in connection with the occupation or the use thereof, or the presence on, in, or about the Project Facility;

(2) Liability arising from or expense incurred by the Agency's acquisition of a leasehold interest in the Project Facility and the subleasing of the Project Facility, including, without limiting the generality of the foregoing, all liabilities or claims arising as a result of the Agency's obligations under the Agency Lease, the Company Lease or the Mortgage;

(3) All claims arising from the exercise by the Company of the authority conferred upon it and performance of the obligations assumed under Article II hereof;

(4) All causes of action and attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities, or expenses of the Agency are not incurred or do not result from the intentional wrongdoing of the Agency or any of its members, officers, agents, or employees.

The foregoing indemnities shall apply notwithstanding the fault or negligence (other than gross negligence or willful misconduct) on the part of the Agency or any of its officers, members, agents, servants, or employees and irrespective of any breach of statutory obligation or any rule of comparative or apportioned liability.

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

(c) Notwithstanding any other provisions of this Company Lease, the obligations of the Company pursuant to this Section 4.8 shall remain in full force and effect after the termination of the Agency Lease and this Company Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action, or prosecution relating to the matters herein described may be brought, and the payment in full or the satisfaction of such claim, cause of action, or prosecution, and the payment of all expenses and charges incurred by the Agency, or its officers, members, agents (other than the Company), or employees, relating thereto.

(d) For purposes of this Section 4.8, the Company shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

4.9 NO RECOURSE; SPECIAL OBLIGATION.

The obligations and agreements of the Agency contained herein and in the other Agency Documents and in any other instrument or document executed in connection herewith or therewith, and any instrument or document supplemental hereto or thereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent, or employee of the Agency in his individual capacity; and the members, officers, agents, and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State New York or of the City of Syracuse, and neither the State of New York nor the City of Syracuse shall be liable hereon or thereon. Further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived, and to be derived from, the lease, sale, or other disposition of the Project Facility, other than revenues derived from or constituting Unassigned Rights. No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless:

(a) The party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period; and

(b) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses; and

(c) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents, or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents, and employees against any liability incurred as a result of its compliance with such demand; and (2) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents, and employees against all liability expected to be incurred as a result of compliance with such request.

Any failure to provide notice, indemnity, or security to the Agency pursuant to this Section 4.9 shall not alter the full force and effect of any Event of Default under the Agency Lease.

(d) For purposes of this Section 4.9, the Company shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

4.10 MERGER OF AGENCY.

(a) Nothing contained in this Company Lease shall prevent the consolidation of the Agency with, or merger of the Agency into, or assignment by the Agency of its rights and interests hereunder to any other body corporate and politic and public instrumentality of the State of New York, or political subdivision thereof, which has the legal authority to perform the obligations of the Agency hereunder, provided that upon any such consolidation, merger, or assignment, the due and punctual performance and observance of all the agreements and conditions of this Company Lease to be kept and performed by the Agency shall be expressly assumed in writing by the public instrumentality or political subdivision resulting from such consolidation or surviving such merger or to which the Agency's rights and interests hereunder shall be assigned.

(b) As of the date of any such consolidation, merger, or assignment, the Agency shall give notice thereof in reasonable detail to the Company. The Agency shall promptly furnish to the Company such additional information with respect to any such consolidation, merger, or assignment as the Company reasonably may request.

4.11 EXECUTION OF COUNTERPARTS.

This Company Lease 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.

4.12 EVENT OF DEFAULT.

A default in the performance or the observance of any covenants, conditions, or agreements on the part of the Company in this Company Lease.

4.13 REMEDIES.

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

- 1) Terminate the Company Lease; or
- 2) 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.

4.14 AMENDMENTS, CHANGES AND MODIFICATIONS.

This Company Lease may not be amended, changed, modified, altered, or terminated except by an instrument in writing signed by the parties hereto.


[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Company and the Agency have duly executed this Company Lease, as of the day and year first above written.

SOUTHSIDE GENESEE ASSOCIATES, LLC

By: CG USL VENTURES I, LLC,
its Managing Member

By: SYRACUSE-MICHAELS, LLC,
its Managing Member

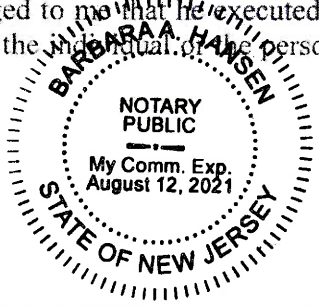
By:  _____
James A. Malesich, Jr., Vice President

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By:  _____
William M. Ryan, Chairman

New Jersey
STATE OF NEW YORK)
) SS.:
COUNTY OF *Burlington*)

On the 29 day of March, 2017, before me, the undersigned, personally appeared **JAMES A. MALESICH, JR.**, 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.



Barbara Hansen

Notary Public

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

On the 30th day of March, 2017, before me, the undersigned, personally appeared **WILLIAM M. RYAN**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L. McRobbie

Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

EXHIBIT "A"

LEGAL DESCRIPTION

1200-24 E. GENESEE STREET (inclusive of 509 Walnut):

All that certain plot, piece or parcel of land, with the building and improvements thereon erected, situate, lying and being in the City of Syracuse, County of Onondaga and State of New York, known as Lot 1, 8 and Part of Lots 2, 7 and 11, being part of Block No. 410 in said City, bounded and described as follows:

Beginning at the intersection of the southerly line of East Genesee Street with the easterly line of Walnut Avenue, running thence N 88°-11'-00" E a distance of 286.12 feet along the southerly line of East Genesee Street to a point in the westerly line of Comstock Avenue, thence S 4°-20'-10" E a distance of 143.80 feet along the westerly line of Comstock Avenue to a point, thence S 88°-11'-00" W a distance of 40.0 feet to a point, thence S 4°-20'-10" E a distance of 40.0 feet to a point, thence S 88°-11'-00" W a distance of 42.44 feet to a point, thence S 3°-20'-30" E a distance of 67.21 feet to a point, thence S 86°-05'-40" W a distance of 49.5 feet to a point, thence N 3°-20'-30" W a distance of 23.83 feet to a point, thence N 88°-24'-45" W a distance of 49.67 feet to a point, thence N 3°-20'-30" W a distance of 16.41 feet to a point, thence N 89°-31'-30" W a distance of 121.73 feet to a point in the easterly line of Walnut Avenue, thence N 0°-28'-30" E a distance of 204.74 feet along the easterly line of Walnut Avenue to a point in the southerly line of East Genesee Street and the place of beginning.

511 WALNUT AVENUE:

ALL THAT TRACT OR PARCEL OF LAND SITUATE, in the City of Syracuse aforesaid being that part of farm lot No. 199 and that part of Block No. 410 in said City according to Borden and Griffen's map bounded and described as follows: Beginning at a point in the east line of Spruce Street, 205.06 feet south of the south line of Genesee, thence east at right angles to Spruce Street about 119 feet to the east line of lands formerly owned by Genesee & Water Street Railroad Company, thence south along said east line 33 3/40 feet, thence west parallel with the first mentioned line 123.16 feet to Spruce Street, thence north on the east line of Spruce Street 33 feet to the place of beginning.

Excepting and reserving the rights of way over a strip of land five (5) feet wide off of the north side of the premises herein conveyed.

3

**MEMORANDUM OF
COMPANY LEASE AGREEMENT**

NAME AND ADDRESS OF LESSOR: Southside Genesee Associates, LLC
3 East Stow Road
Marlton, New Jersey 08053

NAME AND ADDRESS OF LESSEE: City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202

DESCRIPTION OF LEASED PREMISES:

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being more particularly described in **Exhibit "A"** annexed hereto, together with the improvements thereon.

DATE OF EXECUTION OF COMPANY LEASE AGREEMENT:

As of March 10, 2017.

TERM OF COMPANY LEASE AGREEMENT:

The term of this Company Lease shall commence on the date hereof and continue in full force and effect until the earlier of: (1) March 31, 2019; or (2) sixty days after the issuance of a certificate of occupancy by the City of Syracuse, New York, unless earlier terminated as provided in that certain Agency Lease dated of even date herewith between the same parties hereto.

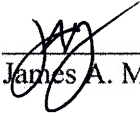
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IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 10th day of March, 2017.

SOUTHSIDE GENESEE ASSOCIATES, LLC

By: CG USL VENTURES I, LLC,
its Managing Member

By: SYRACUSE-MICHAELS, LLC,
its Managing Member

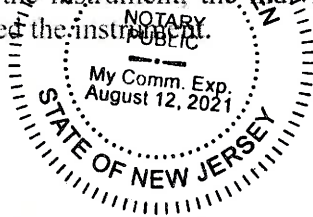
By: 
James A. Malesich, Jr., Vice President

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 
William M. Ryan, Chairman

New Jersey
STATE OF ~~NEW YORK~~)
) SS.:
COUNTY OF *Burlington*)

On the *29* day of March, 2017, before me, the undersigned, personally appeared **JAMES A. MALESICH, JR.**, 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/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Barbara K. Rosen

Notary Public

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

On this *30th* day of March, 2017, before me, the undersigned, personally appeared **WILLIAM M. RYAN**, 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.

Lori L. McRobbie

Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

EXHIBIT "A"

LEGAL DESCRIPTION

1200-24 E. GENESEE STREET (inclusive of 509 Walnut):

All that certain plot, piece or parcel of land, with the building and improvements thereon erected, situate, lying and being in the City of Syracuse, County of Onondaga and State of New York, known as Lot 1, 8 and Part of Lots 2, 7 and 11, being part of Block No. 410 in said City, bounded and described as follows:

Beginning at the intersection of the southerly line of East Genesee Street with the easterly line of Walnut Avenue, running thence N 88°-11'-00" E a distance of 286.12 feet along the southerly line of East Genesee Street to a point in the westerly line of Comstock Avenue, thence S 4°-20'-10" E a distance of 143.80 feet along the westerly line of Comstock Avenue to a point, thence S 88°-11'-00" W a distance of 40.0 feet to a point, thence S 4°-20'-10" E a distance of 40.0 feet to a point, thence S 88°-11'-00" W a distance of 42.44 feet to a point, thence S 3°-20'-30" E a distance of 67.21 feet to a point, thence S 86°-05'-40" W a distance of 49.5 feet to a point, thence N 3°-20'-30" W a distance of 23.83 feet to a point, thence N 88°-24'-45" W a distance of 49.67 feet to a point, thence N 3°-20'-30" W a distance of 16.41 feet to a point, thence N 89°-31'-30" W a distance of 121.73 feet to a point in the easterly line of Walnut Avenue, thence N 0°-28'-30" E a distance of 204.74 feet along the easterly line of Walnut Avenue to a point in the southerly line of East Genesee Street and the place of beginning.

511 WALNUT AVENUE:

ALL THAT TRACT OR PARCEL OF LAND SITUATE, in the City of Syracuse aforesaid being that part of farm lot No. 199 and that part of Block No. 410 in said City according to Borden and Griffen's map bounded and described as follows: Beginning at a point in the east line of Spruce Street, 205.06 feet south of the south line of Genesee, thence east at right angles to Spruce Street about 119 feet to the east line of lands formerly owned by Genesee & Water Street Railroad Company, thence south along said east line 33 3/40 feet, thence west parallel with the first mentioned line 123.16 feet to Spruce Street, thence north on the east line of Spruce Street 33 feet to the place of beginning.

Excepting and reserving the rights of way over a strip of land five (5) feet wide off of the north side of the premises herein conveyed.



Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax

Recording office time stamp

See Form TP-584-1, Instructions for Form TP-584, before completing this form. Print or type.

Schedule A – Information relating to conveyance

Grantor/Transferor <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantor) Southside Genesee Associates, LLC Mailing address 3 East Stow Road City State ZIP code Marlton NJ 08053	Social security number Social security number Federal EIN 81-5081696
	Single member's name if grantor is a single member LLC (see instructions)	Single member EIN or SSN
Grantee/Transferee <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantee) City of Syracuse Industrial Development Agency Mailing address 201 East Washington Street, 7th Floor City State ZIP code Syracuse NY 13202	Social security number Social security number Federal EIN 52-1380308
	Single member's name if grantee is a single member LLC (see instructions)	Single member EIN or SSN

Location and description of property conveyed

Tax map designation – Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
048.-10-01.0 048.-10-15.0	311500	1200-24 East Genesee Street and 509 and 511 Walnut Avenue	Syracuse	Onondaga

Type of property conveyed (check applicable box)

1 <input type="checkbox"/> One- to three-family house 2 <input type="checkbox"/> Residential cooperative 3 <input type="checkbox"/> Residential condominium 4 <input type="checkbox"/> Vacant land	5 <input checked="" type="checkbox"/> Commercial/Industrial 6 <input type="checkbox"/> Apartment building 7 <input type="checkbox"/> Office building 8 <input type="checkbox"/> Other _____	Date of conveyance <table style="margin-left: auto; margin-right: auto;"> <tr> <td style="border: 1px solid black; padding: 2px;">03</td> <td style="border: 1px solid black; padding: 2px;">10</td> <td style="border: 1px solid black; padding: 2px;">2017</td> </tr> <tr> <td style="font-size: 8px;">month</td> <td style="font-size: 8px;">day</td> <td style="font-size: 8px;">year</td> </tr> </table>	03	10	2017	month	day	year	Percentage of real property conveyed which is residential real property _____ 0 % (see instructions)
03	10	2017							
month	day	year							

Condition of conveyance (check all that apply)

- | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. <input type="checkbox"/> Conveyance of fee interest

b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____ %) | f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)

g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)

h. <input type="checkbox"/> Conveyance of cooperative apartment(s)

i. <input type="checkbox"/> Syndication

j. <input type="checkbox"/> Conveyance of air rights or development rights

k. <input type="checkbox"/> Contract assignment | l. <input type="checkbox"/> Option assignment or surrender

m. <input type="checkbox"/> Leasehold assignment or surrender

n. <input checked="" type="checkbox"/> Leasehold grant

o. <input type="checkbox"/> Conveyance of an easement

p. <input type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)

q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state

r. <input type="checkbox"/> Conveyance pursuant to divorce or separation

s. <input type="checkbox"/> Other (describe) _____ |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

For recording officer's use	Amount received Schedule B., Part I \$ _____ Schedule B., Part II \$ _____	Date received	Transaction number
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Schedule B – Real estate transfer tax return (Tax Law, Article 31)

Part I – Computation of tax due

1	Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) <input checked="" type="checkbox"/> Exemption claimed	1.	0	00
2	Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)	2.	0	00
3	Taxable consideration (subtract line 2 from line 1)	3.	0	00
4	Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3	4.	0	00
5	Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)	5.	0	00
6	Total tax due* (subtract line 5 from line 4)	6.	0	00

Part II – Computation of additional tax due on the conveyance of residential real property for \$1 million or more

1	Enter amount of consideration for conveyance (from Part I, line 1)	1.		
2	Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A)	2.		
3	Total additional transfer tax due* (multiply line 2 by 1% (.01))	3.		

Part III – Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada) a
- b. Conveyance is to secure a debt or other obligation..... b
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts d
- e. Conveyance is given in connection with a tax sale..... e
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F..... f
- g. Conveyance consists of deed of partition..... g
- h. Conveyance is given pursuant to the federal Bankruptcy Act h
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property i
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) k

*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: (check the appropriate box)

1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

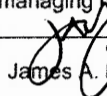
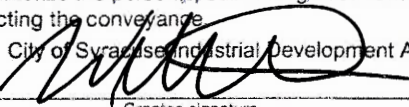
Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

- Other (attach detailed explanation).

3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.
4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the **NYC Department of Finance**.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

Southside Genesee Associates, LLC by CG USL Ventures I, LLC its managing member, by Syracuse-Michaels, LLC its managing member	City of Syracuse Industrial Development Agency Chairman
 Grantor signature James A. Malesich, Jr., Vice President	 Grantee signature William M. Ryan

Grantor signature	Title	Grantee signature	Title
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Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under Exemptions for nonresident transferor(s)/seller(s) and sign at bottom.

Part I - New York State residents

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, each resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

Part II - Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. Each nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-I.

Exemption for nonresident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from _____ Date to _____ Date (see instructions).
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

4

BILL OF SALE TO AGENCY

SOUTHSIDE GENESEE ASSOCIATES, LLC, a limited liability company organized under the laws of the State of New York with an office to conduct business at 3 East Stow Road, Marlton, New Jersey 08053 (the "**Company**"), for the consideration of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration received by the Company from the City of Syracuse Industrial Development Agency, a public benefit corporation organized and existing pursuant to the laws of the State of New York (the "**Agency**"), having its office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202, the receipt of which is hereby acknowledged by the Company, hereby sells, transfers, and delivers unto the Agency, its successors and assigns, all those materials, machinery, equipment, fixtures and furnishings now owned or hereafter acquired by the Company in connection with the Project Facility, as described in the Agency Lease entered between the Agency and the Company dated as of March 10, 2017 (the "**Agency Lease**"), and as listed on "**Exhibit A**" attached hereto.

TO HAVE AND HOLD the same unto the Agency, its successors and assigns, forever.

The Company hereby represents and warrants that it is the true and lawful owner of the personal property being conveyed hereby, that all of the foregoing are free and clear of all liens, security interests, and encumbrances, except for Permitted Encumbrances, as defined in the Agency Lease, and that the Company has the right to sell the same as aforesaid; and the Company covenants that it will warrant and defend title to the same for the benefit of the Agency and its successors and assigns against the claims and demands of all persons.

IN WITNESS WHEREOF, the Company has caused this instrument to be executed by its duly authorized representative on the date indicated beneath the signature of such representative and dated as of the 10th day of March, 2017.

SOUTHSIDE GENESEE ASSOCIATES, LLC
By: CG USL VENTURES I, LLC,
its Managing Member

By: SYRACUSE-MICHAELS, LLC,
its Managing Member

By: 
James A. Malesich, Jr., Vice President

EXHIBIT "A"

DESCRIPTION OF THE EQUIPMENT

All articles of personal property, all machinery, apparatus, equipment, appliances, floor coverings, furniture, furnishings, supplies, materials, fittings and fixtures of every kind and nature whatsoever and all appurtenances acquired by **SOUTHSIDE GENESEE ASSOCIATES, LLC** (the "**Company**") and now or hereafter attached to, contained in or used or acquired in connection with the Project Facility (as defined in the Agency Lease) or placed on any part thereof, though not attached thereto, including, but not limited to, pipes, screens, fixtures, furniture, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, rugs, movable partitions, cleaning equipment, maintenance equipment, shelving, racks, flagpoles, signs, waste containers, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors, machinery; and together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor, and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.

5

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

AND

SOUTHSIDE GENESEE ASSOCIATES, LLC

AGENCY LEASE AGREEMENT

DATED AS OF MARCH 10, 2017

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EXHIBIT “F”	FORM OF SUB-AGENT AGREEMENT
EXHIBIT “G”	RECAPTURE POLICY

AGENCY LEASE AGREEMENT

THIS AGENCY LEASE AGREEMENT, dated as of March 10, 2017 (the "**Agency Lease**"), by and between the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a body corporate and politic and a public instrumentality of the State of New York, having its office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202 (the "**Agency**"), and **SOUTHSIDE GENESEE ASSOCIATES, LLC** a New York limited liability company having its office at 3 East Stow Road, Marlton, New Jersey 08053 (the "**Company**").

WITNESSETH:

WHEREAS, the Agency is authorized and empowered by Title I of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, 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, among other things, to: (i) make contracts and leases, and to execute such documents as necessary or convenient, with a public or private person, firm, partnership, or corporation; (ii) to acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects (as defined in the Act); and (iii) to sell, lease and otherwise dispose of any such property; and

WHEREAS, the Agency, by resolution adopted on January 24, 2017, agreed to undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "**Existing Buildings**") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the "**Financial Assistance**"); (C) the

appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency proposes to assist the Company's acquisition, construction and equipping of the Project Facility and grant the Financial Assistance to the Project by, among other things: (1) appointing the Company and/or its designee as its agent with respect to completing the Project; (2) accepting a leasehold interest in the Land and the Facility from the Company and a fee interest in the Equipment pursuant to a bill of sale from the Company; and (2) subleasing the Project Facility to the Company pursuant to this Agency Lease; and

WHEREAS, the Company is the current owner of the Land and the Facility and has leased the Land and the Facility to the Agency pursuant to the Company Lease Agreement dated as of March 10, 2017 (the "**Company Lease**"); and

WHEREAS, the Company has conveyed title to the Equipment to the Agency pursuant to the Bill of Sale dated as of March 10, 2017 (the "**Bill of Sale**"); and

WHEREAS, the Agency now proposes to sublease the Project Facility to the Company pursuant to the terms and conditions herein set forth; and

WHEREAS, all things necessary to constitute this Agency Lease 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 Agency Lease have, in all respects, been duly authorized.

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 RECITALS AND DEFINITIONS

1.0 RECITALS.

The foregoing recitals are incorporated herein by reference as if fully set forth hereinbelow.

1.1 DEFINITIONS.

For all purposes of this Agency Lease and any agreement supplemental thereto, all defined terms indicated by the capitalization of the first letter of such term shall have the

meanings specified in the Table of Definitions attached hereto as **Exhibit "C"** except as otherwise expressly defined herein or the context hereof otherwise requires.

1.2 INTERPRETATION.

In this Agency Lease, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "herein," "hereunder," and any similar terms as used in this Agency Lease refer to this Agency Lease; the term "heretofore" shall mean before and the term "hereafter" shall mean after the date of this Agency Lease;

(b) Words of masculine gender shall mean and include correlative words of feminine and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa; and

(c) Any certificates, letters, or opinions required to be given pursuant to this Agency Lease shall mean a signed document attesting to or acknowledging the circumstances, representations, opinions of law, or other matters therein stated or set forth or setting forth matters to be determined pursuant to this Agency Lease.

ARTICLE II REPRESENTATIONS AND COVENANTS

2.1 REPRESENTATIONS OF THE AGENCY.

The Agency makes the following representations to the Company as the basis for the undertakings on its part herein contained:

(a) The Agency is duly established under the provisions of the Act and has the power to enter into this Agency Lease and to carry out its obligations hereunder. Based upon the representations of the Company as to the utilization of the Project Facility, the Project Facility will constitute a "project," as such quoted term is defined in the Act. By proper official action, the Agency has been duly authorized to execute, deliver, and perform this Agency Lease and the other Agency Documents.

(b) Neither the execution and delivery of this Agency Lease, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions of this Agency Lease and the other Agency Documents by the Agency will conflict with or result in a breach by the Agency of any of the terms, conditions, or provisions of the Act, the By-Laws of the Agency, or any order, judgment, restriction, agreement, or instrument to which the Agency is a party or by which it is bound or will constitute a default by the Agency under any of the foregoing.

(c) This Agency Lease and the other Agency Documents constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Agency, enforceable in accordance with their respective terms.

2.2 REPRESENTATIONS AND COVENANTS OF THE COMPANY.

The Company acknowledges, represents, warrants and covenants to the Agency as follows:

(a) The Company is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of New York, has the power to enter into this Agency Lease and the other Company Documents and to carry out its obligations hereunder and thereunder, and has duly authorized the execution, delivery, and performance of this Agency Lease and the other Company Documents.

(b) The Company acknowledges and agrees to be bound by the contents, terms and conditions of the Application as if the Company were the applicant thereunder and by executing this Agency Lease does hereby certify, under penalties of perjury, to the contents of the Application; and

(c) This Agency Lease and the other Company Documents constitute, or upon their execution and delivery in accordance with the terms thereof will constitute, valid and legally binding obligations of the Company, enforceable in accordance with their respective terms.

(d) The Company is the present fee owner of the Project Facility and shall remain the fee owner of the Project Facility for the term of this Agency Lease unless otherwise consented to in writing by the Agency.

(e) The Project is not primarily used for retail as set forth in Article 18-A of the Act.

(f) Neither the execution and delivery of this Agency Lease and the other Company Documents, the consummation of the transactions contemplated thereby, nor the fulfillment of or compliance with the provisions thereof will:

(1) Result in a breach of, or conflict with any term or provision in, the Company's Articles of Organization and Operating Agreement;

(2) Require consent under (which has not been heretofore received) or result in a breach of or default under any credit agreement, indenture, purchase agreement, mortgage, deed of trust, commitment, guaranty or other agreement or instrument to which the Company is a party or by which the Company or any of its property may be bound or affected; or

(3) Conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction, or decree of any Governmental Authority or court (domestic or foreign) having jurisdiction over the Company or any of the property of the Company.

(g) The providing of Financial Assistance to the Project by the Agency:

(1) Has been an important consideration in the Company's decision to acquire, reconstruct, renovate and equip the Project Facility in the City of Syracuse;

(2) Will not result in the removal of an industrial or manufacturing plant or commercial activity of any Project Facility occupant from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of any user, occupant, or proposed user or occupant of the Project Facility located within the State, except as permitted by the Act; and

(3) Will help eliminate blight and advance job opportunities, prosperity, and standard of living and help prevent economic deterioration.

(h) So long as the Agency holds a leasehold interest in the Project Facility, the Project Facility is and will continue to be a "project" (as such quoted term is defined in the Act), and the Company will not take any action (or omit to take any action required by the Company Documents or which the Agency, together with Agency's counsel, advise the Company in writing should be taken), or allow any action to be taken, which action (or omission) would in any way cause the Project Facility not to constitute a "project" (as such quoted term is defined in the Act).

(i) The Company shall cause all notices as required by law to be given and shall comply or cause compliance with all laws, ordinances, municipal rules, and regulations and requirements of all Governmental Authorities applying to or affecting the construction, equipping and operation of the Project Facility (the applicability of such laws, ordinances, rules, and regulations to be determined both as if the Agency were the owner of the Project Facility and as if the Company, were the owner of the Project Facility), and the Company will defend and save the Agency and its officers, members, agents (other than the Company), and employees harmless from all fines and penalties due to failure to comply therewith.

(j) The Project will not have a significant effect on the environment" (within the meaning of such term as used in SEQRA) and the Company hereby covenants to comply with all mitigating measures, requirements and conditions, if any, enumerated in the SEQR Resolution under SEQRA applicable to the acquisition, construction and installation of the Project Facility and in any other approvals issued by any other Governmental Authority with respect to the Project. No material changes with respect to any aspect of the Project Facility have arisen from the date of the issuance of such negative declaration which would cause the determination contained therein to be untrue.

(k) The Company understands and agrees that it is the preference of the Agency that the Company provide opportunities for the purchase of goods and services from: (i) business enterprises located in the City; (ii) certified minority and or women-owned business enterprises; and (iii) business enterprises that employ residents of the City. The Company further understands and acknowledges that consideration will be given by the Agency to the Company's efforts to comply, and compliance, with this objective at any time an extension of benefits is sought or involvement by the Agency with the Project is requested by the Company.

(l) The Agency's undertaking of the Project and the provision of Financial Assistance for the Project will not have a significant impact on the environment within the meaning of SEQRA.

(m) The acquisition, construction and equipping of the Project Facility will promote employment opportunities and help prevent economic deterioration in the City by the creation and/or preservation of both full and part-time jobs.

(n) The Company has, or will have as of the first date of construction and equipping, all then necessary permits, licenses, and governmental approvals and consents (collectively, "**Approvals**") for the construction and equipping of the Project Facility and has or will have such Approvals timely for each phase of, and throughout the construction and equipping of the Project Facility.

(o) The Company will not sublease the whole or any portion of the Project Facility for an unlawful purpose.

(p) No part of the Project Facility will be located outside of the City.

(q) The Company shall perform, or cause to be performed, for and on behalf of the Agency, each and every obligation of the Agency (which is within the control of the Company) under and pursuant to this Agency Lease, the Company Lease and the other Company Documents and shall defend, indemnify, and hold harmless the Agency and its members, officers, agents (other than the Company), servants and employees from and against every expense, liability, or claim arising out of the failure of the Company to fulfill its obligations under the provisions of this Section 2.2.

(r) The Company agrees that except as is otherwise provided by collective bargaining contracts or agreements applicable to the Project, new employment opportunities created as a result of the Project shall be listed with the New York State Department of Labor Community Services Division, and with 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 is located. The Company further agrees that except as is otherwise provided by collective bargaining contracts or agreements applicable to the Project, it will first consider persons eligible to participate in the Federal Job Training Partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the Community Services Division of the Department of Labor for such new employment opportunities.

(p) The Company shall provide to the Agency any and all documentation or information requested by the Agency so that the Agency can comply with all of its reporting requirements under the Act.

(q) As a condition precedent to receiving or benefiting from any State sales and use tax exemption benefits, the Company acknowledges and agrees to all terms and conditions of Section 875(3) of the Act. Section 875(3) of the Act is herein incorporated by reference. As part of such conditions precedent:

(1) The Company shall not take any State or local Sales and Use Tax exemptions to which it is not entitled, which are in excess of the amount authorized by the Agency in reliance on the Company's Application or which are for property or services not authorized.

(2) The Company shall comply with all material terms and conditions to use property or services in the manner required by the Agency Documents.

(3) The Company shall cooperate with the Agency in the Agency's efforts to recover, recapture, receive or otherwise obtain from the Company any Recapture Amount (as defined in Section 8.12(g) hereof), and shall, upon the Agency's request, immediately pay to the Agency any Recapture Amount, together with any interest or penalties thereon imposed by the Agency or by operation of law or by judicial order or otherwise, as provided in Section 8.12(g) hereof. The Company acknowledges and agrees that the failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the State Commissioner of Taxation and Finance to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties.

(r) The amount of State and local sales and use tax benefits comprising the Financial Assistance approved by the Agency shall not exceed **\$1,440,000**. The Company shall not request, obtain nor claim State and local sales and use tax exemptions in excess of this amount.

ARTICLE III CONVEYANCE OF LEASEHOLD INTEREST IN PROJECT FACILITY

3.1 AGREEMENT TO CONVEY LEASEHOLD INTEREST TO COMPANY.

The Company has conveyed to the Agency, pursuant to the Company Lease, a leasehold interest in the Land and Facility, as more fully described in **Exhibit "A"** attached hereto, any improvements now or hereafter constructed and installed thereon, subject to Permitted Encumbrances and all of its right, title and interest in the Equipment via a Bill of Sale, as more fully described in **Exhibit "B"** attached hereto. Under this Agency Lease, the Agency will convey, or will cause to be conveyed, to the Company, a subleasehold interest in the Project Facility subject to Permitted Encumbrances and exclusive of the Agency's Unassigned Rights.

3.2 USE OF PROJECT FACILITY.

Subsequent to the Closing Date, the Company shall be entitled to use the Project Facility in any manner not otherwise prohibited by this Agency Lease, the Company Lease and other Company Documents, provided that such use causes the Project Facility to qualify or continue to qualify as a "project" under the Act.

ARTICLE IV RECONSTRUCTION, RENOVATION, CONSTRUCTION AND EQUIPPING OF THE PROJECT

4.1 RECONSTRUCTION, RENOVATION, CONSTRUCTION AND EQUIPPING OF THE PROJECT FACILITY.

(a) The Company shall promptly construct and equip the Project Facility, all in accordance with the Plans and Specifications. Unless a written waiver is first obtained from the Agency, in accordance with the Agency's Local Access Policy, the Company and its Additional Agents (as defined herein), shall utilize local labor, contractors and suppliers for the construction and equipping of the Project Facility. For purposes of this Agency Lease, and in particular this Section 4.1, the term "*local*" shall mean Onondaga, Oswego, Oneida, Madison, Cayuga and Cortland Counties. Failure to comply with the local labor requirements of this Section 4.1 (collectively, "*Local Labor Requirements*") may result in the revocation or recapture of all benefits provided/approved to the Project by the Agency. The Company further agrees to complete and supply the Agency, quarterly, starting the first quarter following the date hereof, the "Contract Status Report" the form of which is attached hereto at **Exhibit "D"**. Failure to comply with any portion of Article 4 may result in the loss of all benefits provided to or for the benefit of the Project in the Agency's sole discretion.

(b) The Agency hereby confirms the appointment of the Company as its true and lawful agent to perform the following in compliance with the terms, purposes, and intent of this Agency Lease, the Act and the other Company Documents, and the Company hereby accepts such appointment:

(1) To construct, equip and complete the Project Facility and to acquire the Equipment in accordance with the terms hereof;

(2) To make, execute, acknowledge, and deliver any contracts, orders, receipts, writings, and instructions with any other Persons and, in general, to do all things which may be requisite or proper, all for the construction, equipping and completion of the Project Facility with the same powers and with the same validity as the Agency could do if acting in its own behalf, provided that the Agency shall have no liability for the payment of any sums due thereunder;

(3) To pay all fees, costs and expenses incurred in the construction, equipping and completion of the Project Facility from funds made available therefore from the funds of the Company; and

(4) To ask, demand, sue for, levy, recover, and receive all such sums of money, debts, dues, and other demands whatsoever which may be due, owing, and payable to the Agency under the terms of any contract, order, receipt, or writing in connection with the construction, equipping and completion of the Project Facility and to enforce the provisions of any contract, agreement, obligation, bond, or other performance security.

(c) The Agency shall enter into, and accept the assignment of, such contracts as the Company may request in order to effectuate the purposes of this Section 4.1, provided, however, that the Agency shall have no liability for the payment of any sums due thereunder.

(d) The Company has given, or will give or cause to be given, all notices and have complied, or will comply or cause compliance with, all laws, ordinances, rules, regulations, and requirements of all Governmental Authorities applying to or affecting the conduct of work on the Project Facility (the applicability of such laws, ordinances, rules, and regulations to be determined both as if the Agency were the owner of the Project Facility and as if the Company were the owner of the Project Facility), and the Company will defend, indemnify, and save the Agency and its officers, members, agents, servants, and employees harmless from all fines and penalties due to failure to comply therewith. All permits and licenses necessary for the prosecution of work on the Project Facility shall be procured promptly by the Company.

(e) The Company understands and agrees that it is the preference of the Agency that the Company provide opportunities for the purchase of goods and services relative to the Project from: (i) business enterprises located in the City; (ii) certified minority and/or women-owned business enterprises; and (iii) business enterprises that employ residents of the City. Consideration will be given by the Agency to the Company's efforts to comply, and compliance with, this objective at any time an extension of benefits is requested, or further involvement by the Agency with the Project, is requested by the Company.

4.2 COMPLETION OF PROJECT FACILITY.

(a) The Company will proceed with due diligence to acquire, construct, equip and complete the Project Facility. Completion of the acquisition, construction and equipping of the Project Facility shall be evidenced by a certificate signed by an Authorized Representative of the Company and approved by the Agency, stating:

(1) The date of such completion;

(2) That all labor, services, materials, and supplies used therefor and all costs and expenses in connection therewith have been paid;

(3) That the Company has good and valid title to all Property constituting the Project Facility subject to the interest of the Agency therein and to this Agency Lease, the Company Lease and the Bill of Sale; and

(4) That the Project Facility is ready for occupancy, use and operation for its intended purposes.

(b) Notwithstanding the foregoing, such certificate may state that (1) it is given without prejudice to any rights of the Company against third parties which exist at the date of such certificate or which may subsequently come into being; (2) it is given only for the purposes of this Section 4.2; and (3) no Person other than the Agency may benefit therefrom.

(c) Such certificate shall be accompanied by (1) copy of a certificate of occupancy, if required, and any and all permissions, licenses, or consents required of Governmental Authorities for the occupancy, operation, and use of the Project Facility for its intended purposes; and (2) Lien releases from the Company's contractor and any subcontractors under a contract with a price in excess of \$100,000.

4.3 COSTS OF COMPLETION PAID BY COMPANY.

(a) The Company agrees to complete the Project and to pay in full all costs of the construction, equipping and completion of the Project Facility.

(b) No payment by the Company pursuant to this Section 4.3 shall entitle the Company to any diminution or abatement of any amounts payable by the Company under this Agency Lease.

4.4 REMEDIES TO BE PURSUED AGAINST CONTRACTORS, SUBCONTRACTORS, MATERIALMEN AND THEIR SURETIES.

In the event of a default by any materialman or Additional Agent (as defined herein) under any contract made by them in connection with construction, equipping and completion of the Project Facility or in the event of a breach of warranty or other liability with respect to any materials, workmanship, or performance guaranty, the Company shall proceed, either separately or in conjunction with others, to exhaust the remedies of the Company against the materialman or Additional Agent so in default and against each surety for the performance of such contract. The Company may prosecute or defend any action or proceeding or take any other action involving any such materialman or Additional Agent or surety which the Company deems reasonably necessary. The Company shall advise the Agency of any actions or proceedings taken hereunder. No such suit shall relieve the Company of any of its obligations under this Agency Lease and the other Company Documents.

4.5 COOPERATION IN EXECUTION OF ADDITIONAL MORTGAGES AND MODIFICATIONS OF MORTGAGES.

The Agency agrees, upon written request of an Authorized Representative of the Company and subject to the provisions of the Act, to use its commercially reasonable efforts to execute and deliver one or more Mortgages and such additional instruments and documents may be requested by the Company and approved by counsel to the Agency and as may be required in connection with the Company's financing or refinancing for the costs of construction and equipping of the Project Facility, provided that:

(a) No Event of Default under this Agency Lease, the Company Lease or the Mortgage shall have occurred and be continuing; and

(b) The execution and delivery of such documents by the Agency (i) is permitted by law in effect at the time; and (ii) will serve the public purposes of the Act; and

(c) The Company will be responsible for and shall pay, from the proceeds thereof or otherwise, the Agency's fee and the costs and expenses of the Agency incidental to such additional financing, refinancing or modification thereof, including without limitation the reasonable attorneys' fees of the Agency; and

(d) The documents to be signed by the Agency shall contain the provisions set forth in Sections 8.2 and 11.11 hereof, and shall not impose any duties or obligations upon the Agency except as may be acceptable to the Agency.

ARTICLE V AGREEMENT TO LEASE PROJECT FACILITY; RENTAL PAYMENTS

5.1 AGREEMENT TO LEASE PROJECT FACILITY.

In consideration of the Company's covenant herein to make rental payments, and the other covenants of the Company contained herein, including the covenant to make additional rent and other payments required hereby, the Agency hereby agrees to lease to the Company, and the Company hereby agrees to lease from the Agency, the Project Facility for and during the term provided herein and upon and subject to the terms and conditions herein set forth and subject to Permitted Encumbrances.

The Agency's acceptance of the leasehold interest in and to the Land and Facility pursuant to the Company Lease, and its acquisition of an interest in the Equipment pursuant to the Bill of Sale, and the holding of said interests were effected and performed solely at the request of the Company pursuant to the requirements of the Act. The Agency hereby transfers and conveys all of its beneficial and equitable interests, if any, in the Project Facility to the Company, except for its Unassigned Rights. As a result, the parties hereby acknowledge and agree that subject to the terms and conditions of this Agency Lease, the Company has all of the equitable and beneficial ownership and other interest in the Project Facility (except for the

Unassigned Rights), and will have all the equitable and beneficial ownership and other interest in the Project Facility (except for the Unassigned Rights), such that the Company, and not the Agency, shall have an:

(i) unconditional obligation to bear the economic risk of depreciation and diminution in value of the Project Facility due to obsolescence or exhaustion, and shall bear the risk of loss if the Project Facility is destroyed or damaged;

(ii) unconditional obligation to keep the Project Facility in good condition and repair;

(iii) unconditional and exclusive right to the possession of the Project Facility, and shall have sole control of and responsibility for the Project Facility;

(iv) unconditional obligation to maintain insurance coverage on, and such reserves with respect to, the Project Facility as may be required by the Company, the Agency and the Mortgagee with respect to the Project;

(v) unconditional obligation to pay all taxes levied on, or payments in lieu thereof, and assessments made with respect to, the Project Facility;

(vi) subject to the Unassigned Rights, unconditional and exclusive right to receive rental and any other income and other benefits of the Project Facility and from the operation of the Project;

(vii) unconditional obligation to pay for all of the capital investment in the Project Facility;

(viii) unconditional obligation to bear all expenses and burdens of the Project Facility and to pay for all maintenance and operating costs in connection with the Project Facility; and

(ix) unconditional and exclusive right to include all income earned from the operation of the Project Facility and claim all deductions and credits generated with respect to the Project Facility on its annual federal, state and local tax returns.

5.2 TERM OF LEASE; EARLY TERMINATION; SURVIVAL.

(a) The term of this Agency Lease shall commence on the date hereof and continue in full force and effect until the earlier of: (1) March 31, 2019; or (2) sixty days after the issuance of a certificate of occupancy by the City of Syracuse, New York, unless earlier terminated as provided herein.

(b) The Company hereby irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing, delivering and recording terminations of the Agency Lease, the Company Lease, preparing a bill of sale together with any other

documents therewith and to take such other and further actions reasonably necessary to confirm the termination of the Agency's interest in the Project.

(c) The Company shall have the option, at any time during the term of this Agency Lease, to terminate this Agency Lease. In the event that the Company shall exercise its option to terminate this Agency Lease pursuant to this Section 5.2(c), the Company shall file with the Agency a certificate stating the Company's intention to do so pursuant to this Section 5.2(c) and to comply with the requirements set forth in Section 5.2(d) hereof.

(d) As a condition to the effectiveness of the Company's exercise of its right to early termination, the following payments shall be made:

(1) **To the Agency:** an amount certified by the Agency as sufficient to pay all unpaid fees and expenses of the Agency incurred under this Agency Lease and the Company Lease (including, but not limited to those in connection with the early termination of this Agency Lease); and

(2) **To the Appropriate Person:** an amount sufficient to pay all other fees, expenses or charges, if any, then due and payable under this Agency Lease and the other Agency Documents.

(e) The certificate required to be filed pursuant to Section 5.2(c), setting forth the provision thereof permitting early termination of this Agency Lease shall also specify the date upon which the payments pursuant to subdivision (d) of this Section 5.2 shall be made, which date shall not be less than thirty (30) nor more than sixty (60) days from the date such certificate is filed with the Agency.

(f) Contemporaneously with the termination of this Agency Lease in accordance with Sections 5.1 or 5.2 hereof, the Agency shall transfer, and the Company shall accept, all of the Agency's right, title and interest in the Project Facility, including the Equipment, for a purchase price of One Dollar (\$1.00) plus the payment of all other sums due hereunder and all legal fees and costs associated therewith. Contemporaneously with the termination of this Agency Lease and the Company Lease shall terminate.

(g) The Agency shall, upon payment by the Company of the amounts pursuant hereto and to Sections 5.2(d) above and Section 5.3, deliver to the Company all documents furnished to the Agency by the Company, or prepared by the Agency at the sole expense of the Company, and reasonably necessary to evidence termination of the Company Lease and the Agency Lease, including, but not limited to, lease terminations and a bill of sale from the Agency with respect to its interest in the Equipment, without representation or warranty, subject to the following: (1) any Liens to which such Project Facility was subject when conveyed to the Agency, (2) any Liens created at the request of the Company or to the creation of which the Company consented or in the creation of which the Company acquiesced, (3) any Permitted Encumbrances, and

(4) any Liens resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Agency Lease.

(h) The obligation of the Agency under this Section 5.2 to convey the Project Facility to the Company will be subject to: (i) there being no Event of Default existing hereunder or under any payment in lieu of tax agreement now or hereafter entered into with respect to all or any portion of the Project Facility or under any other Company Documents, or any other event which would, but for the passage of time or the giving of notice, or both, be such an Event of Default; and (ii) the Company's payment of all expenses, fees and taxes, if any, applicable to or arising from such transfer.

5.3 RENTAL PAYMENTS AND OTHER AMOUNTS PAYABLE.

(a) The Company shall pay basic rental payments for the Project Facility consisting of: (i) to the Agency in an amount sufficient to pay any and all other amounts due hereunder; and (ii) to the Mortgagee, an amount equal to the debt service and amounts becoming due and payable under the Mortgage and the indebtedness secured thereby on the due date thereof.

(b) The Company shall pay to the Agency, as additional rent, within ten (10) days after the receipt of a demand therefor from the Agency, any annual administrative fees of the Agency, the sum of the reasonable fees, costs and expenses of the Agency and the officers, members, agents, and employees thereof incurred by the reason of the Agency's lease or sublease of the Project Facility or in connection with the carrying out of the Agency's duties and obligations under this Agency Lease, the Company Lease or any of the other Agency Documents and any other fee or expense of the Agency with respect to the Project Facility, or any of the other Agency Documents, the payment of which is not otherwise provided for under this Agency Lease, including, without limitation, reasonable fees and disbursements of Agency counsel, including fees and expenses incurred in connection with the Agency's enforcement of any rights hereunder or incurred after the occurrence and during the continuance of an Event of Default, in connection with any waiver, consent, modification or amendment to this Agency Lease or any other Agency Document that may be requested by the Company, or, in connection with any action by the Agency at the request of or on behalf of the Company hereunder or under any other Agency Document. Any additional rent not received within ten (10) business days after demand shall accrue interest after the expiration of such ten days at a rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is less.

(c) The administrative fee payable by the Company to the Agency in conjunction with this Project and the Agency's granting of Financial Assistance and all outstanding counsel fees and costs shall be paid at closing.

(d) The Company agrees to make the above-mentioned payments, without any further notice, in lawful money of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. In the event that the Company shall fail to make or cause to be made any of the payments required under this Agency Lease, the item

or installment not so paid shall continue as an obligation of the Company until such item or installment is paid in full.

5.4 NATURE OF OBLIGATIONS OF COMPANY HEREUNDER.

(a) The obligations of the Company to make the payments required by this Agency Lease and to perform and observe any and all of the other covenants and agreements on its part contained herein are general obligations of the Company and are absolute and unconditional irrespective of any defense or any rights of set-off, recoupment, or counterclaim it may otherwise have against the Agency. The Company agrees that it will not suspend, discontinue, or abate any payment required by, or fail to observe any of its other covenants or agreements contained in this Agency Lease for any cause whatsoever, including, without limiting the generality of the foregoing, failure to complete the construction and equipping of the Project Facility, any defect in the title, design, operation, merchantability, fitness, or condition of the Project Facility, or any part thereof, or in the suitability of the Project Facility, or any part thereof, for the Company's purposes or needs, or failure of consideration for, destruction of or damage to, or Condemnation of title to, or the use of all or any part of the Project Facility, any change in the tax or other laws of the United States of America or of the State of New York, or any political subdivision thereof, or any failure of the Agency to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or in connection with this Agency Lease or the Company Lease.

(b) Nothing contained in this Section 5.4 shall be construed to release the Agency from the performance of any of the agreements on its part contained in this Agency Lease or the Company Lease, and in the event the Agency should fail to perform any such agreement, the Company may institute such action against the Agency as the Company may deem necessary to compel performance (subject to the provisions of Section 11.11).

ARTICLE VI MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

6.1 MAINTENANCE AND MODIFICATIONS OF PROJECT FACILITY.

The Company shall:

(a) Keep the Project Facility in good condition and repair and preserve the same against waste, loss and damage, ordinary wear and tear excepted;

(b) Make all necessary repairs and replacements to the Project Facility or any part thereof (whether ordinary or extraordinary, structural, or non-structural, foreseen or unforeseen) which is damaged, destroyed, or condemned; and

(c) Operate the Project Facility in a sound and economic manner in general accordance with the Project pro-forma statements Company previously provided to the Agency.

6.2 TAXES, ASSESSMENTS AND UTILITY CHARGES.

(a) The Company shall pay as the same respectively become due:

(1) Any and all taxes and governmental charges of any kind, whatsoever which may at any time be lawfully assessed or levied against or with respect to the Project Facility;

(2) All utility and other charges, including "service charges," incurred or imposed for the operation, maintenance, use, occupancy, upkeep, and improvement of the Project Facility, the non-payment of which would create, or entitle the obligee to impose, a Lien on the Project Facility;

(3) All assessments and charges of any kind whatsoever lawfully made by any Governmental Authority for public improvements; and

(4) All payments in lieu of taxes, if any, required to be made to the Agency under the terms of any agreement with respect thereto.

(b) Subject to the terms of any payment in lieu of taxes agreement, the Company may in good faith actively contest any such taxes, assessments, and other charges, provided that (1) the Company shall have first notified the Agency of such contest; (2) no Event of Default under this Agency Lease or any of the other Company Documents shall have occurred and be continuing; and (3) the Company shall have set aside adequate reserves for any such taxes, assessments and other charges. If the Company demonstrates to the reasonable satisfaction of the Agency and certifies to the Agency by delivery of a written certificate, that the non-payment of any such items will not endanger any part of the Project Facility or subject the Project Facility, or any part thereof, to loss or forfeiture, the Company may permit the taxes, assessments, and other charges so contested to remain unpaid during the period of such contest and any appeal therefrom. Otherwise, such taxes, assessments, or charges shall be paid promptly by the Company or secured by the Company's posting a bond in form and substance satisfactory to the Agency.

(c) Notwithstanding anything herein to the contrary, and notwithstanding the Agency's interest in the Project Facility, the Company shall pay taxes as if privately owned. The parties have not entered into a payment in lieu of taxes agreement.

6.3 INSURANCE REQUIRED.

During the term of this Agency Lease, the Company shall maintain or cause to be maintained insurance with respect to the Project Facility against such risks and for such amounts as are customarily insured against by businesses of like size and type and as required of the Agency, paying (as the same becomes due and payable) all premiums with respect thereto, including:

(a) Insurance against loss or damage by fire, lightning, and other casualties customarily insured against (with a uniform standard extended coverage endorsement), such insurance to be in an amount not less than the full replacement value of the completed Project Facility, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Company.

(b) Workers' compensation insurance, disability benefits' insurance, and each other form of insurance which the Company is required by law to provide covering loss resulting from injury, sickness, disability, or death of employees of the Company who are located at or assigned to the Project Facility;

(c) A policy of commercial general liability insurance with a \$1,000,000 combined single limit for bodily injury including death and property damage, including but not limited to, contractual liability under this Agency Lease and personal injury, with blanket excess liability coverage in an amount not less than \$2,000,000, covering the Project Facility and Equipment and the Company's and the Agency's use or occupancy thereof against all claims on account of bodily injury or death and property damage occurring upon, in or about the Project Facility or in connection with the ownership, maintenance, use and/or occupancy of the Project Facility and all appurtenant areas.

6.4 ADDITIONAL PROVISIONS RESPECTING INSURANCE.

All insurance required by Section 6.3 shall be with insurance companies of recognized financial standing selected by the Company and licensed to write such insurance in the State of New York. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other Persons engaged in businesses similar in size, character, and other respects to those in which the Company are engaged. All policies evidencing such insurance except the Workers' Compensation policy shall name the Company as insured and the Agency as an additional insured, as its interests may appear, and shall provide that such coverage with respect to the Agency be primary and non-contributory with any insurance secured by the Agency and require at least thirty (30) days' prior written notice to the Agency of cancellation, reduction in policy limits, or material change in coverage thereof.

Prior to the Closing Date, the Company shall deliver to the Agency, satisfactory to the Agency in form and substance: (i) certificates evidencing all insurance required hereby; (ii) the additional insured endorsement(s) applicable to the Agency; (iii) the final insurance binder addressed to the Company covering the Project Facility; and (iv) evidence that the insurance so required is on a primary and non-contributory basis. In addition, the Company shall provide, if so requested by the Agency, a final and complete copy of each insurance policy within thirty (30) days of the Closing Date.

The Company shall deliver or cause to be delivered to the Agency on or before the first business day of each January thereafter each of the items set forth in the immediately preceding paragraph, dated not earlier than the immediately preceding month, reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance in the amounts and of the types required by Sections 6.3 and 6.4. The Company shall

furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agency Lease each year throughout the term of this Agency Lease.

All premiums with respect to the insurance required by Section 6.3 shall be paid by the Company, provided, however, that, if the premiums are not timely paid, the Agency may pay such premiums and the Company shall pay immediately upon demand all sums so expended by the Agency, together with interest at a rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is less.

6.5 APPLICATION OF NET PROCEEDS OF INSURANCE.

The Net Proceeds of the insurance carried pursuant to the provisions of Section 6.3 shall be applied as follows:

(a) The Net Proceeds of the insurance required by subsection 6.3(a) shall be paid and applied as provided in Section 7.1 hereof; and

(b) The Net Proceeds of the insurance required by subsections 6.3(b) and 6.3(c) shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

ARTICLE VII DAMAGE, DESTRUCTION, AND CONDEMNATION

7.1 DAMAGE OR DESTRUCTION.

(a) If the Mortgage shall be in effect or the Mortgagee shall have any interest in the Project Facility arising under or related to the Mortgage, whether by foreclosure or otherwise and the Project Facility shall be damaged or destroyed, in whole or in part, then insurance proceeds shall be paid in accordance with the relevant provisions of the Mortgage regarding the distribution of such insurance proceeds, provided that there shall be no abatement or reduction in amounts payable to the Agency hereunder. If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility and the Project Facility shall be damaged or destroyed, in whole or in part:

(1) There shall be no abatement or reduction in the amounts payable by the Company under this Agency Lease or otherwise (whether or not the Project Facility is replaced, repaired, rebuilt, or restored); and

(2) The Company shall promptly give notice thereof to the Agency;
and

(3) Except as otherwise provided in subsections 7.1(b) and 7.1(c) hereof, upon receipt of the insurance proceeds, the Company shall promptly replace, repair, rebuild, or restore the Project Facility to substantially the same condition as existed prior to such damage or destruction, with such changes, alterations, and modifications as may be desired by

the Company and consented to in writing by the Agency, provided that such changes, alterations, or modifications do not change the nature of the Project Facility, such that it does not constitute a "project" (as such quoted term is defined in the Act); and in the event such Net Proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding, or restoration, the Company shall nonetheless complete such work and shall pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds.

(b) If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility, then notwithstanding anything to the contrary contained in subsection 7.1(a), the Company shall not be obligated to replace, repair, rebuild, or restore the Project Facility, and the Net Proceeds of any insurance settlement shall not be applied as provided in subsection 7.1(a) if the Company shall notify the Agency that, in the Company's sole judgment, the Company does not deem it practical or desirable to replace, repair, rebuild, or restore the Project Facility. In such event, the lesser of (1) the total amount of the Net Proceeds collected under any and all policies of insurance covering the damage to or destruction of the Project Facility, or (2) any other sums payable to the Agency pursuant to this Agency Lease and the other Agency and Company Documents, shall be applied to the repayment of all amounts due to the Agency under this Agency Lease, the Company Lease and other Agency Documents. If the Net Proceeds collected under any and all policies of insurance are less than the amount necessary to repay any and all amounts payable to the Agency, the Company shall pay the difference between such amounts and the Net Proceeds of all such insurance settlements so that any and all amounts payable under this Agency Lease, the Company Lease and the other Agency Documents to the Agency shall be paid in full. If all amounts due under this Agency Lease, the Company Lease, the Mortgage and the other Agency Documents are paid in full, all such Net Proceeds, or the balance thereof, shall be paid to the Company for its purposes.

(c) The Company and the Mortgagee may adjust all claims under any policies of insurance required by subsections 6.3(a) and 6.3(c) hereof with the prior written consent of the Agency, which consent shall not be unreasonably withheld.

7.2 CONDEMNATION.

(a) If the Mortgage shall be in effect or the Mortgagee shall have any interest in the Project Facility arising under or related to the Mortgage, whether by foreclosure or otherwise and title to, or the use of, all, substantially all or less than substantially all of the Project Facility shall be taken by Condemnation, then Condemnation proceeds shall be paid in accordance with the relevant provisions of the Mortgage regarding the distribution of such Condemnation proceeds, provided that there shall be no abatement or reduction in amounts payable to the Agency hereunder. If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility and if title to, or the use of, less than substantially all of the Project Facility shall be taken by Condemnation:

(1) There shall be no abatement or reduction in the amounts payable by the Company under this Agency Lease or otherwise (whether or not the Project Facility is restored); and

and (2) The Company shall promptly give notice thereof to the Agency;

(3) Except as otherwise provided in subsections 7.2(b) and 7.2(c) hereof, upon receipt of the Condemnation proceeds, the Company shall promptly restore the Project Facility (excluding any part of the Project Facility taken by Condemnation) to substantially the condition and value as an operating entity as existed prior to such Condemnation; and the Company shall nonetheless complete such restoration and shall pay from its own moneys that portion of the costs thereof in excess of such Net Proceeds.

(b) If the Mortgage shall not be in effect and the Mortgagee shall have no interest in the Project Facility and if title to, or the use of, less than substantially all of the Project Facility shall be taken by Condemnation, then notwithstanding anything to the contrary contained in subsection 7.2(a), the Company shall not be obligated to restore the Project Facility, and the Net Proceeds of any Condemnation award shall not be applied as provided in subsection 7.2(a) if the Company shall notify the Agency that, in the Company's sole judgment, the Company does not deem it practical or desirable to restore the Project Facility. In such event, the lesser of (1) the Net Proceeds of any Condemnation award, or (2) the amount necessary to pay the Agency pursuant to this Agency Lease, the Company Lease and the other Agency Documents, shall be applied to payment of all amounts due to the Agency under this Agency Lease, the Company Lease and other Agency Documents. If the Net Proceeds of any Condemnation award are less than the amount necessary to pay any and all amounts payable to the Agency, the Company shall pay the difference between such amounts and the Net Proceeds of such Condemnation award so that any and all amounts payable under this Agency Lease, the Company Lease and other Agency Documents to the Agency shall be paid in full. If all amounts due under this Agency Lease, the Company Lease, the Mortgage and the other Agency Documents have been paid in full, all such Net Proceeds or the balance thereof shall be paid to the Company for its purposes.

(c) The Company and the Mortgagee with the prior written consent of the Agency (which consent shall not be unreasonably withheld), shall have sole control of any Condemnation proceeding with respect to the Project Facility, or any part thereof, and may negotiate the settlement of any such proceeding.

7.3 ADDITIONS TO PROJECT FACILITY.

All replacements, repairs, rebuilding, or restoration made pursuant to Sections 7.1 or 7.2 hereof, whether or not requiring the expenditure of the Company's own moneys, shall automatically become part of the Project Facility as if the same were specifically described herein.

**ARTICLE VIII
SPECIAL COVENANTS**

8.1 NO WARRANTY OF CONDITION OR SUITABILITY BY THE AGENCY; ACCEPTANCE "AS IS."

THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY, OR FITNESS OF THE PROJECT FACILITY, OR ANY PART THEREOF, OR AS TO THE SUITABILITY OF THE PROJECT FACILITY OR ANY PART THEREOF FOR THE COMPANY'S PURPOSES OR NEEDS. NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY IS MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE AGENCY SHALL NOT HAVE ANY RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.

8.2 HOLD HARMLESS PROVISIONS.

(a) The Company hereby releases the Agency and its members, officers, agents and employees from, agrees that the Agency and its members, officers, agents and employees shall not be liable for, and agrees to indemnify, defend, and hold the Agency and its members, officers, agents and employees harmless from and against any and all claims arising as a result of the Agency's undertaking the Project, including, but not limited to:

(1) Liability for loss or damage to Project Facility or bodily injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project Facility, or arising by reason of or in connection with the occupation or the use thereof, or the presence on, in, or about the Project Facility;

(2) Liability arising from or expense incurred by the Agency's acquisition of a leasehold interest in the Project Facility and the subleasing of the Project Facility, including, without limiting the generality of the foregoing, all liabilities or claims arising as a result of the Agency's obligations under this Agency Lease, the Company Lease, the Mortgage or any other documents executed by the Agency at the direction of the Company in conjunction with the Project Facility;

(3) All claims arising from the exercise by the Company, and or its Additional Agents (as defined herein) of the authority conferred upon it and performance of the obligations assumed under Section 4.1 hereof;

(4) Any and all claims arising from the non-disclosure of information, if any, requested by the Company in accordance with Section 11.14 hereof;

(5) All causes of action and attorneys' fees and other expenses incurred in connection with any suits or actions which may arise as a result of any of the

foregoing, provided that any such losses, damages, liabilities, or expenses of the Agency are not incurred or do not result from the intentional wrongdoing of the Agency or any of its members, officers, agents or employees.

To the fullest extent permitted by law, the foregoing indemnities shall apply notwithstanding the fault or negligence (other than gross negligence or willful misconduct) on the part of the Agency or any of its officers, members, agents, servants or employees and irrespective of any breach of statutory obligation or any rule of comparative or apportioned liability.

(b) In the event of any claim against the Agency or its members, officers, agents, or employees by any employee of the Company, or any materialman or Additional Agent of the Company, or anyone directly or indirectly employed by any of them, or any one for whose acts any of them may be liable, the obligations of the Company hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Company or such contractor under workers' compensation laws, disability benefit laws, or other employee benefit laws.

(c) To effectuate the provisions of this Section 8.2, the Company agrees to provide for and insure, in the liability policies required by Section 6.3, its liabilities assumed pursuant to this Section 8.2.

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

(e) For purposes of this Section 8.2 and Section 11.11 hereof, the Company shall not be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

8.3 RIGHT OF ACCESS TO PROJECT FACILITY.

During the term of this Agency Lease, the Company agrees that the Agency and its duly authorized agents shall have the right to enter upon and to examine and inspect the Project Facility upon reasonable notice to the Company and with the least disturbance of Project Facility tenants as reasonably possible.

8.4 MAINTENANCE OF EXISTENCE.

During the term of this Agency Lease, the Company will maintain its existence and will not dissolve or otherwise dispose of all or substantially all of its assets.

8.5 AGREEMENT TO PROVIDE INFORMATION.

During the term of this Agency Lease, and no less frequently than annually, the Company agrees, whenever reasonably requested by the Agency or the Agency's auditor, to provide and certify, or cause to be certified, such information concerning the Project and/or the Company, its finances, and for itself and each of its Additional Agents, information regarding job creation¹, Local Labor Requirements, exemptions from State and local sales and use tax, real property and mortgage recording taxes and other topics as the Agency from time to time reasonably considers necessary or appropriate including, but not limited to those reports, in substantially the form as set forth in **Exhibit "E"** attached hereto, and such other information necessary as to enable the Agency to monitor and/or make any reports required by law or governmental regulation, including but not limited to §875 of the Act. Notwithstanding anything in this Section 8.5 to the contrary, the Company shall provide the Contract Status Report in accordance with Section 4.1 hereof.

8.6 BOOKS OF RECORD AND ACCOUNT; FINANCIAL STATEMENTS.

During the term of this Agency Lease, the Company agrees to maintain proper accounts, records, and books, in which full and correct entries shall be made in accordance with generally accepted accounting principles, of all business and affairs of the Company.

8.7 COMPLIANCE WITH ORDERS, ORDINANCES, ETC.

(a) The Company agrees that it will, during any period in which the amounts due under this Agency Lease remain unpaid, promptly comply with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions, and requirements of all Governmental Authorities, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter affect the Company's obligations hereunder or be applicable to the Project Facility, or any part thereof, or to any use, manner of use, or condition of the Project Facility, or any part thereof, the applicability of the same to be determined both as if the Agency were the owner of the Project Facility and as if the Company were the owner of the Project Facility.

(b) Notwithstanding the provisions of subsection 8.7(a), the Company may, in good faith, actively contest the validity or the applicability of any requirement of the nature referred to in said subsection 8.7(a), provided that the Company shall have first notified the

¹ To the extent the Project includes commercial space and/or tenants for which the Company calculated job creation as part of its projections in its Application, the Company is obligated, through its lease or other rental agreement with those commercial tenants, to require that such tenants report to the Company, in accordance with the terms of Section 8.5 hereof, the number of full and part time jobs created and maintained by each such tenant for inclusion in the Company's reporting to or at the request of the Agency.

Agency of such contest, no Event of Default shall be continuing under this Agency Lease, or any of the other Company Documents; and such contest and failure to comply with such requirement shall not subject the Project Facility to loss or forfeiture. In such event, the Company may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom unless the Agency or its members, officers, agents, or employees may be liable for prosecution for failure to comply therewith, in which event the Company shall promptly take such action with respect thereto as shall be satisfactory to the Agency.

8.8 DISCHARGE OF LIENS AND ENCUMBRANCES.

During the term of this Agency Lease, the Company hereby covenants that, except for Permitted Encumbrances, the Company agrees not to create, or suffer to be created, any Lien on the Project Facility, or any part thereof without the prior written consent of the Agency. The Company shall promptly notify the Agency of any Permitted Encumbrances created, or suffered to be created, on the Project Facility.

8.9 PERFORMANCE BY AGENCY OF COMPANY'S OBLIGATIONS.

Should the Company fail to make any payment or to do any act as herein provided, the Agency may, but need not, upon ten (10) days' prior written notice to or demand on the Company and without releasing the Company from any obligation herein, make or do the same, including, without limitation, appearing in and defending any action purporting to affect the rights or powers of the Company, or the Agency and paying all expenses, including, without limitation, reasonable attorneys' fees; and the Company shall pay immediately upon demand all sums so expended by the Agency under the authority hereof, together with the interest thereon at a rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is greater.

8.10 DEPRECIATION DEDUCTIONS AND TAX CREDITS.

The parties agree that as between them, the Company shall be entitled to all depreciation deductions and accelerated cost recovery system deductions with respect to any portion of the Project Facility pursuant to Sections 167 and 168 of the Code and to any investment credit pursuant to Section 38 of the Code with respect to any portion of the Project Facility which constitutes "Section 38 Property" and to all other State and/or federal income tax deductions and credits which may be available with respect to the Project Facility.

8.11 EMPLOYMENT OPPORTUNITIES.

The Company shall insure that all employees and applicants for employment with regard to the Project are afforded equal employment opportunities without discrimination.

8.12 SALES AND USE TAX EXEMPTION.

(a) Pursuant to Section 874 of the Act, the parties understand that the Agency is exempt from certain State and local sales use taxes imposed by the State and local

governments in the State, and that the Project may be exempted from those taxes due to the involvement of the Agency in the Project. The Agency makes no representations or warranties that any property is exempt from the payment of State or local sales or use taxes. Any exemption from the payment of State or local sales or use taxes resulting from the involvement of the Agency with the Project shall be subject to Section 875 of the Act and shall be limited to purchases of services and tangible personal property conveyed to the Agency or utilized by the Agency or by the Company as agent of the Agency as a part of the Project prior to the Completion Date, or incorporated within the Project Facility prior to the Completion Date. No operating expenses of the Project Facility, and no other purchases of services or property shall be subject to an exemption from the payment of State sales or use tax. It is the intention of the parties hereto that the Company will receive a State and local sales and use tax exemption with respect to the Project, said sales tax exemption to be evidenced by a letter to be issued by the Agency on the date of the execution of this Agency Lease. The Company acknowledges that as an agent of the Agency, it must complete and provide to each vendor Form ST-123 for purchases. The failure to furnish a completed Form ST-123 (IDA Agent or Project Operator Exempt Purchase Certificate) with each purchase will result in loss of the exemption for that purchase.

(b) The Company may use and appoint a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "***Additional Agents***") in furtherance of the completion of the Project. However, for each Additional Agent, the Company must first: (i) cause the each such appointed Additional Agent to execute and deliver a sub-agent agreement, in the form attached hereto at **Exhibit "F"**, and provide a fully executed copy to the Agency; and (ii) submit a completed Form ST-60 to the Agency for execution and filing with the New York State Department of Taxation and Finance.

(c) The Company acknowledges and agrees that an Additional Agent must be appointed as an agent of the Agency in order to avail itself of the Agency's sales and use tax exemption for purchases or rentals of equipment, tools and supplies with respect to the Project Facility.

(d) Pursuant to Section 874(8) of the Act, the Company agrees to annually file and cause each Additional Agent or other operator of the Project Facility to file annually, with the New York State Department of Taxation and Finance, and provide the Agency with a copy of same, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the "***Annual Sales Tax Report***"), a statement of the value of all sales and use tax exemptions claimed by the Company and all other Additional Agents under the authority granted to the Company pursuant to Section 4.1(b) of this Agency Lease. Pursuant to Section 874(8) of the Act, the penalty for failure to file the Annual Sales Tax Report shall be removal of authority to act as agent of the Agency. Therefore, if the Company shall fail to comply with the requirements of this subsection (d), irrespective of any notice and cure period afforded, the Company and each Additional Agent shall immediately cease to be the agent of the Agency in connection with the Project. The Company is responsible for obtaining from the New York State Department of Taxation and Finance the current version of such Annual Sales Tax Report.

(e) The Company agrees to furnish to the Agency a copy of each such Annual Sales Tax Report submitted to the New York State Department of Taxation and Finance by the Company pursuant to Section 874(8) of the Act for itself and any Additional Agent.

(f) Pursuant to Section 874(9) of the Act, the Agency agrees to file within thirty (30) days of the Closing Date with the New York State Department of Taxation and Finance, on a form and in such manner as is prescribed by the New York State Commissioner of Taxation and Finance (the “*Thirty-Day Sales Tax Report*”), a statement identifying the Company, or 30 days from the appointment of any Additional Agent appointed in accordance with the terms herein, as agent of the Agency, setting forth the taxpayer identification number of the Company, giving a brief description of the goods and/or services intended to be exempted from sales taxes as a result of such appointment as agent, indicating the estimated value of the goods and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

(g) Pursuant to Section 875(3) of the Act, and in conjunction with Agency policy, the Agency shall, and in some circumstances may, recover, recapture, receive or otherwise obtain from the Company the portion of the Financial Assistance (the “*Recapture Amount*”) consisting of State and local sales and use tax exemption in accordance with the Agency’s Recapture Policy, a copy of which is attached hereto at **Exhibit “G”**, and the Project Agreement.

8.13. IDENTIFICATION OF THE EQUIPMENT.

All Equipment which is or may become part of the Project Facility pursuant to the provisions of this Lease Agreement shall be properly identified by the Company by such appropriate records, including computerized records, as may be approved by the Agency.

ARTICLE IX ASSIGNMENTS; TRANSFERS; MERGER OF AGENCY

9.1 ASSIGNMENT OF AGENCY LEASE.

This Agency Lease may not be assigned by the Company, in whole or in part, nor all or any part of the Project Facility subleased, nor any part of the Project Facility sold, leased, transferred, conveyed or otherwise disposed of without the prior written consent of the Agency, which consent shall be in the Agency’s sole and absolute discretion; provided however, that the Company may enter into leases for individual rental units that are part of the Project Facility without the consent of the Agency. Any assignment or sublease of this Agency Lease shall not effect a release of the Company from its obligations hereunder.

9.2 TRANSFERS OF INTERESTS.

Company shall not assign or otherwise transfer or allow an assignment or transfer, of a controlling interest in the Company, whether by operation of law or otherwise (including, without limitation, by way of a merger, consolidation or a change of control whereby the current existing equity holders of the Company, as of the date of the application to the Agency, would own, in the aggregate, less than a majority of the total combined voting power of all classes of equity interest of the Company or any surviving entity), without the prior written consent of Agency, which consent shall be in the Agency's sole and absolute discretion.

9.3 MERGER OF AGENCY.

(a) Nothing contained in this Agency Lease shall prevent the consolidation of the Agency with, or merger of the Agency into, or assignment by the Agency of its rights and interests hereunder to any other body corporate and politic and public instrumentality of the State of New York, or political subdivision thereof, which has the legal authority to perform the obligations of the Agency hereunder, provided that upon any such consolidation, merger, or assignment, the due and punctual performance and observance of all the agreements and conditions of this Agency Lease to be kept and performed by the Agency shall be expressly assumed in writing by the public instrumentality or political subdivision resulting from such consolidation or surviving such merger or to which the Agency's rights and interests hereunder shall be assigned.

(b) Promptly following the effective date of any such consolidation, merger, or assignment, the Agency shall give notice thereof in reasonable detail to the Company. The Agency shall promptly furnish to the Company such additional information with respect to any such consolidation, merger, or assignment as the Company reasonably may request.

ARTICLE X EVENTS OF DEFAULT AND REMEDIES

10.1 EVENTS OF DEFAULT DEFINED.

The following shall be "Events of Default" under this Agency Lease, and the terms "Event of Default" or "Default" shall mean, whenever they are used in this Agency Lease, any one or more of the following events:

(a) A default by the Company in the due and punctual payment of the amounts specified to be paid pursuant to subsection 5.3 or 8.12(g); or

(b) Failure by the Company to maintain the insurance required by Section 6.3;
or

(c) A default in the performance or the observance of any other of the covenants, conditions, or agreements on the part of the Company in this Agency Lease and the continuance thereof for a period of thirty (30) days after written notice is given by the Agency or,

if such covenant, condition, or agreement is capable of cure but cannot reasonably be cured within such thirty-day period, the failure of the Company to commence to cure within such thirty-day period and to prosecute the same with due diligence and cure the same within an additional thirty (30) days; or

(d) A transfer in contravention of Article 9 hereof;

(e) The occurrence of an “Event of Default” under the Mortgage, the Company Lease, the Project Agreement or any of the other Company Documents which is not timely cured as provided therein; or

(f) The Company shall generally not pay its debts as such debts become due or is unable to pay its debts as they become due.

(g) The Company shall conceal, remove, or permit to be concealed or removed any part of its Property with intent to hinder, delay, or defraud its creditors, or any one of them, or shall make or suffer a transfer of any of its Property which is fraudulent under any bankruptcy, fraudulent conveyance, or similar law, or shall make any transfer of its Property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid, or shall suffer or permit, while insolvent, any creditor to obtain a Lien upon any of its Property through legal proceedings or distraint which is not vacated within thirty (30) days from the date thereof; or

(h) By order of a court of competent jurisdiction, a trustee, receiver, or liquidator of the Project Facility, or any part thereof, or of the Company shall be appointed and such order shall not be discharged or dismissed within sixty (60) days after such appointment; or

(i) The filing by the Company of a voluntary petition under Title 11 of the United States Code or any other federal or state bankruptcy statute; the failure by the Company within sixty (60) days to lift any execution, garnishment, or attachment of such consequence as will impair the Company’s ability to carry out its obligations hereunder; the commencement of a case under Title 11 of the United States Code against the Company as the debtor, or commencement under any other federal or state bankruptcy statute of a case, action, or proceeding against the Company, and continuation of such case, action, or proceeding without dismissal for a period of sixty (60) days; the entry of an order for relief by a court of competent jurisdiction under Title 11 of the United States Code or any other federal or state bankruptcy statute with respect to the debts of the Company; or in connection with any insolvency or bankruptcy case, action, or proceeding, appointment by final order, judgment, or decree of a court of competent jurisdiction of a receiver or trustee of the whole or a substantial portion of the Property of the Company unless such order, judgment, or decree is vacated, dismissed, or dissolved within sixty (60) days of its issuance.

(j) The imposition of a Lien on the Project Facility other than a Permitted Encumbrance.

10.2 REMEDIES ON DEFAULT.

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

- 1) Terminate this Agency Lease;
- 2) Terminate the Company Lease;
- 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 or under the Company Lease, the Project Agreement and/or to enforce the Company's obligations and duties under the Company Documents and the Agency's rights under the Agency Documents, including but not limited to, specific performance; or
- 4) Seek to recover the recapture amount set forth in Article 8 hereof as well as any and all other components of Financial Assistance provided to the Company in accordance with the Agency's Recapture Policy.

(b) No action taken pursuant to this Section 10.2 shall relieve the Company from its obligations to make all payments required by Sections 5.3(b) and 8.2 hereof.

10.3 REMEDIES CUMULATIVE.

No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Agency Lease, the Company Lease and the other Company Documents or now or hereafter existing at law or in equity to collect any amounts then due, or thereafter to become due, hereunder and thereunder and to enforce the Agency's right to terminate this Agency Lease and the Company Lease. No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Article 10, it shall not be necessary to give any notice, other than such notice as may be herein expressly required in this Agency Lease.

10.4 AGREEMENT TO PAY ATTORNEYS' FEES AND EXPENSES.

In the event the Company should Default under any of the provisions of this Agency Lease, or a dispute arises hereunder, and the Agency should employ attorneys or incur other expenses to preserve or enforce its rights hereunder or for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand

therefor, pay to the Agency the reasonable fees and costs of such attorneys and such other expenses so incurred.

10.5 NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.

In the event any agreement contained herein should be breached by either party and thereafter such breach be waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**ARTICLE XI
MISCELLANEOUS**

11.1 NOTICES.

All notices, certificates, and other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the Person who attempted to effect such delivery. The addresses to which notices, certificates, and other communications hereunder shall be delivered are as follows:

(a) If to the Agency, to:

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202
Attn: Chairman

With a copy to:

Corporation Counsel
City of Syracuse
233 East Washington Street
Syracuse, New York 13202

(b) If to the Company, to:

Southside Genesee Associates, LLC
3 East Stow Road
P.O. Box 994
Marlton, New Jersey 08053
Attn: James A. Malesich, Jr.

With a copy to:

Carol Zenzel, Esq.
6362 Fly Road, Suite 207
East Syracuse, New York 13057

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.

11.2 BINDING EFFECT.

This Agency Lease shall inure to the benefit of and shall be binding upon the Agency and the Company and, as permitted by this Agency Lease, upon their respective heirs, successors and assigns.

11.3 SEVERABILITY.

If any one or more of the covenants or agreements provided herein on the part of the Agency or the Company to be performed shall for any reason be held, or shall in fact be, inoperative, unenforceable, or contrary to law in any particular circumstance; such circumstance shall not render the provision in question inoperative or unenforceable in any other circumstance. Further, if any one or more of the sentences, clauses, paragraphs, or sections herein is contrary to law, then such covenant(s) or agreement(s) shall be deemed severable of remaining covenants and agreements hereof and shall in no way affect the validity of the other provisions of this Agency Lease.

11.4 AMENDMENTS, CHANGES AND MODIFICATIONS.

This Agency Lease may not be amended, changed, modified, altered, or terminated except by an instrument in writing signed by the parties hereto.

11.5 EXECUTION OF COUNTERPARTS.

This Agency Lease 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.

11.6 APPLICABLE LAW.

This Agency Lease shall be governed exclusively by the applicable laws of the State of New York.

11.7 WAIVER OF TRIAL BY JURY.

THE COMPANY AND THE AGENCY WAIVE THE RIGHT TO TRIAL BY JURY OF ANY DISPUTE ARISING UNDER THIS AGENCY LEASE, AND THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGENCY LEASE.

11.8 SUBORDINATION.

This Agency Lease shall be subject and subordinate to the Company Lease and the Mortgage and all Permitted Encumbrances in all respects.

11.9 SURVIVAL OF OBLIGATIONS.

(a) The obligations of the Company to repay, defend and/or provide the indemnity required by Section 8.2 and 8.12 hereof shall survive the termination of this Agency Lease and all such payments and obligations after such termination shall be made upon demand of the party to whom such payment and/or obligation is due.

(b) The obligations of the Company to repay, defend and/or provide the indemnity required by Sections 8.2 and 8.12 shall survive the termination of this Agency Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action, or prosecution may be brought, and the payment in full or the satisfaction of such claim, cause of action, or prosecution, and the payment of all expenses and charges incurred by the Agency or its officers, members, agents (other than the Company) or employees relating thereto.

(c) The obligations of the Company required by Article 4 and Sections 2.2 and 11.14 hereof shall similarly survive the termination of this Agency Lease.

11.10 TABLE OF CONTENTS AND SECTION HEADINGS NOT CONTROLLING.

The Table of Contents and the Section headings in this Agency Lease have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this Agency Lease.

11.11 NO RECOURSE; SPECIAL OBLIGATION.

The obligations and agreements of the Agency contained herein and in the other Agency Documents and in any other instrument or document executed in connection herewith or therewith, and any instrument or document supplemental hereto or thereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent or employee of the Agency in his individual capacity; and the members, officers, agents and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The obligations and agreements of the Agency contained herein or therein

shall not constitute or give rise to an obligation of the State New York or of the City of Syracuse, and neither the State of New York nor the City of Syracuse shall be liable hereon or thereon. Further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived, and to be derived from, the lease, sale, or other disposition of the Project Facility, other than revenues derived from or constituting Unassigned Rights. No order or decree of specific performance with respect to any of the obligations of the Agency hereunder or thereunder shall be sought or enforced against the Agency unless:

(a) The party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period; and

(b) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses; and

(c) If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall (1) agree to indemnify and hold harmless the Agency and its members, officers, agents and employees against any liability incurred as a result of its compliance with such demand; and (2) if requested by the Agency, furnish to the Agency satisfactory security to protect the Agency and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request.

(d) For purposes of this Section 11.11, neither the Company nor any Additional Agent shall be deemed to constitute an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

Any failure to provide notice, indemnity, or security to the Agency pursuant to this Section 11.11 shall not alter the full force and effect of any Event of Default under this Agency Lease.

11.12 OBLIGATION TO SELL AND PURCHASE THE EQUIPMENT.

(a) Contemporaneously with the termination of this Agency Lease in accordance with Section 5.2 hereof, the Agency shall sell and the Company shall purchase all the Agency's right, title and interest in and to all of the Equipment for a purchase price equal to the sum of One Dollar (\$1.00), plus payment of all sums due and payable to the Agency or any other Person pursuant to this Agency Lease and the other Company Documents. The Company hereby

irrevocably designates the Agency as its attorney-in-fact, coupled with an interest, for the purpose of executing and delivering the bill of sale together with any other documents therewith, including lease terminations in accordance with Section 5.2 hereof, and to take such other and further actions reasonably necessary to confirm the termination of the Agency's interest in the Equipment.

(b) The sale and conveyance of the Agency's right, title and interest in and to the Equipment shall be effected by the execution and delivery by the Agency to the Company of a bill of sale to Company. The Company hereby agrees to pay all expenses and taxes, if any, applicable to or arising from such transfer of title.

(c) The Company agrees to prepare the bill of sale to Company and all schedules thereto, together with all necessary documentation, and to forward same to the Agency at least thirty (30) days prior to the date that title to the Equipment is to be conveyed to the Company.

11.13 ENTIRE AGREEMENT.

This Agency Lease and the Company Lease contain the entire agreement between the parties and all prior negotiations and agreements are merged therein.

11.14 DISCLOSURE.

Section 875(7) of the New York General Municipal Law ("GML") requires that the Agency post on its website all resolutions and agreements relating to the Company's appointment as an agent of the Agency or otherwise related to the Project; and Article 6 of the New York Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency's possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Company's competitive position, the Company must identify such elements in writing, supply same to the Agency on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.

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

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

William M. Ryan, Chairman

SOUTHSIDE GENESEE ASSOCIATES, LLC

By: CG USL VENTURES I, LLC,
its Managing Member

By: SYRACUSE-MICHAELS, LLC,
its Managing Member

By: 

James A. Malesich, Jr., Vice President

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

On the 30th day of March in the year 2017 before me, the undersigned, personally appeared WILLIAM M. RYAN, 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.

Lori L. McRobbie

Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 014005055591
Commission Expires on Feb. 12, 2018

New Jersey
STATE OF ~~NEW YORK~~)
) SS.:
COUNTY OF *Burlington*)

On the 29th day of March in the year 2017 before me, the undersigned, personally appeared JAMES A. MALESICH, JR., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Barbara A. Hansen

Notary Public

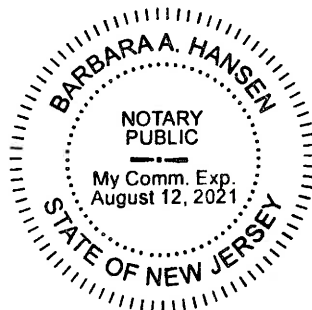


EXHIBIT "A"

LEGAL DESCRIPTION

1200-24 E. GENESEE STREET (inclusive of 509 Walnut):

All that certain plot, piece or parcel of land, with the building and improvements thereon erected, situate, lying and being in the City of Syracuse, County of Onondaga and State of New York, known as Lot 1, 8 and Part of Lots 2, 7 and 11, being part of Block No. 410 in said City, bounded and described as follows:

Beginning at the intersection of the southerly line of East Genesee Street with the easterly line of Walnut Avenue, running thence N 88°-11'-00" E a distance of 286.12 feet along the southerly line of East Genesee Street to a point in the westerly line of Comstock Avenue, thence S 4°-20'-10" E a distance of 143.80 feet along the westerly line of Comstock Avenue to a point, thence S 88°-11'-00" W a distance of 40.0 feet to a point, thence S 4°-20'-10" E a distance of 40.0 feet to a point, thence S 88°-11'-00" W a distance of 42.44 feet to a point, thence S 3°-20'-30" E a distance of 67.21 feet to a point, thence S 86°-05'-40" W a distance of 49.5 feet to a point, thence N 3°-20'-30" W a distance of 23.83 feet to a point, thence N 88°-24'-45" W a distance of 49.67 feet to a point, thence N 3°-20'-30" W a distance of 16.41 feet to a point, thence N 89°-31'-30" W a distance of 121.73 feet to a point in the easterly line of Walnut Avenue, thence N 0°-28'-30" E a distance of 204.74 feet along the easterly line of Walnut Avenue to a point in the southerly line of East Genesee Street and the place of beginning.

511 WALNUT AVENUE:

ALL THAT TRACT OR PARCEL OF LAND SITUATE, in the City of Syracuse aforesaid being that part of farm lot No. 199 and that part of Block No. 410 in said City according to Borden and Griffen's map bounded and described as follows: Beginning at a point in the east line of Spruce Street, 205.06 feet south of the south line of Genesee, thence east at right angles to Spruce Street about 119 feet to the east line of lands formerly owned by Genesee & Water Street Railroad Company, thence south along said east line 33 3/40 feet, thence west parallel with the first mentioned line 123.16 feet to Spruce Street, thence north on the east line of Spruce Street 33 feet to the place of beginning.

Excepting and reserving the rights of way over a strip of land five (5) feet wide off of the north side of the premises herein conveyed.

EXHIBIT "B"

DESCRIPTION OF EQUIPMENT

All articles of personal property, all machinery, apparatus, equipment, appliances, floor coverings, furniture, furnishings, supplies, materials, fittings and fixtures of every kind and nature whatsoever and all appurtenances acquired by **SOUTHSIDE GENESEE ASSOCIATES, LLC** (the "*Company*") and now or hereafter attached to, contained in or used or acquired in connection with the Project Facility (as defined in the Agency Lease or placed on any part thereof, though not attached thereto, including, but not limited to, pipes, screens, fixtures, furniture, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, ranges, refrigerators, freezers, rugs, movable partitions, cleaning equipment, maintenance equipment, restaurant supplies and equipment, shelving, racks, flagpoles, signs, waste containers, outdoor benches, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus aid materials, motors, machinery; and together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor, and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.

EXHIBIT "C"

TABLE OF DEFINITIONS

The following terms shall have the meanings set forth below, unless the context or use clearly indicate another or different meaning and the singular form of such defined words and terms shall include the plural and vice versa:

Act: means the New York State Industrial Development Agency Act (N.Y. Gen. Municipal Law §§ 850 et seq.) as amended, together with Section 926 of the N.Y. General Municipal Law, as amended from time to time.

Additional Agents: means a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents appointed by the Company in furtherance of the completion of the Project in accordance with the terms of the Agency Lease.

Agency: means the City of Syracuse Industrial Development Agency and its successors and assigns.

Agency Documents: means the Agency Lease, the Company Lease, the Mortgage, if any, and any other documents executed by the Agency in connection with the Project or the Financial Assistance granted in connection therewith.

Agency Lease: means the Agency Lease Agreement dated as of March 10, 2017, by and between the Agency and the Company, as the same may be amended or supplemented from time to time.

Application: means the application submitted by CG USL Ventures I, LLC to the Agency dated December 6, 2016, requesting the Agency undertake the Project, as same may be amended or supplemented from time to time.

Authorized Representative: means for the Agency, the Chairman or Vice Chairman of the Agency; for the Company, its Member or any officer designated in a certificate signed by an Authorized Representative of such Company and, for either the Agency or the Company, any additional persons designated to act on behalf of the Agency or the Company by written certificate furnished by the designating party containing the specimen signature of each designated person.

Bill of Sale: means that certain Bill of Sale from the Company to the Agency dated as of March 10, 2017 in connection with the Equipment.

City: means the City of Syracuse.

Closing Date: means March 31, 2017.

Closing Memorandum: means the closing memorandum of the Agency relating to the Project.

Code: means the Internal Revenue Code of 1986, as amended, and the regulations of the United States Treasury Department promulgated thereunder.

Company: means Southside Genesee Associates, LLC, a limited liability company organized and existing under the laws of the State of New York having an address at 3 East Stow Road, Marlton, New Jersey 08053, and its permitted successors and assigns.

Company Documents: means the Company Lease, the Agency Lease, the Project Agreement, the Mortgage, if any, the Environmental Compliance and Indemnification Agreement, the Bill of Sale, the Company Certification and any other documents executed by the Company in connection with the Project or the Financial Assistance granted in connection therewith.

Company Lease: means the Company Lease Agreement dated as of March 10, 2017 from the Company to the Agency, pursuant to which the Company leased the Project Facility to the Agency, as the same may be amended or supplemented from time to time.

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

County: means the County of Onondaga in the State of New York.

Environmental Compliance and Indemnification Agreement: means the Environmental Compliance and Indemnification Agreement dated as of March 10, 2017 by the Company to the Agency.

Equipment: means all materials, machinery, furnishings, fixtures and equipment installed or used at the Project Facility, as of the Closing Date and thereafter acquired for or installed in, or upon, the Project Facility, as more fully described in **Exhibit "B"** to the Agency Lease.

Facility: means the buildings and other improvements located or to be constructed on the Land.

Financial Assistance: has the meaning given to such term in Section 854(14) of the Act.

Governmental Authority: means any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign.

Land: means the improved real property located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue in the City of Syracuse, County of Onondaga, New York, more particularly described on **Exhibit “A”** attached to the Agency Lease.

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

Mortgage: means one or more mortgages from the Agency and the Company to the Mortgagee and recorded in the Onondaga County Clerk’s office subsequent to the filing and recording of the Memorandum of Agency Lease, securing construction and/or permanent financing for the Project Facility, executed in accordance with Section 4.5 of the Agency Lease, and securing the Note.

Mortgagee: means a lender, its successors and assigns, providing financing pursuant to the Note and Mortgage, relative to the costs of construction and/or equipping of the Project Facility.

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

Note: means one or more notes given by the Company to the Mortgagee in connection with the Mortgage for construction or permanent financing relative to the Project Facility.

Permitted Encumbrances: means: (A) utility, access and other easements and rights of way, and restrictions, encroachments and exceptions, that benefit or do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (B) artisans’, mechanics’, materialmen’s, warehousemen’s, carriers’, landlords’, bankers’, workmen's compensation, unemployment compensation and social security, and other similar Liens to the extent permitted by the Agency Lease, including the lien of the Mortgage, (C) Liens for taxes (1) to the extent permitted by the Agency Lease or (2) at the time not delinquent, (D) any Lien on the Project Facility obtained through any Agency Document or Company Document or the Mortgage, (E) Liens of judgments or awards in respect of which an appeal or proceeding for review shall be pending (or is pending within ten days after entry) and a stay of execution shall have been obtained (or is obtained within ten days after entry), or in connection with any claim or proceeding, (F) Liens on any Property hereafter acquired by the Company or any subsidiary which liens are created contemporaneously with such acquisition to secure or provide

for the payment or financing of any part of the purchase price thereof, (G) Liens consisting solely of restrictions under any applicable laws or any negative covenants in any applicable agreements (but only to the extent that such restrictions and covenants do not prohibit the execution, delivery and performance by the Company of the Agency Lease and the Mortgage, and (H) existing mortgages or encumbrances on the Project Facility as of the Closing Date or thereafter incurred with the consent of the Mortgagee and the Agency.

Person: means an individual, partnership, corporation, limited liability company, trust, or unincorporated organization, and any government or agency or political subdivision or branch thereof.

Plans and Specifications: means the representations, plans and specifications, if any, and presented by the Company to the Agency in its application and any presentation relating to the construction and equipping of the Project Facility; and any plans and specifications approved by the Mortgagee.

Project: shall have the meaning ascribed thereto in the third **WHEREAS** clause of this Agency Lease.

Project Agreement: means the Project Agreement dated as of March 10, 2017 between the Company and the Agency setting forth rights and obligations of the parties with respect to the Financial Assistance.

Project Facility: means the Land, the Facility and the Equipment.

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

Resolution or Resolutions: means the Agency's resolutions adopted on January 24, 2017 authorizing the undertaking of the Project and the execution and delivery of certain documents by the Agency in connection therewith.

Sales and Use Tax or State Sales and Use Taxes: means, when used with respect to State sales and use taxes, sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

SEQRA: means the State Environmental Quality Review Act constituting Article 8 of the State Environmental Conservation Law and the regulations promulgated thereunder, as amended.

State: means the State of New York.

Unassigned Rights: means:

(i) the right of the Agency in its own behalf to receive all opinions of counsel, reports, financial statements, certificates, insurance policies, binders or certificates, or other notices or communications, if any, required to be delivered to the Agency under the Agency Lease;

(ii) the right of the Agency to grant or withhold any consents or approvals required of the Agency under the Agency Lease;

(iii) the right of the Agency to enforce or otherwise exercise in its own behalf all agreements of the Company with respect to ensuring that the Project Facility shall always constitute a qualified “project” as defined in and as contemplated by the Act;

(iv) the right of the Agency to require and enforce any right of defense and any indemnity from any Person;

(v) the right of the Agency in its own behalf (or on behalf of the appropriate taxing authorities) to enforce, receive amounts payable under or otherwise exercise its rights under Sections 2.2(f), 2.2(h), 2.2(m), 2.2(q), 4.1, 4.5, 5.3, 5.4, 6.2, 6.3, 6.4, 8.2, 8.3, 8.5, 8.7, 8.9, 8.12, 10.2, 10.4, 11.9, 11.11 and 11.12 of the Agency Lease and Sections 2.6(g), 4.8 and 4.9 of the Company Lease; and

(vi) the right of the Agency in its own behalf to declare an Event of Default and enforce its remedies under Article X of the Agency Lease or with respect to any of the Agency’s Unassigned Rights.

EXHIBIT "D"

FORM OF CONTRACT STATUS REPORT

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Appendix II – Contract Status Report

To be submitted with a request for an extension of the Tax Exempt Certificate

It is a goal of SIDA to promote the use of local labor, contractors and suppliers for projects that receive agency support in the form of tax exemptions and/or bond financing. As part of its request to extend the valid date of the Agency's tax-exempt certificate for the _____ project, _____ (the Company) certifies that the following information regarding the construction and purchase activities undertaken for the project as of _____ (date) is true and correct.

Item	Bid Awarded to: (Name and Address)	Date and Value of Contract	Number of Jobs	
			Total	Local*
1. Site work/Demolition				
2. Foundation and footings				
3. Building				
4. Masonry				
5. Metals				
6. Wood/casework				
7. Thermal and moisture proof				
8. Doors, windows, glazing				
9. Finishes				
10. Electrical				
11. HVAC				
12. Plumbing				
13. Specialties				
14. Machinery and Equipment				
15. Furniture and Fixtures				
16. Utilities				
17. Paving				
18. Landscaping				
19. Other (identify)				

*The number of local jobs means those jobs held by people who live in the five counties in Central New York. This number is subject to verification.

Signature: _____ Name (printed): _____

Title: _____ Date: _____

EXHIBIT "E"

FORM OF ANNUAL REPORTING REQUIREMENTS

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
201 East Washington Street, 7th Floor , Syracuse, New York 13202

Date

COMPANY
COMPANY ADDRESS

Dear _____:

Our auditors, _____, CPAs are conducting an audit of our financial statements for the year ended December 31, _____. In connection with that audit, we request that you furnish certain information directly to our auditor with regard to the following security issued by/through the City of Syracuse Industrial Development Agency:

Sale - Leaseback Financing

Project: _____

Date of Financing:

Principal Amount Financed:

Maturity Date:

Original Interest Rate:

Please provide the following information as of December 31, [year]:

Name of Lender

Debt Retired in [year] Yes/No

Debt Refinanced in [year] Yes/No

(If Yes, please update information in Paragraph 1 above)

Debt in Default as of [date] Yes/No

Current Interest Rate(s)

Rate range, if Variable

Principal balance outstanding as of [date]

Principal payments made during [year]

Payments in Lieu of Taxes (PILOT)

paid in [year]

Total cost of goods/services purchased: \$ _____

New York State Sales Tax Exemptions Claimed [year]

New York Local Sales Tax Exemptions Claimed: [year]

New York State Mortgage Recording

Tax Exemption: [year]

Form of City of Syracuse Industrial Development Agency — Project Jobs Data [year]

From:

To: _____, CPAs

Re:

The following jobs information is furnished to you with regard to the above cited project:

Full Time Equivalent (FTE) Jobs Created and Retained – [year]

of Current FTE Employees as of [closing date]

of FTE Jobs Created during [year]

of FTE Jobs Retained during [year]

of FTE Construction Jobs Created during [year]

Comments:

Signature

Print Name

Title

Date

EXHIBIT "F"

FORM OF SUB-AGENT AGREEMENT

THIS SUB-AGENT APPOINTMENT AGREEMENT (the "**Agreement**"), dated as of _____, 20__, is by and between **SOUTHSIDE GENESEE ASSOCIATES, LLC**, with a mailing address of 3 East Stow Road, P.O. Box 994, Marlton, New Jersey 08053 (the "**Company**"), and [NAME OF SUB-AGENT], a _____ of the State of New York, having an office for the transaction of business at _____ (the "**Sub-Agent**").

WITNESSETH:

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") was created by Chapter 641 of the Laws of 1979 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "**Act**") as a body corporate and politic and as a public benefit corporation of the State of New York (the "**State**"); and

WHEREAS, by resolution of its members adopted on January 24, 2017 (the "**Resolution**"), the Agency agreed to undertake a project for the benefit of the Company (the "**Project**") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "**Existing Buildings**") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**") and together with the Land and the Facility, the "**Project Facility**"; (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, under the Resolution and in the Agency Lease Agreement by and between the Company and the Agency dated as of March 10, 2017 (the "**Agency Lease**") the Agency appointed the Company as its agent for purposes of completing the Project and delegated to the Company the authority to appoint as agents of the Agency a Project operator, contractors, agents,

subagents, subcontractors, contractors and subcontractors of such agents and subagents (the “*Additional Agents*” or “*Sub-Agents*”), for the purpose of completing the Project and benefitting from the State and local sales and use tax exemption that forms a portion of the Financial Assistance all in accordance with the terms of the Resolution and the Agency Lease; and

WHEREAS, the Company and the Agency entered into a an Agency Agreement dated as of June 2, 2015 (the “*Agency Agreement*”),

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

1. The Company hereby appoints the Sub-Agent as an Additional Agent of the Agency for the purpose of assisting the Company and the Agency in the completion of the Project and benefitting from the State and local sales and use tax exemption relative to expenditures made in furtherance thereof. The Sub-Agent is only an agent of the Agency for the aforementioned purposes. The Sub-Agent hereby agrees to limit its activities as agent for the Agency under the authority of this Agreement to acts reasonably related to the completion of the Project Facility.

2. The Sub-Agent covenants, agrees and acknowledges:

a. to make all records and information regarding State and local sales and use tax exemption benefits claimed by it in connection with the Project available to the Company and the Agency upon request. The Sub-Agent agrees to comply with all procedures and policies established by the State Department of Taxation and Finance, or any similar entity, regarding the documenting or reporting of any State and local sales and use tax exemption benefits, including providing to the Company all information of the Sub-Agent necessary for the Company to complete the State Department of Taxation and Finance’s “Annual Report of Sales and Use Tax Exemptions” (Form ST-340).

b. to be bound by and comply with the terms and conditions of the Agency’s policies, the Resolution and Section 875(3) of the Act (as if such section were fully set forth herein). Without limiting the scope of the foregoing, the Sub-Agent acknowledges and agrees to be bound by the Agency’s Suspension, Discontinuation and Recapture of Benefits Policy (the “*Recapture Policy*”), a copy of which is attached hereto as **Schedule “A”**.

c. that the failure of the Sub-Agent to promptly pay such Recapture Amount to the Agency will be grounds for the Agency, the State Commissioner of Taxation and Finance or such other entity, to collect sales and use taxes from the Sub-Agent under Article 28 of the Tax Law, or other applicable law, policy or contract, together with interest and penalties. In addition to the foregoing, the Sub-Agent acknowledges and agrees that for purposes of exemption from State sales and use taxation, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the Tax Law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

d. that all purchases made by the Sub-Agent in connection with the Project shall be made using Form ST-123 (IDA Agent or Project Operator Exempt Purchase Certificate), a copy of which is attached hereto as **Schedule "B"**). It shall be the responsibility of the Sub-Agent (and not the Company or the Agency) to complete Form ST-123. The failure to furnish a completed Form ST-123 with each purchase will result in loss of the exemption for that purchase.

e. that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Sub-Agent is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Sub-Agent acknowledges and agrees that the bill of invoice should state, "I, [NAME OF SUB-AGENT], certify that I am a duly appointed agent of the City of Syracuse Industrial Development Agency and that I am purchasing the tangible personal property or services for use in the following Agency project and that such purchases qualify as exempt from sales and use taxes under my Sub-Agent Appointment Agreement." The Sub-Agent further acknowledges and agrees that the following information shall be used by the Sub-Agent to identify the Project on each bill and invoice: Southside Genesee Associates, LLC Project, 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, Syracuse, New York, IDA Project No. 31021707.

f. that for purposes of any exemption from the State sales and use taxation as part of any Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight A of the State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

g. that the Sub-Agent shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), for such claims or liabilities that arise as a result of the Sub-Agent acting as agent for the Agency pursuant to this Agreement or otherwise.

The Sub-Agent shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation only to Sub-Agent's work on or for the Project Facility, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

The foregoing defenses and indemnities shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable,

and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

h. that as agent for the Agency or otherwise, the Sub-Agent will comply at the Sub-Agent's sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Sub-Agent with respect to the Project Facility.

i. that Section 875(7) of the Act requires the Agency to post on its website all resolutions and agreements relating to the Sub-Agent's appointment as an agent of the Agency or otherwise related to the Project, including this Agreement, and that Public Officers Law Article 6 declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Sub-Agent feels that there is information about the Sub-Agent in the Agency's possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Sub-Agent's competitive position, the Sub-Agent must identify such elements in writing, supply same to the Agency prior to or contemporaneously with the execution hereof and request that such elements be kept confidential in accordance with Public Officers Law Article 6. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the Act.

j. The Sub-Agent agrees Local contractors and suppliers will be used for the construction and equipping of the Project unless a waiver is first received from the Agency in writing. Such waiver shall be in the Agency's sole discretion. The Sub-Agent agrees that such Local contractors shall be provided the opportunity to bid on contracts related to the Project. Local shall mean, for the purposes of this Agreement, Onondaga, Oswego, Madison, Cayuga, Cortland and Oneida Counties. Failure to comply with the local labor requirements of this Section (j) (collectively, the "**Local Labor Requirements**") may result in the revocation or recapture of benefits provided/approved to the Project by the Agency.

k. that the Sub-Agent must timely provide the Company with the necessary information to permit the Company, pursuant to General Municipal Law §874(8), to timely file an Annual Statement with the New York State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions the Additional Agent claimed pursuant to the agency conferred on it by the Company with respect to this Project on an annual basis.

l. that the failure to comply with the foregoing will result in the loss of the exemption.

m. that if the Sub-Agent is the general contractor for the Project, then at all times following the execution of this Agreement, and during the term thereof, the Sub-Agent shall maintain or cause to be maintained the following insurance policies with an insurance company licensed in the State that has an A.M. Best rating of not less than A-:

(a) Insurance against loss or damage by fire, lightning, and other casualties customarily insured against (with a uniform standard extended coverage endorsement), such insurance to be in an amount not less than the full replacement value of the completed Project Facility, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the general contractor.

(b) Workers' compensation insurance, disability benefits' insurance, and each other form of insurance which the general contractor is required by law to provide covering loss resulting from injury, sickness, disability, or death of employees of the general contractor who are located at or assigned to the Project Facility;

(c) A policy of commercial general liability insurance with a \$1,000,000 combined single limit for bodily injury including death and property damage, including but not limited to, contractual liability under this Agency Lease and personal injury, with blanket excess liability coverage in an amount not less than \$2,000,000, covering the Project Facility and Equipment and the Company's and the Agency's use or occupancy thereof against all claims on account of bodily injury or death and property damage occurring upon, in or about the Project Facility or in connection with the ownership, maintenance, use and/or occupancy of the Project Facility and all appurtenant areas.

In addition, all insurance required by this section shall be with insurance companies of recognized financial standing selected by the general contractor and licensed to write such insurance in the State of New York. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other Persons engaged in businesses similar in size, character, and other respects to those in which the general contractor is engaged. All policies evidencing such insurance except the Workers' Compensation policy shall name the general contractor as insured and the Agency as an additional insured, as its interests may appear, and shall provide that such coverage with respect to the Agency be primary and non-contributory with any insurance secured by the Agency and require at least thirty (30) days' prior written notice to the Agency of cancellation, reduction in policy limits, or material change in coverage thereof.

Prior to the effective date of this Agreement, the general contractor shall deliver to the Agency, satisfactory to the Agency in form and substance: (i) Certificates evidencing all insurance required hereby; (ii) the additional insured endorsement(s) applicable to the Agency; (iii) the final insurance binder addressed to the general contractor covering the Project Facility; and (iv) evidence that the insurance so required is on a primary and non-contributory basis. In addition, the general contractor shall provide, if so requested by the Agency, a final and complete copy of each insurance policy within thirty (30) days of the execution of this Agreement.

The general contractor shall deliver or cause to be delivered to the Agency on or before the first business day of each January thereafter each of the items set forth in the immediately preceding paragraphs, dated not earlier than the immediately preceding month, reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance in the amounts and of the types required hereby for so long as the general contractor is performing, supervising or causing work to be done on or at the Project

Facility. The general contractor shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement in each such year.

n. that every controversy, dispute or claim arising out of or relating to this Agreement shall be governed by the laws of the State of New York, without regard to its conflicts-of-laws provisions that if applied might require the application of the laws of another jurisdiction; and that the Sub-Agent irrevocably and expressly submits to the exclusive personal jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Northern District of New York, to the exclusion of all other courts, for the purposes of litigating every controversy, dispute or claim arising out of or relating to this Agreement.

3. Failure of the Sub-Agent to comply with any of the provisions of this Agreement shall result in the immediate nullification of the appointment of the Sub-Agent and the immediate termination of this Agreement and may result in the loss of the Company's State and local sales and use tax exemption with respect to the Project at the sole discretion of the Agency. In addition, such failure may result in the recapture of the State and local sales and use taxes avoided.

4. The Company acknowledges that the assumption of certain obligations by the Sub-Agent in accordance with this Agreement does not relieve the Company of its obligations under any provisions of the Agency Lease or of any other agreement entered into by the Company in connection with the Project.

5. The Company and the Sub-Agent agree that the Agency is a third-party beneficiary of this Agreement.

6. This Agreement shall be in effect until the earlier of: (i) the completion of the work on the Project by the Sub-Agent; or (ii) the Sub-Agent's loss of status as an agent of the Agency as set forth herein. Notwithstanding the foregoing, the provisions of Sections 2(b), 2(c), 2(f), 2(g), 2(j), and 2(l) shall survive the termination of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Company and the Sub-Agent have caused this Agreement to be executed in their respective names by their respective duty authorized officers, all as of the day and year first above written.

SOUTHSIDE GENESEE ASSOCIATES, LLC

By: _____
Name:
Title:

[NAME OF SUB-AGENT]

By: _____
Name:
Title:

SCHEDULE "A"
To Sub-Agent Agreement

RECAPTURE POLICY

City of Syracuse
Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, NY 13202
Tel (315) 473-3275 Fax (315) 435-3669

RECAPTURE POLICY

I. STATEMENT OF PURPOSE

The City of Syracuse Industrial Development Agency (the “Agency”) has adopted this Recapture Policy (the “*Recapture Policy*”) in accordance with Sections 874(10) and 874(11) of the New York State General Municipal Law. This Recapture Policy shall be consistent with and in compliance with 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 641 of the Laws of 1979 of the State of New York, as amended from time to time (said Chapter and the Enabling Act being hereinafter collectively referred to as the “*Act*”), and any other applicable law.

II. MANDATORY RECAPTURE OF THE NEW YORK STATE PORTION OF SALES AND USE TAX

The Agency shall recapture from project applicants New York State sales and use tax benefits, in accordance with the provisions of the General Municipal Law, from projects that utilized State sales and use tax exemptions:

- a) To which the project was not entitled;
- b) In excess of the amounts authorized by the Agency;
- c) For property or services not authorized by the Agency; and/or
- d) For a project that has failed to comply with a material term or condition to use the property or services in the manner required by any of the project documents between the company and the Agency.

The approving resolution(s) and project documents granting financial assistance in the form of State sales and use tax exemption benefits shall include the terms and conditions of the foregoing recapture provision. Within thirty (30) days of the recapture, the recapture amount shall be remitted to the New York State Department of Taxation and Finance. Such remittances shall include interest, at the legal rate, imposed by the Agency. The failure to pay over such amounts to the Agency shall be grounds for the New York State Tax Commissioner to assess and

determine State sales and use taxes due from the company under article twenty-eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

In order to determine if one of the foregoing events have occurred (a “*State Mandated Recapture Event*”) and to effectuate this recapture of New York State sales and use tax benefits the Agency shall:

- a) Keep records of the New York State and local sales tax exemptions provided to each project, with such records available to the New York State Tax Commissioner upon request.
- b) Report within thirty days of providing any financial assistance in the form of a sales and use tax exemption, the project, the estimated amount of the exemption and other information as may be required by the New York State Tax Commissioner (Form ST-60).
- c) The Agency shall file an annual report with the New York State Tax Commissioner detailing its terms and conditions and its activities in recapturing any unauthorized New York State sales and use tax exemptions.

III. SUSPENSION, DISCONTINUATION, RECAPTURE AND TERMINATION OF OTHER FORMS OF FINANCIAL ASSISTANCE

With respect to all other financial assistance provided to a project (other than the State portion of sales and use tax exemptions) the Agency shall have the right to suspend, discontinue, recapture or terminate financial assistance to any company for a project to the extent that:

- a) for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency, and/or such exemptions were for property or services not authorized by the Agency (each, a “*Local Sales Tax Benefit Violation*”);
- b) the company, upon completion of the project, fails to reach and maintain at least 85 percent of its employment requirements for job creation and/or retention (“*Job Deficit*”);
- c) the total investment actually made with respect to the project at the project’s completion date is less than 85 percent of its investment requirement (“*Investment Deficit*”);
- d) the company fails to provide annually to the Agency certain information to confirm that the project is achieving the investment, job retention, job creation, and other objectives of the Project (“*Reporting Failure*”); or

- e) there otherwise occurs any event of default under any project document (each, an “Event of Default”) or a material violation of the terms and conditions of any project document (a “*Material Violation*”).

IV. ANNUAL ASSESSMENT

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a State Mandated Recapture Event, a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure Event of Default or Material Violation (each a “*Noncompliance Event*”) has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any project document in accordance with the terms of the project document.

At the time of any Noncompliance Event (other than a State Mandated Recapture Event), the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the financial assistance provided to a project, and shall consider the following in making its determination:

- a) Whether the company has proceeded in good faith.
- b) Whether the project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the company.
- c) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create a more adverse situation for the company, such as the company going out of business or declaring bankruptcy, which would not occur if the Agency’s rights were not exercised.
- d) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create an adverse situation for the residents of the City of Syracuse.
- e) The assessment prepared in accordance with the Agency’s Annual Assessment Policy.
- f) Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the financial assistance (the “*Determination*”). The Determination shall provide terms, if any, by which a company may remedy any Noncompliance Event (other than a State Mandated Recapture Event) upon which the Determination was based. The

company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume financial assistance to the company (which will be at the Agency's sole discretion).

The project agreement entered into between the Agency and the company (the "*Project Agreement*") shall include the terms and conditions of the foregoing provisions. The Agency shall also include in the Project Agreement a requirement that the company comply with the Agency's right to suspend, discontinue, recapture or terminate the financial assistance and that the company shall repay all or a portion of the financial assistance granted by the Agency to the company pursuant to any Determination.

Any such amount constituting local tax exemptions shall be redistributed to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction.

IV. RECAPTURE PERIOD

Except as otherwise provided by the General Municipal Law, the recapture period will be the longer of: (1) the term of the Lease Agreement; or (2) five years following the project's completion date. A project will remain "active" for purposes of Section 874(12) of General Municipal Law and the Agency's Annual Assessment Policy during the term of the Project Agreement.

Adopted: June 21, 2016

SCHEDULE "B"
to Sub-Agent Agreement

FORM ST-123



New York State Department of Taxation and Finance

New York State Sales and Use Tax

IDA Agent or Project Operator Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

ST-123

(7/14)

This certificate is not valid unless all entries have been completed.

Note: To be completed by the purchaser and given to the seller. Do not use this form to purchase motor fuel or diesel motor fuel exempt from tax. See Form FT-123, *IDA Agent or Project Operator Exempt Purchase Certificate for Fuel*.

Name of seller			Name of agent or project operator		
Street address			Street address		
City, town, or village	State	ZIP code	City, town, or village	State	ZIP code
Agent or project operator sales tax ID number (see instructions)					

Mark an **X** in one: Single-purchase certificate Blanket-purchase certificate (valid only for the project listed below)

To the seller:

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

Project information

I certify that I am a duly appointed agent or project operator of the named IDA and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under my agreement with the IDA.

Name of IDA		
Name of project	IDA project number (use OSO number)	
Street address of project site		
City, town, or village	State	ZIP code
Enter the date that you were appointed agent or project operator (month/day/yy)	/	/
Enter the date that agent or project operator status ends (month/day/yy)	/	/

Exempt purchases

(Mark an **X** in boxes that apply)

- A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
- B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
- C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

Certification: I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	

Instructions

To the purchaser

You may use Form ST-123 if you:

- have been appointed as an agent or project operator by an industrial development agency (IDA) and
- the purchases qualify for exemption from sales and use tax as described in the IDA contract.

You may use Form ST-123 as a single-purchase certificate or as a blanket certificate covering the first and subsequent purchases qualifying for the project listed.

Agent or project operator sales tax ID number If you are registered with the Tax Department for sales tax purposes, you must enter your sales tax identification number on this certificate. If you are not required to be registered, enter *N/A*.

Industrial development agencies and authorities (IDAs) are public benefit corporations under General Municipal Law Article 18-A and the Public Authorities Law, for the purpose of promoting, developing, encouraging, and assisting in the acquisition, construction, reconstruction, improvement, maintenance, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities in New York State.

IDAs are exempt from the payment of sales and use tax on their purchases, in accordance with Tax Law section 1116(a)(1). However, IDAs do not normally make direct purchases for projects. Commonly, IDAs instead appoint a business enterprise or developer, contractor, or subcontractor as its agent or project operator. Such purchases made by the agent or project operator, acting within the authority granted by the IDA, are deemed to be made by the IDA and therefore exempt from tax.

Example 1: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment necessary for completion of the project, as agent for the IDA. Contractor X rents a backhoe and a bulldozer for site preparation, purchases concrete and lumber to construct a building, and purchases machinery to be installed in the building. All these purchases by contractor X as agent of the IDA are exempt from tax.

Example 2: IDA agreement with its agent or project operator states that contractor X may make all purchases of materials and equipment to be incorporated into the project, as agent for the IDA. Contractor X makes the same purchases as in Example 1. Since the concrete, lumber, and machinery will actually be incorporated into the project, contractor X may purchase these items exempt from tax. However, rental of the backhoe and bulldozer is not exempt since these transactions are normally taxable and the IDA agreement does not authorize contractor X to make such rentals as agent of the IDA.

A contractor or subcontractor not appointed as agent or project operator of an IDA must present suppliers with Form ST-120.1, **Contractor Exempt Purchase Certificate**, when making purchases that are ordinarily exempt from tax in accordance with Tax Law sections 1115(a)(15) and 1115(a)(16). For more information, see Form ST-120.1.

Exempt purchases

To qualify, the purchases must be made within the authority granted by the IDA and used to complete the project (not to operate the completed project).

- Mark box A to indicate you are purchasing tangible personal property and services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) exempt from tax.
- Mark box B to indicate you are purchasing certain consumer utility services used in completing the project exempt from tax. This includes gas, electricity, refrigeration, and steam; and gas, electric, refrigeration, and steam services.
- Mark box C to indicate you are purchasing a motor vehicle or tangible personal property related to a qualifying motor vehicle exempt from tax.

Misuse of this certificate

Misuse of this exemption certificate may subject you to serious civil and criminal sanctions in addition to the payment of any tax and interest due. These include:

- A penalty equal to 100% of the tax due;
- A \$50 penalty for each fraudulent exemption certificate issued;
- Criminal felony prosecution, punishable by a substantial fine and a possible jail sentence; and
- Revocation of your *Certificate of Authority*, if you are required to be registered as a vendor. See TSB-M-09(17)S, *Amendments that Encourage Compliance with the Tax Law and Enhance the Tax Department's Enforcement Ability*, for more information.

To the seller

When making purchases as agent or project operator of an IDA, the purchaser must provide you with this exemption certificate with all entries completed to establish the right to the exemption. You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

As a New York State registered vendor, you may accept an exemption certificate in lieu of collecting tax and be protected from liability for the tax if the certificate is valid. The certificate will be considered valid if it is:

- accepted in good faith;
- in your possession within 90 days of the transaction; and
- properly completed (all required entries were made).

An exemption certificate is accepted in good faith when you have no knowledge that the exemption certificate is false or is fraudulently given, and you exercise reasonable ordinary due care. If you do not receive a properly completed certificate within 90 days after the delivery of the property or service, you will share with the purchaser the burden of proving the sale was exempt.

You must also maintain a method of associating an invoice (or other source document) for an exempt sale with the exemption certificate you have on file from the purchaser. You must keep this certificate at least three years after the due date of your sales tax return to which it relates, or the date the return was filed, if later.

Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 64, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

Need help?

	Visit our Web site at www.tax.ny.gov	
	• get information and manage your taxes online	
	• check for new online services and features	
	Sales Tax Information Center:	(518) 485-2889
	To order forms and publications:	(518) 457-5431
	Text Telephone (TTY) Hotline	
	(for persons with hearing and speech disabilities using a TTY):	(518) 485-5082

EXHIBIT "G"
RECAPTURE POLICY

City of Syracuse
Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, NY 13202
Tel (315) 473-3275 Fax (315) 435-3669

RECAPTURE POLICY

I. STATEMENT OF PURPOSE

The City of Syracuse Industrial Development Agency (the “Agency”) has adopted this Recapture Policy (the “*Recapture Policy*”) in accordance with Sections 874(10) and 874(11) of the New York State General Municipal Law. This Recapture Policy shall be consistent with and in compliance with 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 641 of the Laws of 1979 of the State of New York, as amended from time to time (said Chapter and the Enabling Act being hereinafter collectively referred to as the “*Act*”), and any other applicable law.

II. MANDATORY RECAPTURE OF THE NEW YORK STATE PORTION OF SALES AND USE TAX

The Agency shall recapture from project applicants New York State sales and use tax benefits, in accordance with the provisions of the General Municipal Law, from projects that utilized State sales and use tax exemptions:

- e) To which the project was not entitled;
- f) In excess of the amounts authorized by the Agency;
- g) For property or services not authorized by the Agency; and/or
- h) For a project that has failed to comply with a material term or condition to use the property or services in the manner required by any of the project documents between the company and the Agency.

The approving resolution(s) and project documents granting financial assistance in the form of State sales and use tax exemption benefits shall include the terms and conditions of the foregoing recapture provision. Within thirty (30) days of the recapture, the recapture amount shall be remitted to the New York State Department of Taxation and Finance. Such remittances shall include interest, at the legal rate, imposed by the Agency. The failure to pay over such amounts to the Agency shall be grounds for the New York State Tax Commissioner to assess and

determine State sales and use taxes due from the company under article twenty-eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

In order to determine if one of the foregoing events have occurred (a “*State Mandated Recapture Event*”) and to effectuate this recapture of New York State sales and use tax benefits the Agency shall:

- d) Keep records of the New York State and local sales tax exemptions provided to each project, with such records available to the New York State Tax Commissioner upon request.
- e) Report within thirty days of providing any financial assistance in the form of a sales and use tax exemption, the project, the estimated amount of the exemption and other information as may be required by the New York State Tax Commissioner (Form ST-60).
- f) The Agency shall file an annual report with the New York State Tax Commissioner detailing its terms and conditions and its activities in recapturing any unauthorized New York State sales and use tax exemptions.

III. SUSPENSION, DISCONTINUATION, RECAPTURE AND TERMINATION OF OTHER FORMS OF FINANCIAL ASSISTANCE

With respect to all other financial assistance provided to a project (other than the State portion of sales and use tax exemptions) the Agency shall have the right to suspend, discontinue, recapture or terminate financial assistance to any company for a project to the extent that:

- f) for projects that utilized local sales and use tax exemptions, the project was not entitled to such exemptions, such exemptions were in excess of the amounts authorized by the Agency, and/or such exemptions were for property or services not authorized by the Agency (each, a “*Local Sales Tax Benefit Violation*”);
- g) the company, upon completion of the project, fails to reach and maintain at least 85 percent of its employment requirements for job creation and/or retention (“*Job Deficit*”);
- h) the total investment actually made with respect to the project at the project’s completion date is less than 85 percent of its investment requirement (“*Investment Deficit*”);
- i) the company fails to provide annually to the Agency certain information to confirm that the project is achieving the investment, job retention, job creation, and other objectives of the Project (“*Reporting Failure*”); or

- j) there otherwise occurs any event of default under any project document (each, an “Event of Default”) or a material violation of the terms and conditions of any project document (a “*Material Violation*”).

IV. ANNUAL ASSESSMENT

The Agency shall evaluate, annually as of December 31, or at any time information is brought to the Agency’s attention, whether a State Mandated Recapture Event, a Local Sales Tax Benefit Violation, Job Deficit, Investment Deficit, Reporting Failure Event of Default or Material Violation (each a “*Noncompliance Event*”) has occurred. Notwithstanding the foregoing, the Agency may determine whether an Event of Default has occurred pursuant to any project document in accordance with the terms of the project document.

At the time of any Noncompliance Event (other than a State Mandated Recapture Event), the Agency shall determine by resolution whether to exercise its right to suspend, discontinue, recapture or terminate all or any portion of the financial assistance provided to a project, and shall consider the following in making its determination:

- g) Whether the company has proceeded in good faith.
- h) Whether the project has not performed as required due to economic issues, changes in market conditions or adverse events beyond the control of the company.
- i) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create a more adverse situation for the company, such as the company going out of business or declaring bankruptcy, which would not occur if the Agency’s rights were not exercised.
- j) Whether the enforcement by the Agency of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance would create an adverse situation for the residents of the City of Syracuse.
- k) The assessment prepared in accordance with the Agency’s Annual Assessment Policy.
- l) Such other criteria as the Agency shall determine is a relevant factor in connection with any decision regarding the exercise of its right to suspend, discontinue, recapture or terminate all or any portion of financial assistance.

The Agency shall document its evaluation of the above criteria in writing and based upon its evaluation, the Agency shall determine whether to suspend, discontinue, recapture or terminate all or any portion of the financial assistance (the “*Determination*”). The Determination shall provide terms, if any, by which a company may remedy any Noncompliance Event (other than a State Mandated Recapture Event) upon which the Determination was based. The

company must submit written documentation to the Agency of compliance with all terms and conditions of the Determination in order for the Agency to consider whether to resume financial assistance to the company (which will be at the Agency's sole discretion).

The project agreement entered into between the Agency and the company (the "*Project Agreement*") shall include the terms and conditions of the foregoing provisions. The Agency shall also include in the Project Agreement a requirement that the company comply with the Agency's right to suspend, discontinue, recapture or terminate the financial assistance and that the company shall repay all or a portion of the financial assistance granted by the Agency to the company pursuant to any Determination.

Any such amount constituting local tax exemptions shall be redistributed to the appropriate affected tax jurisdictions, unless agreed to otherwise by any local taxing jurisdiction.

IV. RECAPTURE PERIOD

Except as otherwise provided by the General Municipal Law, the recapture period will be the longer of: (1) the term of the Lease Agreement; or (2) five years following the project's completion date. A project will remain "active" for purposes of Section 874(12) of General Municipal Law and the Agency's Annual Assessment Policy during the term of the Project Agreement.

Adopted: June 21, 2016

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**MEMORANDUM OF
AGENCY LEASE AGREEMENT**

NAME AND ADDRESS OF LESSOR: City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202

NAME AND ADDRESS OF LESSEE: Southside Genesee Associates, LLC
3 East Stow Road
Marlton, New Jersey 08053

DESCRIPTION OF LEASED PREMISES:

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga and State of New York, being more particularly described in **Exhibit "A"** annexed hereto, together with the improvements thereon.

DATE OF EXECUTION OF AGENCY LEASE AGREEMENT:

As of March 10, 2017

TERM OF AGENCY LEASE AGREEMENT:

The term of this Agency Lease shall commence on the date hereof and continue in full force and effect until the earlier of: (1) March 31, 2019; or (2) sixty days after the issuance of a certificate of occupancy by the City of Syracuse, New York, unless earlier terminated as provided herein.

13:22 04/07/17 1149617 CP DB-5419F-67E

27524

IN WITNESS WHEREOF, the parties hereto have respectively executed this memorandum as of the 10th day of March, 2017.

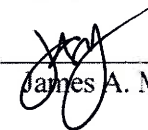
**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

William M. Ryan, Chairman

SOUTHSIDE GENESEE ASSOCIATES, LLC
By: CG USL VENTURES I, LLC,
its Managing Member

By: SYRACUSE-MICHAELS, LLC,
its Managing Member

By: 

James A. Malesich, Jr., Vice President

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

On this 30th day of March, 2017, before me, the undersigned, personally appeared, **William M. Ryan**, 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.

Lori L. McRobbie

Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MCS055591
Commission Expires on Feb. 12, 2018

New Jersey
STATE OF ~~NEW YORK~~)
) ss.:
COUNTY OF)
Burlington

On this 29th day of March, 2017, before me, the undersigned, personally appeared, **James A. Malesich, Jr.**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Barbara A. Hansen

Notary Public

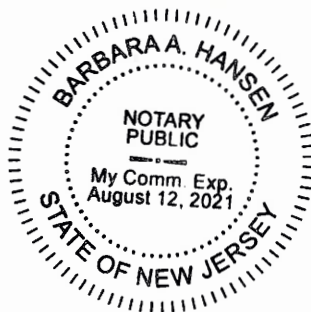


EXHIBIT "A"

LEGAL DESCRIPTION

1200-24 E. GENESEE STREET (inclusive of 509 Walnut):

All that certain plot, piece or parcel of land, with the building and improvements thereon erected, situate, lying and being in the City of Syracuse, County of Onondaga and State of New York, known as Lot 1, 8 and Part of Lots 2, 7 and 11, being part of Block No. 410 in said City, bounded and described as follows:

Beginning at the intersection of the southerly line of East Genesee Street with the easterly line of Walnut Avenue, running thence N 88°-11'-00" E a distance of 286.12 feet along the southerly line of East Genesee Street to a point in the westerly line of Comstock Avenue, thence S 4°-20'-10" E a distance of 143.80 feet along the westerly line of Comstock Avenue to a point, thence S 88°-11'-00" W a distance of 40.0 feet to a point, thence S 4°-20'-10" E a distance of 40.0 feet to a point, thence S 88°-11'-00" W a distance of 42.44 feet to a point, thence S 3°-20'-30" E a distance of 67.21 feet to a point, thence S 86°-05'-40" W a distance of 49.5 feet to a point, thence N 3°-20'-30" W a distance of 23.83 feet to a point, thence N 88°-24'-45" W a distance of 49.67 feet to a point, thence N 3°-20'-30" W a distance of 16.41 feet to a point, thence N 89°-31'-30" W a distance of 121.73 feet to a point in the easterly line of Walnut Avenue, thence N 0°-28'-30" E a distance of 204.74 feet along the easterly line of Walnut Avenue to a point in the southerly line of East Genesee Street and the place of beginning.

511 WALNUT AVENUE:

ALL THAT TRACT OR PARCEL OF LAND SITUATE, in the City of Syracuse aforesaid being that part of farm lot No. 199 and that part of Block No. 410 in said City according to Borden and Griffen's map bounded and described as follows: Beginning at a point in the east line of Spruce Street, 205.06 feet south of the south line of Genesee, thence east at right angles to Spruce Street about 119 feet to the east line of lands formerly owned by Genesee & Water Street Railroad Company, thence south along said east line 33 3/40 feet, thence west parallel with the first mentioned line 123.16 feet to Spruce Street, thence north on the east line of Spruce Street 33 feet to the place of beginning.

Excepting and reserving the rights of way over a strip of land five (5) feet wide off of the north side of the premises herein conveyed.



Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax

Recording office time stamp

See Form TP-584-1, instructions for Form TP-584, before completing this form. Print or type.

Schedule A – Information relating to conveyance

Grantor/Transferor <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantor) City of Syracuse Industrial Development Agency Mailing address 201 East Washington Street, 7th Floor City State ZIP code Syracuse NY 13202	Social security number Social security number Federal EIN 52-1380308
	Single member's name if grantor is a single member LLC (see instructions)	Single member EIN or SSN
Grantee/Transferee <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantee) Southside Genesee Associates, LLC Mailing address 3 East Stow Road City State ZIP code Marlton NJ 08053	Social security number Social security number Federal EIN 81-5081696
	Single member's name if grantee is a single member LLC (see instructions)	Single member EIN or SSN

Location and description of property conveyed

Tax map designation – Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
048.-10-01.0 048.-10-15.0	311500	1200-24 East Genesee Street and 509 and 511 Walnut Avenue	Syracuse	Onondaga

Type of property conveyed (check applicable box)

1 <input type="checkbox"/> One- to three-family house 2 <input type="checkbox"/> Residential cooperative 3 <input type="checkbox"/> Residential condominium 4 <input type="checkbox"/> Vacant land	5 <input checked="" type="checkbox"/> Commercial/Industrial 6 <input type="checkbox"/> Apartment building 7 <input type="checkbox"/> Office building 8 <input type="checkbox"/> Other _____	Date of conveyance <table style="border: 1px solid black; text-align: center; width: 100px;"> <tr> <td style="padding: 2px 5px;">03</td> <td style="padding: 2px 5px;">10</td> <td style="padding: 2px 5px;">2017</td> </tr> <tr> <td style="font-size: 8px;">month</td> <td style="font-size: 8px;">day</td> <td style="font-size: 8px;">year</td> </tr> </table>	03	10	2017	month	day	year	Percentage of real property conveyed which is residential real property _____ 0 % (see instructions)
03	10	2017							
month	day	year							

Condition of conveyance (check all that apply)

- | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| a. <input type="checkbox"/> Conveyance of fee interest

b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____ %) | f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F)

g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)

h. <input type="checkbox"/> Conveyance of cooperative apartment(s)

i. <input type="checkbox"/> Syndication

j. <input type="checkbox"/> Conveyance of air rights or development rights

k. <input type="checkbox"/> Contract assignment | l. <input type="checkbox"/> Option assignment or surrender

m. <input type="checkbox"/> Leasehold assignment or surrender

n. <input checked="" type="checkbox"/> Leasehold grant

o. <input type="checkbox"/> Conveyance of an easement

p. <input type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)

q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state

r. <input type="checkbox"/> Conveyance pursuant to divorce or separation

s. <input type="checkbox"/> Other (describe) _____ |
| c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____ %) | d. <input type="checkbox"/> Conveyance to cooperative housing corporation

e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E) | |

For recording officer's use	Amount received	Date received	Transaction number
	Schedule B., Part I \$ Schedule B., Part II \$		

Schedule B – Real estate transfer tax return (Tax Law, Article 31)

Part I – Computation of tax due

1	Enter amount of consideration for the conveyance (if you are claiming a total exemption from tax, check the exemption claimed box, enter consideration and proceed to Part III) <input checked="" type="checkbox"/> Exemption claimed	1.	0 00
2	Continuing lien deduction (see instructions if property is taken subject to mortgage or lien)	2.	0 00
3	Taxable consideration (subtract line 2 from line 1)	3.	0 00
4	Tax: \$2 for each \$500, or fractional part thereof, of consideration on line 3	4.	0 00
5	Amount of credit claimed for tax previously paid (see instructions and attach Form TP-584.1, Schedule G)	5.	0 00
6	Total tax due* (subtract line 5 from line 4)	6.	0 00

Part II – Computation of additional tax due on the conveyance of residential real property for \$1 million or more

1	Enter amount of consideration for conveyance (from Part I, line 1)	1.	
2	Taxable consideration (multiply line 1 by the percentage of the premises which is residential real property, as shown in Schedule A)	2.	
3	Total additional transfer tax due* (multiply line 2 by 1% (.01))	3.	

Part III – Explanation of exemption claimed on Part I, line 1 (check any boxes that apply)

The conveyance of real property is exempt from the real estate transfer tax for the following reason:

- a. Conveyance is to the United Nations, the United States of America, the state of New York, or any of their instrumentalities, agencies, or political subdivisions (or any public corporation, including a public corporation created pursuant to agreement or compact with another state or Canada)..... a
- b. Conveyance is to secure a debt or other obligation..... b
- c. Conveyance is without additional consideration to confirm, correct, modify, or supplement a prior conveyance..... c
- d. Conveyance of real property is without consideration and not in connection with a sale, including conveyances conveying realty as bona fide gifts d
- e. Conveyance is given in connection with a tax sale..... e
- f. Conveyance is a mere change of identity or form of ownership or organization where there is no change in beneficial ownership. (This exemption cannot be claimed for a conveyance to a cooperative housing corporation of real property comprising the cooperative dwelling or dwellings.) Attach Form TP-584.1, Schedule F..... f
- g. Conveyance consists of deed of partition..... g
- h. Conveyance is given pursuant to the federal Bankruptcy Act h
- i. Conveyance consists of the execution of a contract to sell real property, without the use or occupancy of such property, or the granting of an option to purchase real property, without the use or occupancy of such property..... i
- j. Conveyance of an option or contract to purchase real property with the use or occupancy of such property where the consideration is less than \$200,000 and such property was used solely by the grantor as the grantor's personal residence and consists of a one-, two-, or three-family house, an individual residential condominium unit, or the sale of stock in a cooperative housing corporation in connection with the grant or transfer of a proprietary leasehold covering an individual residential cooperative apartment..... j
- k. Conveyance is not a conveyance within the meaning of Tax Law, Article 31, section 1401(e) (attach documents supporting such claim) ...See Schedule "A"..... k

*The total tax (from Part I, line 6 and Part II, line 3 above) is due within 15 days from the date conveyance. Please make check(s) payable to the county clerk where the recording is to take place. If the recording is to take place in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, make check(s) payable to the **NYC Department of Finance**. If a recording is not required, send this return and your check(s) made payable to the **NYS Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule C – Credit Line Mortgage Certificate (Tax Law, Article 11)

Complete the following only if the interest being transferred is a fee simple interest.

I (we) certify that: (check the appropriate box)

- 1. The real property being sold or transferred is not subject to an outstanding credit line mortgage.
- 2. The real property being sold or transferred is subject to an outstanding credit line mortgage. However, an exemption from the tax is claimed for the following reason:
 - The transfer of real property is a transfer of a fee simple interest to a person or persons who held a fee simple interest in the real property (whether as a joint tenant, a tenant in common or otherwise) immediately before the transfer.
 - The transfer of real property is (A) to a person or persons related by blood, marriage or adoption to the original obligor or to one or more of the original obligors or (B) to a person or entity where 50% or more of the beneficial interest in such real property after the transfer is held by the transferor or such related person or persons (as in the case of a transfer to a trustee for the benefit of a minor or the transfer to a trust for the benefit of the transferor).
 - The transfer of real property is a transfer to a trustee in bankruptcy, a receiver, assignee, or other officer of a court.
 - The maximum principal amount secured by the credit line mortgage is \$3,000,000 or more, and the real property being sold or transferred is **not** principally improved nor will it be improved by a one- to six-family owner-occupied residence or dwelling.

Please note: for purposes of determining whether the maximum principal amount secured is \$3,000,000 or more as described above, the amounts secured by two or more credit line mortgages may be aggregated under certain circumstances. See TSB-M-96(6)-R for more information regarding these aggregation requirements.

Other (attach detailed explanation).

- 3. The real property being transferred is presently subject to an outstanding credit line mortgage. However, no tax is due for the following reason:
 - A certificate of discharge of the credit line mortgage is being offered at the time of recording the deed.
 - A check has been drawn payable for transmission to the credit line mortgagee or his agent for the balance due, and a satisfaction of such mortgage will be recorded as soon as it is available.

- 4. The real property being transferred is subject to an outstanding credit line mortgage recorded in _____ (insert liber and page or reel or other identification of the mortgage). The maximum principal amount of debt or obligation secured by the mortgage is _____. No exemption from tax is claimed and the tax of _____ is being paid herewith. (Make check payable to county clerk where deed will be recorded or, if the recording is to take place in New York City but not in Richmond County, make check payable to the **NYC Department of Finance**.)

Signature (both the grantor(s) and grantee(s) must sign)

The undersigned certify that the above information contained in schedules A, B, and C, including any return, certification, schedule, or attachment, is to the best of his/her knowledge, true and complete, and authorize the person(s) submitting such form on their behalf to receive a copy for purposes of recording the deed or other instrument effecting the conveyance.

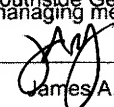
City of Syracuse Industrial Development Agency

Southside Genesee Associates, LLC, by CG USL Ventures I, LLC, its managing member, by Syracuse-Michaels, LLC its managing member

Chairman


Grantor signature
William M. Ryan

Title


Grantee signature
James A. Maiesich, Jr., Vice President

Title

Grantor signature

Title

Grantee signature

Title

Reminder: Did you complete all of the required information in Schedules A, B, and C? Are you required to complete Schedule D? If you checked e, f, or g in Schedule A, did you complete Form TP-584.1? Have you attached your check(s) made payable to the county clerk where recording will take place or, if the recording is in the New York City boroughs of Manhattan, Bronx, Brooklyn, or Queens, to the **NYC Department of Finance**? If no recording is required, send your check(s), made payable to the **Department of Taxation and Finance**, directly to the NYS Tax Department, RETT Return Processing, PO Box 5045, Albany NY 12205-5045.

Schedule D - Certification of exemption from the payment of estimated personal income tax (Tax Law, Article 22, section 663)

Complete the following only if a fee simple interest or a cooperative unit is being transferred by an individual or estate or trust.

If the property is being conveyed by a referee pursuant to a foreclosure proceeding, proceed to Part II, and check the second box under *Exemptions for nonresident transferor(s)/seller(s)* and sign at bottom.

Part I - New York State residents

If you are a New York State resident transferor(s)/seller(s) listed in Schedule A of Form TP-584 (or an attachment to Form TP-584), you must sign the certification below. If one or more transferors/sellers of the real property or cooperative unit is a resident of New York State, **each** resident transferor/seller must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all resident transferors/sellers.

Certification of resident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) as signed below was a resident of New York State, and therefore is not required to pay estimated personal income tax under Tax Law, section 663(a) upon the sale or transfer of this real property or cooperative unit.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

Note: A resident of New York State may still be required to pay estimated tax under Tax Law, section 685(c), but not as a condition of recording a deed.

Part II - Nonresidents of New York State

If you are a nonresident of New York State listed as a transferor/seller in Schedule A of Form TP-584 (or an attachment to Form TP-584) but are not required to pay estimated personal income tax because one of the exemptions below applies under Tax Law, section 663(c), check the box of the appropriate exemption below. If any one of the exemptions below applies to the transferor(s)/seller(s), that transferor(s)/seller(s) is not required to pay estimated personal income tax to New York State under Tax Law, section 663. **Each** nonresident transferor/seller who qualifies under one of the exemptions below must sign in the space provided. If more space is needed, please photocopy this Schedule D and submit as many schedules as necessary to accommodate all nonresident transferors/sellers.

If none of these exemption statements apply, you must complete Form IT-2663, *Nonresident Real Property Estimated Income Tax Payment Form*, or Form IT-2664, *Nonresident Cooperative Unit Estimated Income Tax Payment Form*. For more information, see *Payment of estimated personal income tax*, on page 1 of Form TP-584-1.

Exemption for nonresident transferor(s)/seller(s)

This is to certify that at the time of the sale or transfer of the real property or cooperative unit, the transferor(s)/seller(s) (grantor) of this real property or cooperative unit was a nonresident of New York State, but is not required to pay estimated personal income tax under Tax Law, section 663 due to one of the following exemptions:

- The real property or cooperative unit being sold or transferred qualifies in total as the transferor's/seller's principal residence (within the meaning of Internal Revenue Code, section 121) from _____ to _____ (see instructions).
Date Date
- The transferor/seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure, or in lieu of foreclosure with no additional consideration.
- The transferor or transferee is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.

Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date
Signature	Print full name	Date

SCHEDULE "A"

The document being recorded for which this NYS Form TP-584 is being provided is a Memorandum of Lease between the Grantor and the Grantee. The sum of the term of the lease and any options for renewal do not exceed forty-nine (49) years, and therefore said lease is not a Conveyance within the meaning of Article 31 of the Tax Law.

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CERTIFICATION

Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Agency Lease Agreement by and between the parties dated as of March 10, 2017.

The undersigned, **James A. Malesich, Jr.**, Vice President of Syracuse-Michaels, LLC, as the managing member of CG USL Ventures I, LLC, the managing member of Southside Genesee Associates, LLC (the "**Company**"), does hereby certify and confirm:

- (1) I am the authorized signatory of the Company;
- (2) that the Company has reviewed and understands the Agency's Local Labor Policy (the "**Policy**") which states as follows:

The Company understands and agrees that local labor, contractors and suppliers will be used for the construction, renovation and equipping of the Project unless a written waiver is first received in accordance with the terms of the Policy. Failure to comply may result in the revocation or recapture of benefits awarded to the Project by the Agency.

For purposes of this Policy, the term "local" shall mean: Cayuga, Cortland, Madison, Onondaga, Oneida and Oswego Counties.

- (3) that the Company has complied, and will, for so long as the Agency has an interest in the Project, continue to comply with, the Agency's Local Labor Policy.

Dated: March 29, 2017

SOUTHSIDE GENESEE ASSOCIATES, LLC
By: CG USL VENTURES I, LLC,
its Managing Member

By: SYRACUSE-MICHAELS, LLC,
its Managing Member

By: 
James A. Malesich, Jr., Vice President

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DESCRIPTIONS (Continued from Page 1)

Policy No.: CX0054217
Policy Term: 01/01/2017 to 01/01/2018
Limits: \$15,000,000 XS \$10,000,000 Each Occurrence
\$15,000,000 XS \$10,000,000 Aggregate

Excess Liability Layer
Carrier: Crum & Forster Insurance Company (#42471)
Policy No.: 5228004861
Policy Term: 01/01/2017 to 01/01/2018
Limits: \$25,000,000 XS \$25,000,000 Each Occurrence
\$25,000,000 XS \$25,000,000 Aggregate

Named Insured: Southside Genesee Associates, LLC
University Student Living, LLC
University Student Living Management, LLC

RE: 1200 East Genesee St., Syracuse, NY and 511 Walnut Street, Syracuse, NY

Certificate holder is included as an Additional Insured on primary & non-contributory basis if required by written contract and only to the extent required by written contract.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED –
MORTGAGEE, ASSIGNEE, OR RECEIVER**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Where required by written contract.

Designation of Premises:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

1. WHO IS AN INSURED (Section II) is amended to include as an insured the person(s) or organization(s) shown in the Schedule but only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of the premises by you and shown in the Schedule.
2. This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NON-CONTRIBUTING INSURANCE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

Name of Additional Insured Person(s) or Organization(s):	Location(s) of Covered Operations

A. The following is added to **Section IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 4:

4. Other Insurance

d. Notwithstanding the provisions of subparagraphs a, b, and c of this paragraph 4, with respect to the Entity shown above, it is understood and agreed that in the event of a claim or "suit" arising out of the Named Insured's negligence, this insurance shall be primary and any other insurance maintained by the Entity above shall be excess and non-contributory.

The Entity to whom this endorsement applies is:
Absence of a specifically named Entity above means that the provisions of this endorsement apply "as required by written contractual agreement with any Entity for whom you are performing work."

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED

Client#: 88

INTERREALT

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/22/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

Table with columns for PRODUCER, CONTACT NAME, PHONE, FAX, E-MAIL ADDRESS, INSURER(S) AFFORDING COVERAGE, and NAIC #. Includes details for Conner Strong & Buckelew and various insurers like Houston Casualty Co.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED...

Main table with columns: INSR LTR, TYPE OF INSURANCE, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Lists coverages like Commercial General Liability, Automobile Liability, Umbrella Liab, Workers Compensation, and Excess Liability.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
*30 Days Notice of Cancellation/10 Days for Non-Payment
Terrorism Coverage is included
Excess Liability Layer
Carrier: Aspen American Insurance Company (#43460)
(See Attached Descriptions)

Table with columns: CERTIFICATE HOLDER and CANCELLATION. Certificate holder is Syracuse Industrial Development Agency. Cancellation section includes a signature of W. Michael Trapana.

DESCRIPTIONS (Continued from Page 1)

Policy No.: CX0054217

Policy Term: 01/01/2017 to 01/01/2018

Limits: \$15,000,000 XS \$10,000,000 Each Occurrence
\$15,000,000 XS \$10,000,000 Aggregate

Excess Liability Layer

Carrier: Crum & Forster Insurance Company (#42471)

Policy No.: 5228004861

Policy Term: 01/01/2017 to 01/01/2018

Limits: \$25,000,000 XS \$25,000,000 Each Occurrence
\$25,000,000 XS \$25,000,000 Aggregate

Named Insured: Southside Genesee Associates, LLC

University Student Living, LLC

University Student Living Management, LLC

Certificate holder is included as an Additional Insured if required by written contract and only to the extent required by written contract.

Loc# 28 - 1200 Genesee Street & 511 Walnut Street; Syracuse, NY

ACORD™ EVIDENCE OF COMMERCIAL PROPERTY INSURANCE

DATE (MM/DD/YYYY)
06/22/2017

THIS EVIDENCE OF COMMERCIAL PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

PRODUCER NAME, CONTACT PERSON AND ADDRESS Conner Strong & Buckelew Two Liberty Place 50 S. 16th Street, Suite 3600 Philadelphia, PA 19102		PHONE (A/C, No, Ext): 877 861-3220	COMPANY NAME AND ADDRESS See Below		NAIC NO:
FAX (A/C, No): 8567959783	E-MAIL ADDRESS: msmyth@connerstrong.com		IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH		
CODE:	SUB CODE:		POLICY TYPE		
AGENCY CUSTOMER ID #: 88			LOAN NUMBER		POLICY NUMBER IMD1478800
NAMED INSURED AND ADDRESS Southside Genesee Associates, LLC 3 E. Stow Road P.O. Box 994 Marlton, NJ 08053-0994			EFFECTIVE DATE 04/15/2017	EXPIRATION DATE 08/15/2018	<input type="checkbox"/> CONTINUED UNTIL TERMINATED IF CHECKED
ADDITIONAL NAMED INSURED(S)			THIS REPLACES PRIOR EVIDENCE DATED:		

PROPERTY INFORMATION (Use REMARKS on Page 2, if more space is required) BUILDING OR BUSINESS PERSONAL PROPERTY

LOCATION/DESCRIPTION
 Location #1 1200 Genesee Street & 511 Walnut Street Syracuse, NY 13210

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION PERILS INSURED BASIC BROAD SPECIAL

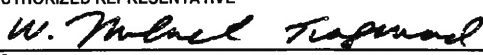
COMMERCIAL PROPERTY COVERAGE AMOUNT OF INSURANCE: \$ 43,875,436 DED: 10,000

	YES	NO	N/A	
<input type="checkbox"/> BUSINESS INCOME <input checked="" type="checkbox"/> RENTAL VALUE	X			If YES, LIMIT: 5,100,000 <input checked="" type="checkbox"/> Actual Loss Sustained; # of months 12
BLANKET COVERAGE	X			If YES, indicate value(s) reported on property identified above: \$
TERRORISM COVERAGE	X			Attach Disclosure Notice / DEC
IS THERE A TERRORISM-SPECIFIC EXCLUSION?		X		
IS DOMESTIC TERRORISM EXCLUDED?		X		
LIMITED FUNGUS COVERAGE		X		If YES, LIMIT: DED:
FUNGUS EXCLUSION (IF "YES", specify organization's form used)	X			
REPLACEMENT COST	X			
AGREED VALUE	X			
COINSURANCE		X		If Yes, %
EQUIPMENT BREAKDOWN (If Applicable)	X			If YES, LIMIT: Included DED: 10,000
ORDINANCE OR LAW - Coverage for loss to undamaged portion of bldg	X			If YES, LIMIT: Included DED: 10,000
- Demolition Costs	X			If YES, LIMIT: 1,000,000 DED: 10,000
- Incr. Cost of Construction	X			If YES, LIMIT: INCLUDEDINB DED:
EARTH MOVEMENT (If Applicable)	X			If YES, LIMIT: 5000000 DED: 25,000
FLOOD (If Applicable)	X			If YES, LIMIT: 5000000 DED: 25,000
WIND/HAIL (If Subject to Different Provisions)	X			If YES, LIMIT: Included DED: 10,000
PERMISSION TO WAIVE SUBROGATION IN FAVOR OF MORTGAGE HOLDER PRIOR TO LOSS	X			

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

<input type="checkbox"/> MORTGAGEE <input checked="" type="checkbox"/> LENDERS LOSS PAYABLE	<input type="checkbox"/> CONTRACT OF SALE Mortgagee and Loss Payee	LENDER SERVICING AGENT NAME AND ADDRESS
NAME AND ADDRESS Syracuse Industrial Development Agency ISAOA ATIMA 201 East Washington Street 7th Floor Syracuse, NY 13202		AUTHORIZED REPRESENTATIVE 

Named Insured:

Southside Genesee Associates, LLC
University Student Living, LLC
University Student Living Management, LLC
Interstate Realty Management Company
The Michaels Development Company I, LP
Hueber Breuer

All Risk of Direct Physical Damage including Flood, Earthquake, Windstorm/Hail and Equipment Breakdown per Occurrence

Valuation: Building under Construction/Renovation/Declared Project Value
Replacement Cost Basis and Agreed Amount (no coinsurance clause)

Delayed Completion/Soft Costs - Actual Loss Sustained up to Limit of Insurance (no coinsurance clause or monthly limitation)

Coinsurance: None

Non-reporting form

Insurance Carriers:

HDI Global Insurance Company - 50% Participation (Lead) - Policy No. IMD1478800
Allied World Specialty Insurance Company - 50% Participation - Policy No. 03106579

Limits & Coverages

Direct Damage: \$34,648,000
Furniture & Fixtures: \$1,158,000
Rental Value: \$5,100,000
Soft Costs: \$3,127,436
Back-Up of Sewers & Drains: Included in Flood
Transit: \$1,000,000
Flood \$5,000,000
Earthquake & Earth Movement: \$5,000,000
Temporary Storage Locations: \$1,000,000
Additional Debris Removal: 25% of loss or \$5,000,000 whichever is less
Pollution Clean-Up: \$250,000
Fire Dept. Service Charge: \$100,000
Expediting Expenses: \$100,000
Wind/Hail: Included
Ordinance or Law Coverage A: Included
Ordinance or Law Coverage B&C: \$1,000,000
Office Trailers: \$100,000
Utility Interruption/Off premises Power Failure - Direct Damage; \$100,000
Valuable Papers & Records: \$100,000
Permission to Occupy: Included
Equipment Breakdown - At Project Site: Included

Deductibles

All Other Perils: \$10,000
Earthquake & Earth Movement: \$25,000
Flood: \$25,000
Named Windstorm/Windstorm: \$10,000
Equipment Breakdown: \$10,000
Water Damage: \$25,000
Delay in Opening: 14 Days

[Empty rectangular box for remarks and special conditions]

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ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT

THIS ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT (the “*Agreement*”) is made as of the 10th day of March, 2017, between **SOUTHSIDE GENESEE ASSOCIATES, LLC** (the “*Indemnitor*” or the “*Company*”), for the benefit of the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY** (the “*Agency*”).

RECITALS

WHEREAS, the Agency has undertaken at the request of the Indemnitor, a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “*Existing Buildings*”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York, as more fully described on **Schedule A** attached hereto (the “*Land*”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

NOW, THEREFORE, in consideration of the premises, Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Indemnitor, intending to be legally bound, hereby agrees as follows:

1. **Recitals; Definitions.**

(a) The foregoing recitals are incorporated into this Agreement by this reference.

(b) Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Schedule of Definitions attached to the Agency Lease as Exhibit “C.”

2. **Representations and Warranties.**

(a) Except as disclosed in **Schedule B** annexed hereto, Indemnitor represents and warrants that it has no knowledge of any deposit, storage, disposal, burial, discharge,

spillage, uncontrolled loss, seepage or filtration of oil, petroleum or chemical liquids or solids, liquid or gaseous products or any hazardous wastes or hazardous substances (collectively, “*Hazardous Substances*”), as those terms are used in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or in any other federal, state or local law governing hazardous substances, as such laws may be amended from time to time (collectively, the “*Hazardous Waste Laws*”), at, upon, under or within the Project Facility or any contiguous real estate, and (ii) it has not caused or permitted to occur, and shall not permit to exist, any condition which may cause a discharge of any Hazardous Substances at, upon, under or within the Project Facility or on any contiguous real estate.

(b) Except as disclosed in the reports listed on **Schedule B** annexed hereto, Indemnitor further represents and warrants that (i) it has not been nor will be involved in operations at or near the Project Facility which operations could lead to (A) the imposition of liability on Indemnitor or on any subsequent or former owner of the Project Facility or (B) the creation of a lien on the Project Facility under the Hazardous Waste Laws or under any similar laws or regulations; and (ii) it has not permitted, and will not permit, any tenant or occupant of the Project Facility to engage in any activity that could impose liability under the Hazardous Waste Laws on such tenant or occupant, on Agency, the Indemnitor or on any other owner of any of the Project Facility.

3. **Covenants.**

(a) Indemnitor shall comply strictly and in all respects with the requirements of the Hazardous Waste Laws and related regulations and with all similar laws and regulations and shall notify Agency immediately in the event of any discharge or discovery of any Hazardous Substance at, upon, under or within the Project Facility which is not otherwise already disclosed in **Schedule B**. Indemnitor shall promptly forward to Agency copies of all orders, notices, permits, applications or other communications and reports in connection with any discharge or the presence of any Hazardous Substance or any other matters relating to the Hazardous Waste Laws or any similar laws or regulations, as they may affect the Project Facility.

(b) Promptly upon the written request of Agency, Indemnitor shall provide Agency, at Indemnitor’s expense, with an environmental site assessment or environmental audit report prepared by an environmental engineering firm acceptable to the requesting Person, to assess with a reasonable degree of certainty the presence or absence of any Hazardous Substances and the potential costs in connection with abatement, cleanup or removal of any Hazardous Substances found on, under, at or within the Project Facility.

4. **Indemnity.**

(a) Indemnitor shall at all times indemnify and hold harmless Agency against and from any and all claims, suits, actions, debts, damages, costs, losses, obligations, judgments, charges, and expenses, of any nature whatsoever suffered or incurred by Agency, whether as contract vendor, owner, mortgagee, as mortgagee in possession, or as successor-in-interest to Indemnitor by foreclosure deed or deed in lieu of foreclosure, under or on account of the

Hazardous Waste Laws or any similar laws or regulations, including the assertion of any lien thereunder, with respect to:

(1) any discharge of Hazardous Substances, the threat of a discharge of any Hazardous Substances, or the presence of any Hazardous Substances affecting the Project Facility whether or not the same originates or emanates from the Project Facility or any contiguous real estate including any loss of value of the Project Facility as a result of any of the foregoing;

(2) any costs of removal or remedial action incurred by the United States Government or any costs incurred by any other person or damages from injury to, destruction of, or loss of natural resources, including reasonable costs of assessing such injury, destruction or loss incurred pursuant to any Hazardous Waste Laws;

(3) liability for personal injury or property damage arising under any statutory or common law tort theory, including, without limitation, damages assessed for the maintenance of a public or private nuisance or for the carrying on of an abnormally dangerous activity at or near the Project Facility; and/or

(4) any other environmental matter affecting the Project Facility within the jurisdiction of the Environmental Protection Agency, any other federal agency, or any state or local agency.

The obligations of Indemnitor under this Agreement shall arise whether or not the Environmental Protection Agency, any other federal agency or any state or local agency has taken or threatened any action in connection with the presence of any Hazardous Substances.

(b) In the event of any discharge of Hazardous Substances, the threat of a discharge of any Hazardous Substances, or the presence of any Hazardous Substances affecting the Project Facility, whether or not the same originates or emanates from the Project Facility or any contiguous real estate, and/or if Indemnitor shall fail to comply with any of the requirements of the Hazardous Waste Laws or related regulations or any other environmental law or regulation, Agency may at its election, but without the obligation so to do, give such notices and/or cause such work to be performed at the Project Facility and/or take any and all other actions as Agency shall deem necessary or advisable in order to abate the discharge of any Hazardous Substance, remove the Hazardous Substance or cure the noncompliance of Indemnitor.

(c) Indemnitor acknowledges that Agency has relied upon the representations, warranties, covenants and indemnities of Indemnitor in this Agreement. All of the representations, warranties, covenants and indemnities of this Agreement shall survive the repayment of Indemnitor's obligations under the Agency Lease or other Company Documents.

5. **Attorney's Fees.** If Agency retains the services of any attorney in connection with the subject of the indemnity herein, Indemnitor shall pay Agency's costs and reasonable attorneys' fees thereby incurred. Agency may employ an attorney of its own choice.

6. **Interest.** In the event that Agency incurs any obligations, costs or expenses under this Agreement, Indemnitor shall pay such Person immediately on demand, and if such payment is not received within ten (10) days, interest on such amount shall, after the expiration of the ten-day period, accrue at the interest rate set forth in the Agency Lease until such amount, plus interest, is paid in full.

7. **No Waiver.** Notwithstanding any terms of the Company Documents to the contrary, the liability of Indemnitor under this Agreement shall in no way be limited or impaired by: (i) any extensions of time for performance required by any of the Company Documents; (ii) any sale, assignment or foreclosure of the Agency Lease or any sale or transfer of all or part of the Project Facility; (iii) the accuracy or inaccuracy of the representations and warranties made by Indemnitor under any of the Company Documents; or (iv) the release of Indemnitor or any other person from performance or observance of any of the agreements, covenants, terms or conditions contained in the Company Documents by operation of law, Agency's voluntary act, or otherwise; and, in any such case, whether with or without notice to Indemnitor and with or without consideration.

8. **Waiver by Indemnitor.** Indemnitor waives any right or claim of right to cause a marshalling of Indemnitor's assets or to cause Agency to proceed against any of the security for the Agency Lease before proceeding under this Agreement against Indemnitor or to proceed against Indemnitor in any particular order; Indemnitor agrees that any payments required to be made hereunder shall become due on demand; Indemnitor expressly waives and relinquishes all rights and remedies (including any rights of subrogation) accorded by applicable law to indemnitors or guarantors.

9. **Releases.** Any one or more of Indemnitor and any other party liable upon or in respect of this Agreement or the Agency Lease may be released without affecting the liability of any party not so released.

10. **Amendments.** No provision of this Agreement may be changed, waived, discharged or terminated orally, by telephone or by any other means except by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

11. **Joint and Several Liability.** In the event that this Agreement is executed by more than one party as Indemnitor, the liability of such parties is joint and several. A separate action or actions may be brought and prosecuted against each Indemnitor, whether or not an action is brought against any other person or whether or not any other person is joined in such action or actions.

12. **Consent to Jurisdiction.** Indemnitor consents to the exercise of personal jurisdiction over Indemnitor by any federal or state court in the State of New York and consent to the laying of venue in any jurisdiction or locality in the City of Syracuse. Service shall be effected by any means permitted by the court in which any action is filed.

13. **Notices.** All notices, certificates, and other communications hereunder shall be in writing, shall be sufficiently given, and shall be deemed given when (a) sent to the

applicable address stated below by registered or certified mail, return receipt requested, and actually received by the intended recipient or by overnight courier or such other means as shall provide the sender with documentary evidence of such delivery, or (b) delivery is refused by the addressee as evidenced by the affidavit of the Person who attempted to effect such delivery. The addresses to which notices, certificates, and other communications hereunder shall be delivered are as follows:

(a) If to the Agency, to:

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202
Attention: Chairman

With a copy to:

City of Syracuse
233 East Washington Street
Syracuse, New York 13202
Attn: Corporation Counsel

(b) To the Company:

Southside Genesee Associates, LLC
3 East Stow Road
Marlton, New Jersey 08053
Attn: James A. Malesich, Jr.

With a copy to:

Carol Zenzel, Esq.
6320 Fly Road, Suite 207
East Syracuse, New York 13057

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.

14. **Waivers.** The parties waive trial by jury in any action brought on, under or by virtue of this Agreement. Indemnitor waives any right to require Agency at any time to pursue any remedy in such Person's power whatsoever. The failure of Agency to insist upon strict compliance with any of the terms hereof shall not be considered to be a waiver of any such terms, nor shall it prevent Agency from insisting upon strict compliance with this Agreement or any other Company Document at any time thereafter.

15. **Severability.** If any clause or provisions herein contained operates or would prospectively operate to invalidate this Agreement in whole or in part, then such clause or

provision shall be held for naught as though not contained herein, and the remainder of this Agreement shall remain operative and in full force and effect.

16. **Inconsistencies Among the Company Documents.** Nothing contained herein is intended to modify in any way the obligations of Indemnitor under the Agency Lease or any other Company Document. Any inconsistencies among the Company Documents shall be construed, interpreted and resolved so as to benefit Agency.

17. **Successors and Assigns.** This Agreement shall be binding upon Indemnitor's successors, assigns, heirs, personal representatives and estate and shall inure to the benefit of Agency and its successors and assigns.

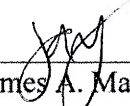
18. **Controlling Laws.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Indemnitor has executed this Agreement as of the date first above written.


SOUTHSIDE GENESEE ASSOCIATES, LLC
By: CG USL VENTURES I, LLC,
its Managing Member

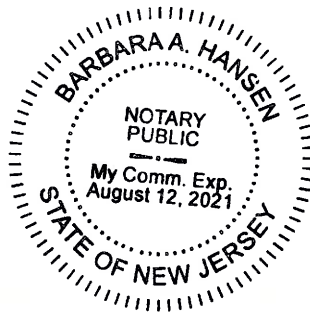
By: SYRACUSE-MICHAELS, LLC,
its Managing Member

By: 
James A. Malesich, Jr., Vice President

New Jersey
STATE OF ~~NEW YORK~~)
) SS.:
COUNTY OF ~~ONONDAGA~~)
Burlington

On the 29 day of March, in the year 2017 before me, the undersigned, a notary public in and for said state, personally appeared **James A. Malesich, Jr.**, 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



SCHEDULE "A"

LEGAL DESCRIPTION

1200-24 E. GENESEE STREET (inclusive of 509 Walnut):

All that certain plot, piece or parcel of land, with the building and improvements thereon erected, situate, lying and being in the City of Syracuse, County of Onondaga and State of New York, known as Lot 1, 8 and Part of Lots 2, 7 and 11, being part of Block No. 410 in said City, bounded and described as follows:

Beginning at the intersection of the southerly line of East Genesee Street with the easterly line of Walnut Avenue, running thence N 88°-11'-00" E a distance of 286.12 feet along the southerly line of East Genesee Street to a point in the westerly line of Comstock Avenue, thence S 4°-20'-10" E a distance of 143.80 feet along the westerly line of Comstock Avenue to a point, thence S 88°-11'-00" W a distance of 40.0 feet to a point, thence S 4°-20'-10" E a distance of 40.0 feet to a point, thence S 88°-11'-00" W a distance of 42.44 feet to a point, thence S 3°-20'-30" E a distance of 67.21 feet to a point, thence S 86°-05'-40" W a distance of 49.5 feet to a point, thence N 3°-20'-30" W a distance of 23.83 feet to a point, thence N 88°-24'-45" W a distance of 49.67 feet to a point, thence N 3°-20'-30" W a distance of 16.41 feet to a point, thence N 89°-31'-30" W a distance of 121.73 feet to a point in the easterly line of Walnut Avenue, thence N 0°-28'-30" E a distance of 204.74 feet along the easterly line of Walnut Avenue to a point in the southerly line of East Genesee Street and the place of beginning.

511 WALNUT AVENUE:

ALL THAT TRACT OR PARCEL OF LAND SITUATE, in the City of Syracuse aforesaid being that part of farm lot No. 199 and that part of Block No. 410 in said City according to Borden and Griffen's map bounded and described as follows: Beginning at a point in the east line of Spruce Street, 205.06 feet south of the south line of Genesee, thence east at right angles to Spruce Street about 119 feet to the east line of lands formerly owned by Genesee & Water Street Railroad Company, thence south along said east line 33 3/40 feet, thence west parallel with the first mentioned line 123.16 feet to Spruce Street, thence north on the east line of Spruce Street 33 feet to the place of beginning.

Excepting and reserving the rights of way over a strip of land five (5) feet wide off of the north side of the premises herein conveyed.

SCHEDULE "B"

EXCEPTIONS

The following reports are on file with the Agency:

1. Phase I Environmental Site Assessment (12 Properties, Syracuse, New York)
Prepared for: University Student Living, 3 East Stow Road, P.O. Box 994, Marlton, NJ 08053
Prepared by: Synapse Property Resources
Dated February 2017
2. Limited Hazardous Materials Pre-Demolition Survey Report
Commercial Building, 511 Walnut Avenue, Syracuse, New York 13210
Prepared by Arctic Enterprises, Inc.; Arctic Project Number: 1600.293(B)
Dated December 30, 2016

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CLOSING RECEIPT

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY LEASE/SUBLEASE TRANSACTION SOUTHSIDE GENESEE ASSOCIATES, LLC

CLOSING RECEIPT executed March 31, 2017 by the City of Syracuse Industrial Development Agency (the “*Agency*”) and **SOUTHSIDE GENESEE ASSOCIATES, LLC** (the “*Company*”) in connection with a certain project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “*Existing Buildings*”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

WITNESSETH:

(1) The Agency has executed, delivered, sealed and acknowledged, where appropriate, the documents to which it is a party, and acknowledges receipt from the Company of its administrative fee.

(2) The Company has executed, delivered, sealed and acknowledged, where appropriate, the documents to which it is a party.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

William M. Ryan, Chairman

SOUTHSIDE GENESEE ASSOCIATES, LLC
By: CG USL VENTURES I, LLC,
its Managing Member

By: SYRACUSE-MICHAELS, LLC,
its Managing Member

By: 

James A. Malesich, Jr., Vice President

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City of Syracuse
Industrial Development Agency
City Hall Commons, 7th Floor
201 East Washington Street
Syracuse, NY 13202
Tel (315) 473-3275 Fax (315) 435-3669

March 10, 2017

Southside Genesee Associates, LLC
3 East Stow Road
Marlton, New Jersey 08053
Attn: James Malesich, Jr.

Re: City of Syracuse Industrial Development Agency
Southside Genesee Associates, LLC
Sales Tax Appointment Letter

Dear Mr. Malesich:

Pursuant to a resolution duly adopted on January 24, 2017, the City of Syracuse Industrial Development Agency (the “*Agency*”) appointed Southside Genesee Associates, LLC (the “*Company*”) the true and lawful agent of the Agency to undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “*Existing Buildings*”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement. The amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved by the Agency for the benefit of the Project shall not exceed **\$1,440,000**.

This appointment includes, and this letter evidences, authority to purchase on behalf of the Agency all materials to be incorporated into and made an integral part of the Project Facility and the following activities as they relate to any renovation, improvement, equipping and completion of any of any buildings, whether or not any materials, equipment or supplies described below are incorporated into or become an integral part of such buildings: (1) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with renovation, improvement and equipping; (2) all purchases, rentals, uses or consumption of supplies, materials, utilities and services of every kind and description used in connection with renovation, improvement and equipping; and (3) all purchases, leases, rentals and uses of equipment, machinery and other tangible personal property (including installation costs), installed or placed in, upon or under such building or facility, including all repairs and replacements of such property, and with respect to such specific purchases or rentals, are exempt from any sales or use tax imposed by the State of New York or any governmental instrumentality located within the State of New York.

This agency appointment includes the power to delegate such agency, in whole or in part, to a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "***Additional Agents***"). Additional Agents must be specifically appointed by the Company in accordance and compliance with the terms of the Agency Lease. The Company hereby agrees to complete "IDA Appointment of Project Operator or Agent for Sales Tax Purposes" (Form ST-60) for itself and each Additional Agent who provide materials, equipment, supplies or services to the Project Facility and deliver said form to the Agency within fifteen (15) days of appointment such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment. The Agency's obligation to execute any Form ST-60 relative to an Additional Agent is subject to the satisfaction of the conditions in the Agency Lease relative to such appointments.

The Company agrees, whenever requested by the Agency, to provide, or cause its Additional Agents to provide and certify, or cause to be certified, such information regarding use of local labor, job creation, exemptions from State and local sales and use tax, real property taxes and mortgage recording taxes and other topics as the Agency from time to time reasonably considers necessary or appropriate, including, but not limited to, such information as to enable the Agency to make any reports required by law or governmental regulation, including but not limited to those required by §875 of the Act.

The Company acknowledges and agrees that pursuant to Section 875(3) of the Act, and in conjunction with the Agency's Recapture of Benefits Policy, (the "***Recapture Policy***"), the Agency shall, and in some circumstances may, recover, recapture, receive or otherwise obtain from the Company some or all of the Financial Assistance (the "***Recapture Amount***") in accordance with the Agency's Recapture Policy and the Project Agreement between the Agency and the Company, dated as of March 10, 2017.

March 10, 2017

Page 3

Each supplier or vendor should identify the Project Facility on each bill or invoice and indicate thereon which of the Company or its Additional Agents acted as agent for the Agency in making the purchase.

In order to be entitled to use this exemption, you and each Additional Agent should present to the supplier or other vendor of materials for the Project Facility, a completed "IDA Agent or Project Operator Exempt Purchase Certificate" (Form ST-123).

In addition, General Municipal Law §874(8) requires you to file an Annual Statement with the New York State Department of Taxation and Finance ("**NYSDTF**") on "Annual Report of Sales and Use Tax Exemptions" (Form ST-340) regarding the value of sales and use tax exemptions you and your Additional Agents have claimed pursuant to the agency we have conferred on you with respect to this Project. The penalty for failure to file such statement is the removal of your authority to act as our agent. In addition, you must provide a copy of the completed Form ST-340 to the Agency within ten (10) days of the date it is due to be filed with the NYSDTF.

The agency created by this letter is limited to the Project Facility, and will expire on the earlier of: (i) **March 31, 2019**, (ii) sixty days after the issuance of a certificate of occupancy by the City; or (iii) the termination of the Agency Lease. You may apply to extend this agency authority by showing good cause.

This letter is provided for the sole purpose of evidencing, in part, the exemption from New York State Sales and Use Taxes **for this project only**. No other principal/agent relationship is intended or may be implied or inferred by this letter.

The Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder. By acceptance of this letter, the vendor hereby acknowledges the limitations on liability described herein.

Very truly yours

CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By: 
William M Ryan, Chairman

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IDA Appointment of Project Operator or Agent For Sales Tax Purposes

ST-60

(4/13)

The industrial development agency or authority (IDA) **must** submit this form within 30 days of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

For IDA use only

Name of IDA City of Syracuse Industrial Development Agency		IDA project number (use OSC numbering system for projects after 1998) 31021717	
Street address 201 East Washington Street, 7th Floor		Telephone number (315) 473-3275	
City Syracuse		State NY	ZIP code 13202
Name of IDA project operator or agent Southside Genesee Associates, LLC	Mark an X in the box if directly appointed by the IDA: <input checked="" type="checkbox"/>	Employer identification or social security number 81-5081696	
Street address 3 East Stow Road		Telephone number (856) 596-0500	Primary operator or agent? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
City Marlton		State NJ	ZIP code 08053
Name of project Southside Genesee Associates, LLC Project		Purpose of project (see instructions) other - commercial	
Street address of project site 1200-24 East Genesee Street and 509 and 511 Walnut Avenue			
City Syracuse		State NY	ZIP code
Description of goods and services intended to be exempted from New York State and local sales and use taxes building materials, equipment, fixtures and furnishings installed in the Project Facility			

Date project operator or agent appointed (mm/dd/yy) 03/10/17	Date project operator or agent status ends (mm/dd/yy) 03/31/19	Mark an X in the box if this is an extension to an original project: <input type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax: \$18,000,000	Estimated value of New York State and local sales and use tax exemption provided: \$1,440,000	

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

Print name of officer or employee signing on behalf of the IDA William M. Ryan	Print title Chairman
Signature 	Date 3-30-17
	Telephone number (315) 473-3275

Instructions

Filing requirements

An IDA must file this form within 30 days of the date the IDA appoints any project operator or other person as agent of the IDA, for purposes of extending any sales and compensating use tax exemptions.

The IDA must file a separate form for each person it appoints as agent, whether directly or indirectly, and regardless of whether the person is the primary project operator or agent. If the IDA authorizes a project operator or agent to appoint other persons as agent of the IDA, the operator or agent making such an appointment must advise the IDA that it has done so, so that the IDA can file a form within 30 days of the date of the new agent's appointment. The IDA should not file this form for a person hired to work on an IDA project if that person is not appointed as agent of the IDA. The IDA need not file this form if the IDA does not extend any sales or use tax exemption benefits for the project.

If an IDA modifies a project, such as by extending it beyond its original completion date, or by increasing or decreasing the amount of sales and use tax exemption benefits authorized for the project, the IDA must, within 30 days of the change, file a new form with the new information.

If an IDA amends, revokes, or cancels the appointment of an agent, or if an agent's appointment becomes invalid for any reason, the IDA must, within 30 days, send a letter to the address below for filing this form, indicating that the appointment has been amended, revoked, or cancelled, or is no longer valid, and the effective date of the change. It should attach to the letter a copy of the form it originally filed. The IDA need not send a letter for a form that is not valid merely because the "Completion date of project" has passed.

Purpose of project

For Purpose of project, enter one of the following:

- Services
- Agriculture, forestry, fishing
- Finance, insurance, real estate
- Transportation, communication, electric, gas, sanitary services
- Construction
- Wholesale trade
- Retail trade
- Manufacturing
- Other (specify)

Mailing instructions

Mail completed form to:

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

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?

Internet access: www.tax.ny.gov
(for information, forms, and publications)

Sales Tax Information Center: (518) 485-2889

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

BARCLAY DAMON ^{LLP}

Susan R. Katzoff
Partner

April 5, 2017

VIA CERTIFIED MAIL
7016 1970 0000 3833 4105

New York State Tax Department
IDA Unit
Building 8, Room 738
W.A. Harriman Campus
Albany, New York 12227

Re: IDA Appointment of Project Operator or Agent for Sales Tax Purposes
City of Syracuse Industrial Development Agency Appointment of
Southside Genesee Associates, LLC (Southside Genesee Associates, LLC Project)
IDA Project No. 31021707

Dear Ladies and Gentlemen:

Enclosed for filing on behalf of the City of Syracuse Industrial Development Agency, please find form ST-60 in connection with the appointment by the IDA of Southside Genesee Associates, LLC as its agent for sales tax purposes in connection with the IDA project identified therein.

Please do not hesitate to contact me with any questions. Thank you.

Very truly yours,
COPY
Susan R. Katzoff

SRK:llm
Enclosure

USPS TRACKING#



9590 9402 2491 6306 6671 90



First-Class Mail
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United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

BARCLAY DAMON, LLP
Barclay Damon Tower
125 East Jefferson Street
Syracuse, NY 13202

Attn: Lori McRobbie

3084801

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature</p> <p>X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>New York State Tax Department IDA Unit Building 8, Room 738 W.A. Harriman Campus Albany, New York 12227</p>		<p>B. Received by (Printed Name)</p> <p>REC'D NY TAX DEPT.</p> <p>C. Date of Delivery</p> <p>APR 10 2017</p>	
<p>2. Article Number (Transfer from)</p> <p>7016 1970 0000 3833 4105</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>		<p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

7016 1970 0000 3833 4105

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$
Sent To	
Street and Apt. No., or PO Box No.	
City, State, ZIP+4®	

Postmark
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**GENERAL CERTIFICATE OF THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

This certificate is made in connection with the execution by the City of Syracuse Industrial Development Agency (the "**Agency**") of the Project Agreement, the Company Lease, the Agency Lease, the Mortgage and any other document now or hereafter executed by the Agency (collectively, the "**Agency Documents**") with respect to a project (the "**Project**") undertaken at the request of Southside Genesee Associates, LLC (the "**Company**") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "**Existing Buildings**") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

Capitalized terms used herein which are not otherwise defined herein and which are defined in the Agency Lease Agreement dated as of March 10, 2017 (the "**Agency Lease**"), between the Agency and the Company, and shall have the meanings ascribed to such terms in the Agency Lease except that, for purposes of this certificate: (A) all definitions with respect to any document shall be deemed to refer to such document only as it exists as of the date of this certificate and not as of any future date; and (B) all definitions with respect to any Person shall be deemed to refer to such Person only as it exists as of the date of this certificate and not as of any future date or to any successor or assign.

I, the undersigned Chairman of the Agency, Do Hereby Certify:

1. I am an officer of the Agency and am duly authorized to execute and deliver this certificate in the name of the Agency.

2. The Agency is an industrial development agency duly established under Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended (the "**Enabling Act**") and Chapter 641 of the Laws of 1979 of the State (said Chapter with the Enabling Act, the "**Act**") (a certified copy of Chapter 641 of the Laws of 1979 of the State is

attached hereto as **Exhibit "A"**), and it is a corporate governmental agency constituting a public benefit corporation of the State.

3. The Act empowers the Agency, among other things, to acquire, construct reconstruct, lease, improve, maintain, equip, 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 or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, recreation or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the City of Syracuse and the State and to improve their standard of living. The Act further authorizes the Agency to lease any and all of its facilities on such terms and conditions as it deems advisable, to acquire, construct, lease, improve, and equip one or more projects as defined in the Act, to mortgage any or all of its facilities and to pledge the revenues and receipts from the sale or transfer of its facilities.

4. The Agency has full legal power and authority to own its property, conduct its business and execute, deliver, and perform its obligations under the Agency Documents and has taken all actions and obtained all approvals required in connection therewith by the Act and any other applicable laws and regulations, and no legislation has been enacted affecting the powers or authority of the Agency to execute and deliver the Agency Documents, affecting the financing of the Project, or affecting the validity thereof or of the Agency Documents, or contesting the existence and powers of the Agency or the appointment of the members and officers of the Agency to their respective offices.

5. Pursuant to the Act, the governing body of the City of Syracuse, New York, for whose benefit the Agency was established, duly filed or caused to be filed within six (6) months after the effective date of Chapter 641 of the Laws of 1979 of the State in the office of the Secretary of State of the State the Certificate of Establishment of the Agency pursuant to Section 926 of the New York General Municipal Law. The Certificate of Establishment of the Agency described in the preceding sentence also named the members and officers of the Agency as appointed by the Mayor of the City of Syracuse. Attached hereto as **Exhibit "B"** are certified copies of said Certificates of Establishment and copies of the Certificates of Appointment relating to all of the current members of the Agency, who are:

William M. Ryan	Chairman
M. Catherine Richardson	Vice Chairman
Steven Thompson	Secretary
Donald Schoenwald	Treasurer
Kenneth Kinsey	Member

6. Attached hereto as **Exhibit "C"** is a true, correct and complete copy of the by-laws of the Agency, together with all amendments thereto or modifications thereof; and said by-laws as so amended and modified are in full force and effect in accordance with their terms as of the date of this certificate.

7. That a resolution determining that the acquisition, construction, equipping and completion of a mixed-use commercial facility constitutes a Project and describing the financial assistance in connection therewith and authorizing a public hearing (the “**Public Hearing Resolution**”) was adopted by the Agency on December 20, 2016 and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Public Hearing Resolution is attached hereto at **Exhibit “D.”**

8. Attached hereto as **Exhibit “E”** is proof of publication of a notice of the public hearing with respect to the Project (the “**Public Hearing Notice**”), required pursuant to Section 859-a of the Act and held on January 24, 2017, and proof of mailing of notice thereof pursuant to Section 859-a of the Act to the chief executive officers of the affected tax jurisdictions (as defined in Section 854(16) of the Act) on January 11, 2017.

9. That a resolution classifying the Project as an Unlisted Action pursuant to SEQRA, declaring the Agency lead agency for the purposes of an uncoordinated review thereunder and determining that the Project will not have a significant effect on the environment (the “**SEQRA Resolution**”) was adopted by the Agency on January 24, 2017 and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the SEQRA Resolution is attached hereto at **Exhibit “F.”**

10. That a resolution authorizing the undertaking, acquisition, construction, equipping and completion of a commercial facility, appointing the Company as agent of the Agency for the purpose of the acquisition, construction, equipping and completion of the Project, and authorizing the execution and delivery of an agreement between the Agency and the Company (the “**Inducement Resolution**”) was adopted by the Agency on January 24, 2017 and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Inducement Resolution is attached hereto at **Exhibit “G.”**

11. That a resolution authorizing the execution and delivery of certain documents by the Agency in connection with the Project was adopted by the Agency on January 24, 2017 (the “**Final Approving Resolution**”) and remains in full force and effect and has not been rescinded, repealed or modified. A copy of the Final Approving Resolution is attached hereto at **Exhibit “H”**.

12. The execution, delivery and performance of all Agency Documents, certificates and documents required to be executed, delivered and performed by the Agency in order to carry out, give effect to and consummate the transactions contemplated by the Agency Documents have been duly authorized by all necessary action of the Agency, and the Agency Documents have been duly authorized, executed and delivered. The Agency Documents are in full force and effect on and as of the date hereof, and no authority or proceeding for the execution, delivery or performance of the Agency Documents has been materially amended, repealed, revoked or rescinded; and no event or circumstance has occurred or exists which constitutes, or with the giving of notice or the passage of time would constitute, a default on the part of the Agency under the Agency Documents.

13. The execution, delivery, and performance of the Agency Documents, the consummation of the transactions therein contemplated and compliance with the provisions of each

do not and will not: (a) violate the Act or the by-laws of the Agency; (b) require consent (which has not heretofore been received) under or result in a breach or default of any credit agreement, purchase agreement, indenture, deed of trust, commitment, guaranty, lease, or other agreement or instrument to which the Agency is a party or by which the Agency may be bound or affected; or (c) conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction, or decree of any government, governmental instrumentality, or court, domestic or foreign, having jurisdiction over the Agency or any of its Property.

14. The Agency has not received written notice that any event of default has occurred and is continuing, or that any event has occurred which with the lapse of time or the giving of notice or both would constitute an event of default by any party to the Agency Documents.

15. There is no action, suit, proceeding or investigation at law or in equity, before or by any court, public board or body of the United States of America or the State of New York, pending or, to the best of my knowledge, threatened against or affecting the Agency (or to my knowledge any basis therefor): (a) wherein an unfavorable decision or finding would adversely affect (i) the Inducement Resolution, the Final Approving Resolution, the Company Lease, the Agency Lease or the other Agency Documents; or (ii) the existence or organization of the Agency; or (iii) restrain or enjoin the financing, acquisition or construction of the Project or the performance by the Agency of the Agency Documents; or (b) in any manner questioning the proceedings or authority of the financing of the Project, or affecting the validity thereof or of the Agency Documents, or contesting the existence and powers of the Agency or the appointment of the directors and officers of the Agency to their respective offices.

16. March 31, 2017 has been duly designated as the date for the Closing.

17. The Agency has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to the Closing Date.

18. In accordance with the Act, the Agency has determined:

(a) to assist the Company's acquisition, construction, equipping and completion of the Project Facility;

(b) to grant the Financial Assistance to the Company;

(c) to designate the Company as the Agency's agent for the acquisition, construction, equipping and completion of the Project Facility and to authorize the Company to appoint additional agents; and

(d) to pledge its interest in the Company Lease and the Agency Lease (except the Agency's Unassigned Rights) to the Mortgagee and grant the Mortgagee a security interest in the Agency's leasehold interest in the Project Facility.

19. That I did officially cause all certificates necessary for the financing and included in the official transcript of closing, to be executed, as required, in the name of the Agency by the signing of each of such certificates with the signature of the (Vice) Chairman of the Agency.

20. That I did officially cause the following Agency Documents to be executed in the name of the Agency by the signing of each of such Agency Documents with the signature of the William M. Ryan, Chairman of the Agency:

(a) a Project Agreement between the Agency and the Company;

(b) a Company Lease from the Company to the Agency pursuant to which the Company agrees to lease the Land and the Facility to the Agency; and

(b) an Agency Lease from the Agency to the Company pursuant to which the Agency agrees to sublease the Project Facility to the Company.

21. No member, officer or employee of the Agency having power to: (i) negotiate, prepare, authorize or approve any of the Agency Documents; (ii) audit bills or claims under any of the Agency Documents; or (iii) appoint an officer or employee who has any of the powers or duties set forth in (i) or (ii):

(a) directly or indirectly owns any stock of the Company;


(b) is a partner, director or employee of the Company;

(c) is related to the Company within the meaning of Section 800.3(a) of the New York General Municipal Law.

No member, officer, or employee of the Agency has publicly disclosed, in a writing included as part of the official minutes of the Agency, any Interest (as defined in Section 800.3 of the New York General Municipal Law), direct or indirect, in the Developer.

WITNESS, as of the 10th day of March, 2017.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: 

William M. Ryan, Chairman

EXHIBIT "A"

**CHAPTER 641 OF THE LAWS OF 1979
OF THE STATE OF NEW YORK**

LAWS OF NEW YORK, 1979

CHAPTER 641

AN ACT to amend the general municipal law, in relation to creating and establishing for the city of Syracuse industrial development agency and, providing for its functions and duties

Became a law July 11, 1979, with the approval of the Governor. Passed on Home Rule request pursuant to Article IX, section 2 (b) (2) of the Constitution, by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general municipal law is amended by adding a new section nine hundred twenty-six to read as follows:

§ 926. *City of Syracuse industrial development agency. (a) For the benefit of the city of Syracuse and the inhabitants thereof, an industrial development agency, to be known as the CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter. It shall constitute a body corporate and politic, and be perpetual in duration. It shall consist of five members who shall be appointed by the mayor of the city of Syracuse and its chairman shall be designated by such mayor. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of this chapter upon industrial development agencies. It shall organize in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. The agency, its members, officers and employees, and its operations and activities shall in all respects be governed by the provisions of title one of article eighteen-A of this chapter.*

(b) The city shall have the power to make, or contract to make grants or loans, including but not limited to grants or loans of money, to the agency in such amounts, upon such terms and conditions and for such period or periods of time as in the judgment of the city and the agency are necessary or appropriate for the accomplishment of any of the purposes of the agency.

§ 2. This act shall take effect immediately.

EXHIBIT "B"

**AGENCY'S CERTIFICATE OF ESTABLISHMENT
AND
CERTIFICATES OF APPOINTMENT OF CURRENT MEMBERS**

CERTIFICATE OF THE CITY OF SYRACUSE
INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to Article 18-A of the General Municipal Law, Lee Alexander, Mayor of the City of Syracuse, certifies as follows:

- 1) The name of the industrial development agency herein is the City of Syracuse Industrial Development Agency.
- 2) Chapter 641 of the Laws of 1979, the special act of the New York State Legislature establishing the City of Syracuse Industrial Development Agency, was adopted by the New York State Legislature on June 16, 1979 and signed by the Governor on July 18, 1979.
- 3) The names of the Chairman and the Members, respectively, of the City of Syracuse Industrial Development Agency and their terms of office are as follows:

(a)	Frank L. Canino	Chairman
	David M. Garber	Member
	David S. Michel	Member
	Erwin G. Schultz	Member
	Irwin L. Davis	Member

- (b) The term of office of the Chairman and of the Members of the City of Syracuse Industrial Development Agency is at the pleasure of the Mayor and continues until a successor is appointed and has qualified.

- 4) The facts establishing the need for the creation of a City of Syracuse Industrial Development Agency are as follows:

Expansion of its industrial-commercial base is essential to the City of Syracuse, especially in a time of mounting economic pressures. To achieve this goal of expansion, the City has designed a comprehensive economic development program, requiring an Industrial Development Agency.

The existing potential for economic development will be augmented by the financial incentives of an Industrial Development Agency. Various City agencies and departments, such as the Department of Community Development and the Office of Federal and State Aid Coordination will interface with the Syracuse Industrial Development Agency to strengthen the business and industrial climate of the community.

Access to the Department of Community Development will make available to the Syracuse Industrial Development Agency an array of staff assistance, technical expertise, and various other development services. The City's Office of Federal and State Aid Coordination will provide assistance to it in locating, analyzing, and obtaining various forms of federal and state assistance and participation.

STATE OF NEW YORK
DEPARTMENT OF STATE

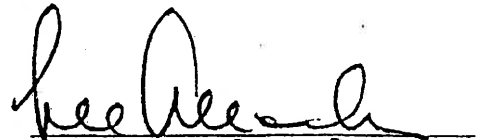
FILED JUL 20 1979

Bill Paterson

Member of State

The Syracuse Industrial Development Agency, in combination with, and utilizing these and other resources, will greatly enhance the City's ability to compete for, and successfully attract, the commercial and industrial enterprises necessary for continued economic health and growth.

July 20, 1979


Lee Alexander
Mayor

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED JUL 20 1979


Secretary of State

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CITY OF SYRACUSE
DEPARTMENT OF LAW
OFFICE OF THE MAYOR

Stephanie A. Miner, Mayor

**CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member and officer of the City of Syracuse Industrial Development Agency:

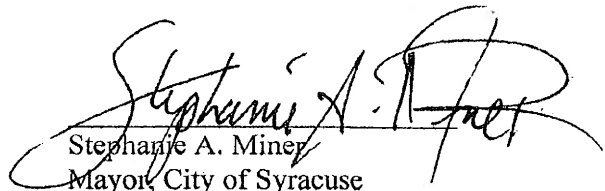
Mr. William Ryan - Member/Chairman

The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Mr. Irwin Davis -Member/Chairman

No Member or Officer of the City of Syracuse Industrial development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 15, 2010.


Stephanie A. Miner
Mayor, City of Syracuse



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DEPARTMENT OF STATE

OFFICE OF THE MAYOR

Stephanie A. Miner

CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

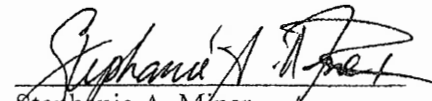
Pursuant to Article 18-A of the General Municipal Law of the State of New York,
Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of
the following person as a ~~Member~~ ^{AN OFFICER} of the City of Syracuse Industrial Development
Agency:

M. Catherine Richardson

- Member/Vice Chair

No Member or Officer of the City of Syracuse Industrial development Agency shall
receive any compensation for the discharge of their duties as Member or Officer of the
Agency, but shall be entitled to necessary expenses incurred in the discharge of their
duties as such Member or Officer.

The appointment herein set forth shall be effective as of February 12, 2010.


Stephanie A. Miner
Mayor, City of Syracuse



OFFICE OF THE MAYOR

Stephanie A. Miner, Mayor

CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member of the City of Syracuse Industrial Development Agency:

Mr. Donald Schoenwald

- Member

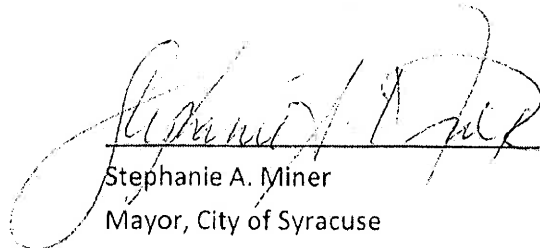
The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Mr. Kenneth Mokrzycki

- Member

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of March 1, 2011.


Stephanie A. Miner
Mayor, City of Syracuse



OFFICE OF THE MAYOR

Stephanie A. Miner, Mayor

**CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member of the City of Syracuse Industrial Development Agency:

Mr. Steve Thompson

- Member/Secretary

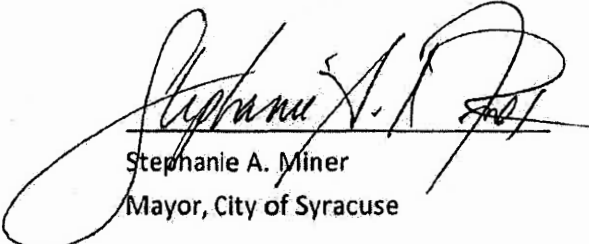
The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Mr. John Gamage

- Member/Secretary

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 6, 2014.


Stephanie A. Miner
Mayor, City of Syracuse



OFFICE OF THE MAYOR

Stephanie A. Miner, Mayor

**CERTIFICATE OF APPOINTMENT TO THE
CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**

Pursuant to Article 18-A of the General Municipal Law of the State of New York, Stephanie A. Miner, Mayor of the City of Syracuse, hereby certifies the appointment of the following person as a Member of the City of Syracuse Industrial Development Agency:

Mr. Kenneth Kinsey

- Member

The following Member and Officer of the City of Syracuse Industrial Development Agency shall no longer serve as Member or Officer of said Agency:

Ms. Pamela Hunter

- Member

No Member or Officer of the City of Syracuse Industrial Development Agency shall receive any compensation for the discharge of their duties as Member or Officer of the Agency, but shall be entitled to necessary expenses incurred in the discharge of their duties as such Member or Officer.

The appointment herein set forth shall be effective as of January 13, 2016.

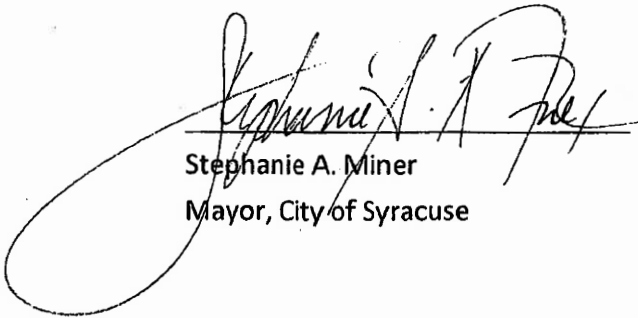

Stephanie A. Miner
Mayor, City of Syracuse

EXHIBIT "C"

AGENCY'S BY-LAWS

**BY-LAWS OF
THE CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY
(as amended August 18, 2009)**

Article I

THE AGENCY

Section 1. Name

The name of the agency shall be "City of Syracuse Industrial Development Agency", and it shall be referred to in these by-laws as the Agency.

Section 2. Seal

The seal of the Agency shall be in such form as may be determined by the members of the Agency.

Section 3. Office

The principal office of the Agency shall be located in the City of Syracuse, New York, County of Onondaga, and State of New York. The Agency may have such other offices at such other places as the members of the Agency may, from time to time, designate by resolution.

Article II

MEMBERS

Section 1. Members

(a) There shall be five members of the Agency. All references in these by-laws to members shall be references to Members of the Agency. The persons designated in the certificates of appointment filed in the office of the Secretary of State as members of the Agency and their successors in office and such other persons as may, from time to time, be appointed as

Members of the Agency by the Mayor of the City of Syracuse, or by special act of the Legislature, shall constitute all the members.

(b) Members shall hold office at the pleasure of the Mayor and shall continue to hold office until his or her successor is appointed and has qualified. The Mayor may remove any Member at his discretion, with or without cause.

(c) Upon the resignation or removal of a Member, a successor shall be selected by the Mayor.

(d) Members may resign at any time by giving written notice to the Mayor and to the Chairman of the Agency. Unless otherwise specified in the notice the resignation shall take effect upon receipt of the notice by the Chairman or the Mayor. Acceptance of the resignation shall not be necessary to make it effective.

Section 2. Meeting of the Members

(a) The Annual Meeting of the members shall be held on such date or dates as shall be fixed, from time to time, by the Members of the Agency. The first Annual Meeting of Members shall be held on a date within twelve (12) months after the filing of the Certificate of the Agency with the Secretary of State as required by General Municipal Law §856 (l) (a). Each successive Annual Meeting of Members shall be held on a date not more than twelve (12) months following the preceding Annual Meeting of Members.

(b) Regular meetings of the Agency may be held at such time and place as, from time to time, may be determined by the Members.

(c) Upon the written request of the Mayor, the Chairman or two (2) Members of the Agency, the Chairman of the Agency shall call a special meeting of the Members. Special meetings may be held on such date or dates as may be fixed in the call for such special meetings.

The call for a special meeting may be personally delivered to each Member of the Agency or may be mailed to the business or home address of such Member. A waiver of notice may be signed by any Member failing to receive a proper notice.

Section 3. Procedure at Meetings of Members

(a) The Chairman shall preside over the meetings of the Agency. In the absence of the Chairman, the Vice-Chairman shall preside. In the absence of both the Chairman and Vice-Chairman, any Member directed by the Chairman may preside.

(b) At all meetings of Members, a majority of the Members of the Agency shall constitute a quorum for the purpose of transacting business. If less than a quorum is present for any meeting, the Members then present may adjourn the meeting to such other time or until a quorum is present. Except to the extent provided for by law, all actions shall be by a majority of the votes cast, provided that the majority of the votes cast shall be at least equal to a quorum.

(c) When determined by the Agency that a matter pending before it is confidential in nature, it may, upon motion, establish an executive session and exclude any non-member from such session.

(d) Order of business

At all meetings of the Agency, the following shall be the order of business:

- (1) Roll Call;
- (2) Proof of Notice of Meeting;
- (3) Reading and approval of the minutes of the previous meeting;
- (4) bills and communications;
- (5) Report of the Treasurer;
- (6) Reports of Committees;

- (7) Unfinished business;
- (8) New business;
- (9) Adjournment.

The order of business may be altered or suspended at any meeting by the Members of the Agency.

(e) All resolutions shall be in writing and shall be recorded in the journal of the proceedings of the Agency.

Article III

OFFICERS AND PERSONNEL

Section 1. Officers

The officers of the Agency shall be Chairman or Co-Chairman, Vice-Chairman, Secretary and Treasurer and such other offices as may be prescribed, from time to time, by the Agency. The Chairman or Co-Chairman and other officers shall be appointed by the Mayor of the City of Syracuse and may be removed with or without cause at his discretion. Each officer shall be a Member of the Agency during his or her term of office.

Section 2. Chairman or Co-Chairmen

The Chairman shall be chief executive officer of the Agency, and shall serve as an ex officio member of all duly constituted committees, shall supervise the general management and the affairs of the Agency, and shall carry out the orders and resolutions of the Agency. Except as otherwise authorized by resolution of the Agency, the Chairman shall execute (manually and by facsimile signature) all agreements, contracts, deeds, bonds, notes or other evidence of indebtedness and any other instruments of the Agency on behalf of the Agency. The Mayor may from time to time appoint two Co-Chairmen in place of the Chairman. During their term of office the Co-

Chairmen shall share equally the duties, rights, powers and responsibilities of the Chairman. The action of either Co-Chairman or execution (manually or by facsimile signature) by either Co-Chairman of any agreement, contract, deed, bond, note or other evidence of indebtedness or any other instrument of the Agency on behalf of the Agency shall have the same force and effect as such action or execution by the Chairman.

Section 3. Vice-Chairman

The Vice-Chairman shall have all the powers and functions of the Chairman or Co-Chairmen in the absence or disability of the Chairman or Co-Chairmen, as the case may be. The Vice-Chairman shall perform such other duties as the Members of the Agency shall prescribe or as delegated by the Chairman or Co-Chairmen.

Section 4. Secretary

The Secretary shall keep the minutes of the Agency, shall have the custody of the seal of the Agency and shall affix and attest the same to documents when duly authorized by the Agency, shall attest to the giving or serving of all notices of the Agency, shall have charge of such books and papers as the Members of the Agency may order, shall attest to such correspondence as may be assigned, and shall perform all the duties incidental to his office.

Section 5. Treasurer

The Treasurer shall have the care and custody of all the funds and securities of the Agency, shall deposit such funds in the name of the Agency, in such bank or trust company as the members of the Agency may elect, shall sign such instrument as may require the Treasurer's signature, but only with the approval of the Chairman or Co-Chairman, as the case may be, shall at all reasonable times exhibit the books and accounts of the Agency to the Mayor or any Member of

the Agency, and at the end of each fiscal year shall present an annual report setting forth in full the financial condition of the Agency.

Section 6. Additional Personnel

The Agency, with the consent of the Mayor, may appoint an Administrative or Executive Director to supervise the administration of the business and affairs of the Agency, subject to the direction of the Agency. The Agency may, from time to time, employ such other personnel as it deems necessary to execute its powers, duties and functions as prescribed by the New York State Industrial Development Agency Act (General Municipal Law, Article 18-A), as amended, and all other laws of the State of New York applicable thereto.

Section 7. Compensation of Chairman, Co-Chairmen, Members, Officers, and Other Personnel

The Chairman, Co-Chairmen, Members and Officers shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties. The compensation of other personnel, including the Administrative Director, shall be determined by the Members of the Agency.

Article IV

AMENDMENTS

Section 1. Amendments to By-Laws

These by-laws may be amended or revised, from time to time, by a two-third (2/3) vote of the Agency, but no such amendment or revision shall be adopted unless written notice of the proposed action shall have been given by mail to each Member and the Mayor at least ten (10) days prior to the date of the meeting at which it is proposed that such action be taken; provided, however,

that this provision and other provisions relating to the appointment, renewal and terms of office of Members and officers may be amended only with the prior written approval of the Mayor.

Article V

MISCELLANEOUS

Section 1. Sureties and Bonds

In case the Agency shall so require, any officer, employee or agent of the Agency shall execute to the Agency a bond in such sum and with such surety or sureties as the Agency may direct, conditioned upon the faithful performance of his or her duties to the Agency and including responsibility for negligence and for the accounting for all property, funds or securities of the Agency which may come into the hands of the officer, employee or agent.

Section 2. Indemnification

(a) Upon compliance by a Member or Officer of the Agency (including a former Member or Officer, the estate of a Member or Officer or a judicially appointed personal representative thereof) (referred to in this Section 2 collectively as "Member") with the provisions of subdivision (i) of this Section 2, the Agency shall provide for the defense of the Member in any civil action or proceeding, state or federal, arising out of any alleged act or omission which occurred or allegedly occurred while the Member was acting within the scope of the public employment or duties of such Member. This duty to provide for a defense shall not arise where such civil action or proceeding is brought by or at the behest of the Agency.

(b) Subject to the conditions set forth in paragraph (a) of this subdivision, the Member shall be entitled to be represented by private counsel of the Member's choice in any civil action or proceeding whenever the chief legal officer of the Agency or other counsel designated by the

Agency determines that a conflict of interest exists, or whenever a court, upon appropriate motion or otherwise by a special proceeding, determines that a conflict of interest exists and that the Member is entitled to be represented by counsel of the Member's choice, provided, however, that the chief legal officer or other counsel designated by the Agency may require, as a condition to payment of the fees and expenses of such representation, that appropriate groups of such Members be represented by the same counsel. Reasonable attorneys' fees and litigation expenses shall be paid by the Agency to such private counsel from time to time during the pendency of the civil action or proceeding with the approval of a majority of the Members of the Agency eligible to vote thereon.

(c) Any dispute with respect to representation of multiple Members by a single counsel or the amount of litigation expenses or the reasonableness of attorneys' fees shall be resolved by the court upon motion or by way of a special proceeding.

(d) Where the Member delivers process and a written request for a defense to the Agency under subdivision (i) of this Section 2, the Agency shall take the necessary steps on behalf of the Member to avoid entry of a default judgment pending resolution of any question pertaining to the obligation to provide for a defense.

(e) The Agency shall indemnify and save harmless its Members in the amount of any judgment obtained against such Members in a State or Federal court, or in the amount of any settlement of a claim, provided that the act or omission from which such judgment or claim arose occurred while the Member was acting within the scope of the Member's public employment or duties; provided further that in the case of a settlement, the duty to indemnify and save harmless shall be conditioned upon the approval of the amount of settlement by a majority of the Members of the Agency eligible to vote thereon.

(f) Except as otherwise provided by law, the duty to indemnify and save harmless prescribed by this Section 2 shall not arise where the injury or damage resulted from intentional wrongdoing or recklessness on the part of the Member seeking indemnification.

(g) Nothing in this subdivision shall authorize the Agency to indemnify or save harmless any Member with respect to punitive or exemplary damages, fines or penalties; provided, however, that the Agency shall indemnify and save harmless its Members in the amount of any costs, attorneys' fees, damages, fines or penalties which may be imposed by reason of an adjudication that the Member, acting within the scope of the Member's public employment or duties, has, without willfulness or intent on the Member's part, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of the State or of the United States.

(h) Upon entry of a final judgment against the Member, or upon the settlement of the claim, the Member shall serve a copy of such judgment or settlement, personally or by certified or registered mail within thirty (30) days of the date of entry or settlement, upon the Chairman and the chief administrative officer of the Agency; and if not inconsistent with the provisions of this Section 2, the amount of such judgment or settlement shall be paid by the Agency.

(i) The duty to defend or indemnify and save harmless prescribed by this Section 2 shall be conditioned upon: (i) delivery by the Member to the Chairman of the Agency and the chief legal officer of the Agency or to its chief administrative officer of a written request to provide for such Member's defense together with the original or a copy of any summons, complaint, process, notice, demand or pleading within ten (10) days after the Member is served with such document, and (ii) the full cooperation of the Member in the defense of such action or

proceeding and in defense of any action or proceeding against the Agency based upon the same act or omission, and in the prosecution of any appeal.

(j) The benefits of this Section shall inure only to Members as defined in subdivision (a) of this Section 2 and shall not enlarge or diminish the rights of any other party.

(k) This Section 2 shall not in any way affect the obligation of any claimant to give notice to the Agency under Section 10 of the Court of Claims Act, Section 880 of the General Municipal Law, or any other provision of law.

(l) The Agency is hereby authorized and empowered to purchase insurance from any insurance company created by or under the laws of the State, or authorized by law to transact business in the State, against any liability imposed by the provisions of this Section 2, or to act as a self-insurer with respect thereto. The provisions of this Section 2 shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

(m) All payments made under the terms of this Section 2, whether for insurance or otherwise, shall be deemed to be for a public purpose and shall be audited and paid in the same manner as other public charges.

(n) Except as otherwise specifically provided in this Section 2, the provisions of this Section 2 shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity to liability available to or conferred upon any Member of the Agency by, in accordance with, or by reason of, any other provision of State or Federal statutory or common law. The benefits under this Section 2 shall supplement, and be available in addition to, defense or indemnification protection conferred by any law or enactment. This Section 2 is intended to confer upon Members of the Agency all of the benefits of Section 18 of the Public Officers Law

and to impose upon the Agency liability for costs incurred under the provisions hereof and thereof.

Section 3. Fiscal Year

The fiscal year of the Agency shall be fixed by the Members, subject to the applicable law.

Section 4. Powers of the Agency

The Agency shall have all the powers of an Industrial Development Agency authorized by Article 18-A of the General Municipal Law and shall have the power to do all things necessary or convenient to carry out its purposes and exercise the powers authorized herein.

EXHIBIT "D"

PUBLIC HEARING RESOLUTION

RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on December 20, 2016, at 8:30 o'clock a.m. in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and, upon the roll being duly called, the following members were:

PRESENT: William Ryan, Donald Schoenwald, Esq., Steven Thompson, Kenneth Kinsey

EXCUSED: Catherine Richardson, Esq.

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Meghan Ryan, Esq.; Others: Barry Lentz, Paul Curtin, Carol Zenzel, Esq., Timothy Lynn, Esq., Donna Harris, Leann West, Aggie Lane, Michael Wicker, James Trasher, Mark Riley, Rich Punchanski, David Delvecchio, Ed Riley, Richard Engel, Esq., Alex Marion; Media Present: Rick Moriarty

The following resolution was offered by Donald Schoenwald and seconded by Kenneth Kinsey:

RESOLUTION DETERMINING THAT THE ACQUISITION, CONSTRUCTION, EQUIPPING AND COMPLETION OF A MIXED-USE COMMERCIAL FACILITY AT THE REQUEST OF THE COMPANY CONSTITUTES A PROJECT; DESCRIBING THE FINANCIAL ASSISTANCE IN CONNECTION THEREWITH; AND AUTHORIZING A PUBLIC HEARING

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to grant “financial assistance” (as defined in the Act) in connection with the acquisition, reconstruction and equipping of one or more “projects” (as defined in the Act); and

WHEREAS, by application dated December 6, 2016 (the “*Application*”), CG USL Ventures I, LLC, or an entity to be formed (the “*Company*”), requested the Agency undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “*Existing Buildings*”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “*SEQRA*”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as said quoted term is defined in SEQRA) to be taken by the Agency and the approval of the Project constitutes such an action; and

WHEREAS, the Agency has not yet made a determination under SEQRA; and

WHEREAS, the Agency has not approved undertaking the Project or granting the Financial Assistance; and

WHEREAS, the Project will not be used primarily for retail; and

WHEREAS, the grant of Financial Assistance to the Project is subject to, among other things, the Agency finding after a public hearing pursuant to Section 859-a of the Act that the Project will serve the public purposes of the Act by promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State or increasing the overall number of permanent, private sector jobs in the State.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

(1) Based upon the representations made by the Company to the Agency, the Agency makes the following findings and determinations:

(A) The Project constitutes a “project” within the meaning of the Act; and

(B) The Financial Assistance contemplated with respect to the Project consists of assistance in the form of exemptions from real property taxes, State and local sales and use taxation and mortgage recording tax.

(C) The Project is located in a “Highly Distressed Area” as defined in Section 854(18) of the Act.

(2) The Agency hereby directs that pursuant to Section 859-a of the Act, a public hearing with respect to the Project and Financial Assistance shall be scheduled with notice thereof published, and such notice, as applicable, shall further be sent to affected tax jurisdictions within which the Project is located.

(3) The Secretary or the Executive Director of the Agency is hereby authorized to and may distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

(4) A copy of this Resolution shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

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

	<u>AYE</u>	<u>NAY</u>
William Ryan	X	
Donald Schoenwald, Esq.	X	
Steven Thompson	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

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

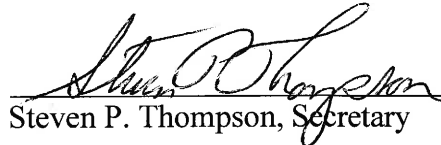
I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “**Agency**”) held on December 20, 2016, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

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 set my hand and affixed the seal of the Agency this 27 day of January, 2017.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)

EXHIBIT "E"

**NOTICE OF PUBLIC HEARING WITH EVIDENCE OF PUBLICATION AND COPIES
OF LETTERS TO AFFECTED TAX JURISDICTIONS PURSUANT TO SECTIONS
859-a OF THE ACT**

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a of the New York General Municipal Law, will be held by the City of Syracuse Industrial Development Agency (the "Agency") on the 24th day of January, 2017, at 8:30 o'clock a.m., local time, at 233 East Washington Street, Common Council Chambers, City Hall, Syracuse, New York, in connection with the following matter:

CG USL Ventures I, LLC, or an entity to be formed (the "Company"), has requested the Agency undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "Existing Buildings") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the "Land"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "Facility"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company shall be the initial owner or operator of the Project Facility.

The Agency will at the above-stated time and place hear all persons with views with respect to the proposed Financial Assistance to the Company, the proposed owner/operator, the location of the Project Facility and the nature of the Project.

A copy of the application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the office of the Agency located at 201 East Washington Street, 7th Floor, Syracuse, New York.

Dated: January 11, 2017

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

The Post-Standard

LEGAL AFFIDAVIT

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SYRACUSE, NY 13202

Name: BARCLAY DAMON LLP

Sales Rep: Pamela Gallagher

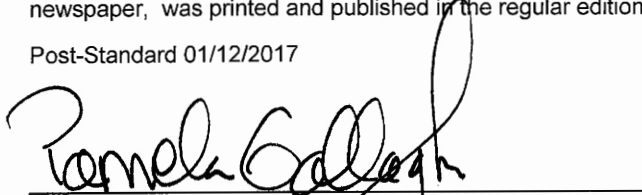
Account Number: 1056027

INV#: 0008002729

Date	Position	Description	P.O. Number	Ad Size
01/12/2017	Other Legals NY	NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that	matter #3084801	1 x 136.00 CL

State of New York, County of Onondaga ss. Pamela Gallagher, of the City of Syracuse, in said County, being duly sworn, doth depose and says: this person is the Principal Clerk in the office of THE POST-STANDARD, a public newspaper, published in the City of Syracuse, Onondaga County, New York and that the notice, is an accurate and true copy of the ad as printed in said newspaper, was printed and published in the regular edition and issue of said newspaper on the following days, viz.:

Post-Standard 01/12/2017



Pamela Gallagher
Principal Clerk

An Authorized Designee of the President, Timothy R. Kennedy
Subscribed and sworn to before me, this 12th day of January
2017



NOTARY PUBLIC

FOR QUESTIONS CONCERNING THIS AFFIDAVIT,
PLEASE CONTACT PAMELA GALLAGHER AT
(315) 470-2051 OR Legals@Syracuse.com

KAREN M. MILLER BIALCZAK
Notary Public- State of New York
No. 01M16334505
Qualified in Onondaga County
My Commission Expires:

12/19

NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a of the New York General Municipal Law, will be held by the City of Syracuse Industrial Development Agency (the "Agency") on the 24th day of January, 2017, at 8:30 o'clock a.m., local time, at 233 East Washington Street, Common Council Chambers, City Hall, Syracuse, New York, in connection with the following matter: CG USL Ventures I, LLC, or an entity to be formed (the "Company"), has requested the Agency undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "Existing Buildings") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the "Land"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "Facility"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction,

equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement. The Company shall be the initial owner or operator of the Project Facility. The Agency will at the above-stated time and place hear all persons with views with respect to the proposed Financial Assistance to the Company, the proposed owner/operator, the location of the Project Facility and the nature of the Project. A copy of the application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the office of the Agency located at 201 East Washington Street, 7th Floor, Syracuse, New York. Dated: January 11, 2017 CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

BARCLAY DAMON ^{LLP}

Susan R. Katzoff
Partner

January 11, 2017

VIA CERTIFIED MAIL
7016 1970 0000 3832 9941

Honorable Stephanie A. Miner
Mayor, City of Syracuse
City Hall
233 East Washington Street
Syracuse, New York 13202

VIA CERTIFIED MAIL
7016 1970 0000 3832 9934

Honorable Joanne M. Mahoney
County Executive, Onondaga County
John Mulroy Civic Center, 14th Floor
421 Montgomery Street
Syracuse, New York 13202

Re: City of Syracuse Industrial Development Agency (the "Agency")
CG USL Ventures I, LLC (the "*Company*")
CG USL Ventures I, LLC Project

Dear Mayor and County Executive:

Enclosed herewith please find a Notice of Public Hearing in relation to the above-referenced project. The proposed project (the "*Project*") consists of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "*Existing Buildings*") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the "*Land*"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "*Facility*"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "*Equipment*" and together with the Land and the Facility, the "*Project Facility*"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "*Financial Assistance*"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the

Barclay Damon Tower – 125 East Jefferson Street – Syracuse, New York 13202 barclaydamon.com
skatzoff@barclaydamon.com Direct: 315.425.2880 Fax: 315.425.8597

January 11, 2017

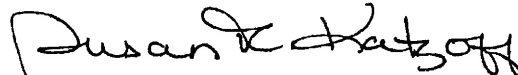
Page 2

acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

General Municipal Law Section 859-a requires that notice of the Public Hearing be given to the chief executive officer of each affected tax jurisdiction in which the Project is located.

As stated in the notice, the public hearing is scheduled for **January 24, 2017** at 8:30 a.m. in the Common Council Chambers at City Hall.

Very truly yours,



Susan R. Katzoff

SRK/llm
Enclosure

cc: Meghan Ryan, Esq., City of Syracuse, via email (w/Enclosure)
Honora Spillane, City of Syracuse Industrial Development Agency, via email (w/Enclosure)
Judy DeLaney, City of Syracuse Industrial Development Agency, via email (w/Enclosure)

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Section 859-a of the New York General Municipal Law, will be held by the City of Syracuse Industrial Development Agency (the "Agency") on the 24th day of January, 2017, at 8:30 o'clock a.m., local time, at 233 East Washington Street, Common Council Chambers, City Hall, Syracuse, New York, in connection with the following matter:

CG USL Ventures I, LLC, or an entity to be formed (the "Company"), has requested the Agency undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "Existing Buildings") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the "Land"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "Facility"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company shall be the initial owner or operator of the Project Facility.

The Agency will at the above-stated time and place hear all persons with views with respect to the proposed Financial Assistance to the Company, the proposed owner/operator, the location of the Project Facility and the nature of the Project.

A copy of the application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, is available for public inspection during business hours at the office of the Agency located at 201 East Washington Street, 7th Floor, Syracuse, New York.

Dated: January 11, 2017

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Honorable Stephanie A. Miner
Mayor, City of Syracuse
233 East Washington Street
Syracuse, New York 13202



9590 9402 2129 6132 4534 75

2. Article Number (Transfer from service label)

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PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Stephanie A. Miner* Agent Addressee

B. Received by (Printed Name)

CARMON

C. Date of Delivery

1-12-17

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
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- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
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Domestic Return Receipt

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Honorable Joanne M. Mahoney
County Executive, Onondaga County
John Mulroy Civic Center, 14th Floor
421 Montgomery Street
Syracuse, New York 13202



9590 9402 2129 6132 4534 82

2. Article Number (Transfer from service label)

7016 1970 0000 3832 9934

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Joanne M. Mahoney* Agent Addressee

B. Received by (Printed Name)

M. VALENTINO

C. Date of Delivery

1/12/17

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

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Adult Signature Restricted Delivery \$ _____

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City, State, ZIP+4® _____

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Return Receipt (hardcopy) \$ _____

Return Receipt (electronic) \$ _____

Certified Mail Restricted Delivery \$ _____

Adult Signature Required \$ _____

Adult Signature Restricted Delivery \$ _____

Postage \$ _____

Total Postage and Fees \$ _____

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Street and Apt. No., or PO Box No. _____

City, State, ZIP+4® _____

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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EXHIBIT "F"

SEQRA RESOLUTION

SEQRA RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on January 24, 2017 at 8:30 o'clock a.m., local time, in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and upon the roll being duly called, the following members were:

PRESENT: William Ryan, M. Catherine Richardson, Esq., Steven Thompson, Donald Schoenwald, Esq., Kenneth Kinsey

The following persons were **ALSO PRESENT:** Staff Present: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Debra Ramsey-Burns; Others: Timothy Lynn, Esq., Barry Lentz, Aggie Lane, James Trasher, Paul Curtin, Esq., Carol Zenzel, Esq., Peter King, Lisa Sparks, Neil Patel; Media Present: Rick Moriarty.

The following resolution was offered by Donald Schoenwald and seconded by Steven Thompson:

RESOLUTION CLASSIFYING A CERTAIN PROJECT AS AN UNLISTED ACTION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT, DECLARING THE AGENCY LEAD AGENCY FOR PURPOSES OF AN UNCOORDINATED REVIEW THEREUNDER AND DETERMINING THAT THE ACTION WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, CG USL Ventures I, LLC, or an entity to be formed (the "**Company**"), by application dated December 6, 2016 (the "**Application**"), requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "**Existing**

Buildings”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**SEQRA**”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as defined by SEQRA) to be taken by the Agency and the Project constitutes such an action; and

WHEREAS, to aid the Agency in determining whether the action described above may have a significant adverse impact upon the environment, an Environmental Assessment Form (the “**EAF**”) was prepared, a copy of which is on file at the office of the Agency; and

WHEREAS, the Agency has examined and reviewed the EAF in order to classify the action and make a determination as to the potential significance of the action pursuant to SEQRA; and

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

(1) Based upon an examination of the materials provided by the Company in furtherance of the Project, the criteria contained in 6 NYCRR §617.7(c), and based further upon the Agency’s knowledge of the action and its environmental effects as the Agency has deemed appropriate, the Agency makes the following findings and determinations pursuant to SEQRA:

(a) The action constitutes an “Unlisted Action” (as said quoted term is defined in SEQRA);

(b) The Agency declares itself “Lead Agency” (as said quoted term is defined in SEQRA) with respect to an uncoordinated review pursuant to SEQRA;

(c) The action will not have a significant effect on the environment, and the Agency hereby issues a negative declaration pursuant to SEQRA, attached hereto as *Exhibit A*, which shall be filed in the office of the Agency in a file that is readily accessible to the public.

(2) A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

(3) This Resolution shall take effect immediately. The Secretary of the Agency is hereby authorized and directed to distribute copies of this Resolution and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

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

	<u>AYE</u>	<u>NAY</u>
William M. Ryan	X	
M. Catherine Richardson	X	
Steven Thompson	X	
Donald Schoenwald	X	
Kenneth Kinsey	X	

The foregoing resolution was thereupon declared duly adopted.

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

I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on January 24, 2017, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

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 set my hand and affixed the seal of the Agency this ___ day of January, 2017.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)

EXHIBIT "A"

Appendix B

Short Form Environmental Assessment Form

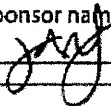
Instructions for Completing

Part 1 - Project Information. The applicant or Project sponsor is responsible for the completion of Part 1 Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information. The NYS DEC provides an interactive EAF form at its website <http://www.dec.ny.gov/eafmapper/>, which may substitute for this form.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information																		
Name of Action or Project: <div style="text-align: center; font-size: 1.2em; font-weight: bold;">Walnut Avenue Apartments</div>																		
Project Location (describe, and attach a location map): <div style="text-align: right;">1200-24 East Genesee Street; 509 and 511 Walnut Ave., Syracuse, NY</div>																		
Brief Description of Proposed Action: <div style="text-align: center;">Demolition of two existing professional office buildings (3 story and 1 story respectively) and construction of a 6 level 126 unit student apartment building. The building will have ground level parking, amenity spaces and small cafe. The building will be served by all public utilities available in the adjacent right of ways.</div>																		
Name of Applicant or Sponsor: <div style="text-align: center; font-size: 1.2em; font-weight: bold;">CG USL Ventures I LLC</div>		Telephone: E-Mail:																
Address: <div style="text-align: center; font-size: 1.2em; font-weight: bold;">3 E Stow Road</div>																		
City/PO: <div style="text-align: center; font-size: 1.2em; font-weight: bold;">Marlton</div>		State: <div style="text-align: center; font-size: 1.2em; font-weight: bold;">NJ</div>	Zip: <div style="text-align: center; font-size: 1.2em; font-weight: bold;">08053</div>															
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">NO</th> <th style="width: 50%;">YES</th> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>											
NO	YES																	
<input checked="" type="checkbox"/>	<input type="checkbox"/>																	
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">NO</th> <th style="width: 50%;">YES</th> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>											
NO	YES																	
<input checked="" type="checkbox"/>	<input type="checkbox"/>																	
3.a. Total acreage of the site of the proposed action?		1.484 acres																
b. Total acreage to be physically disturbed?		1.484 acres																
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.484 acres																
4. Check all land uses that occur on, adjoining and near the proposed action.																		
<table style="width: 100%; border: none;"> <tr> <td><input checked="" type="checkbox"/> Urban</td> <td><input type="checkbox"/> Rural (non-agriculture)</td> <td><input type="checkbox"/> Industrial</td> <td><input type="checkbox"/> Commercial</td> <td><input type="checkbox"/> Residential (suburban)</td> </tr> <tr> <td><input type="checkbox"/> Forest</td> <td><input type="checkbox"/> Agriculture</td> <td><input type="checkbox"/> Aquatic</td> <td colspan="2"><input type="checkbox"/> Other (specify): _____</td> </tr> <tr> <td><input type="checkbox"/> Parkland</td> <td colspan="3"></td> <td></td> </tr> </table>				<input checked="" type="checkbox"/> Urban	<input type="checkbox"/> Rural (non-agriculture)	<input type="checkbox"/> Industrial	<input type="checkbox"/> Commercial	<input type="checkbox"/> Residential (suburban)	<input type="checkbox"/> Forest	<input type="checkbox"/> Agriculture	<input type="checkbox"/> Aquatic	<input type="checkbox"/> Other (specify): _____		<input type="checkbox"/> Parkland				
<input checked="" type="checkbox"/> Urban	<input type="checkbox"/> Rural (non-agriculture)	<input type="checkbox"/> Industrial	<input type="checkbox"/> Commercial	<input type="checkbox"/> Residential (suburban)														
<input type="checkbox"/> Forest	<input type="checkbox"/> Agriculture	<input type="checkbox"/> Aquatic	<input type="checkbox"/> Other (specify): _____															
<input type="checkbox"/> Parkland																		

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>EG USL Ventures I LLC</u>		Date: <u>December 6, 2016</u>
Signature: <u></u>		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2 Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies? b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

<u>City of Syracuse Industrial Development Agency</u>	
Name of Lead Agency	Date
<u>William Ryan</u>	<u>Chair</u>
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT

EXHIBIT "G"

INDUCEMENT RESOLUTION

INDUCEMENT RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on January 24, 2017 at 8:30 o'clock a.m., local time, in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and upon the roll being duly called, the following members were:

PRESENT: William Ryan, M. Catherine Richardson, Esq., Steven Thompson, Donald Schoenwald, Esq., Kenneth Kinsey

THE FOLLOWING PERSONS WERE ALSO PRESENT: Staff Present: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Debra Ramsey-Burns; Others: Timothy Lynn, Esq., Barry Lentz, Aggie Lane, James Trasher, Paul Curtin, Esq., Carol Zenzel, Esq., Peter King, Lisa Sparks, Neil Patel; Media Present: Rick Moriarty.

The following resolution was offered by Donald Schoenwald and seconded by Kenneth Kinsey:

RESOLUTION AUTHORIZING THE UNDERTAKING, ACQUISITION, CONSTRUCTION, EQUIPPING AND COMPLETION OF A COMMERCIAL FACILITY; APPOINTING THE COMPANY AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, EQUIPPING AND COMPLETION OF THE PROJECT; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BETWEEN THE AGENCY AND THE COMPANY

WHEREAS, the City of Syracuse Industrial Development Agency (the “*Agency*”) is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “*State*”), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the “*Act*”) to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, 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, lease and sell real property and grant financial assistance in connection

with one or more “projects” (as defined in the Act); and

WHEREAS, CG USL Ventures I, LLC, or an entity to be formed (the “**Company**”), by application dated December 6, 2016 (the “**Application**”), requested the Agency undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “**Existing Buildings**”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency adopted a resolution on December 20, 2016, describing the Project and the proposed financial assistance and authorizing a public hearing (“**Public Hearing Resolution**”); and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on January 24, 2017 pursuant to Section 859-a of the Act, notice of which was originally published on January 12, 2017, in the Post-Standard, a newspaper of general circulation in the City of Syracuse, New York and given to the chief executive officers of the affected tax jurisdictions by letters dated January 11, 2017; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “**SEQRA**”), the Agency is required to make a determination whether the “action” (as said quoted term is defined in SEQRA) to be taken by the Agency may have a “significant impact on the environment” (as said quoted term is utilized in SEQRA), and the preliminary agreement of the Agency to undertake the Project constitutes such an action; and

WHEREAS, by resolution adopted January 24, 2017 (the “**SEQRA Resolution**”), the Agency determined that the Project will not have a significant effect on the environment; and

WHEREAS, the Agency has considered the policy, purposes and requirements of the Act in making its determinations with respect to taking official action regarding the Project; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in the City of Syracuse (the “*City*”); (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act; and (iii) the Project will serve the purposes of the Act by advancing job opportunities and the economic welfare of the people of the State and the City and improve their standard of living.

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency as follows:

Section 1. It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

Section 2. Based upon the representations and projections made by the Company to the Agency, the Agency hereby and makes the following determinations:

(A) Ratifies the findings in its Public Hearing Resolution and SEQRA Resolution;

(B) The Project constitutes a “*project*” within the meaning of the Act;

(C) The acquisition of a controlling interest in the Project Facility by the Agency and the designation of the Company as the Agency’s agent for completion of the Project will be an inducement to the Company to acquire, construct, equip and complete the Project Facility in the City, and will serve the purposes of the Act by, among other things, advancing job opportunities, the standard of living and economic welfare of the inhabitants of the City;

(D) The Project will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act;

Section 3. As a condition to the extension of State and local sales and use tax exemption benefits, and the Company's appointment as provided herein, the Company agrees to execute an agreement with the Agency setting forth the preliminary undertakings of the Agency and the Company with respect to the Project. The form and substance of the proposed agreement (as set forth as on **Exhibit "A"** attached hereto and presented at this meeting) (the "**Agreement**") are hereby approved. The Chairman or Vice Chairman of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, in substantially the same form as presented at this meeting and attached hereto as **Exhibit "A"**, with changes in terms and form as shall be consistent with this Resolution and as the Chairman or Vice Chairman shall approve. The execution thereof by the Chairman or Vice Chairman shall constitute conclusive evidence of such approval.

Section 4. Subject to the terms of this Resolution and the conditions set forth in the Agreement, the Agency will: (i) acquire an interest in the Land and Facility pursuant to a lease agreement (the "**Lease**") to be entered into between the Company and the Agency; accept an interest in the Equipment pursuant to a bill of sale from the Company (the "**Bill of Sale**"); (ii) sublease the Project Facility to the Company pursuant to a sublease agreement (the "**Sublease**" and with the Lease and the Bill of Sale, the "**Lease Documents**") to be entered into between the Agency and the Company; (iii) execute the Project Agreement (as set forth below); (iv) grant the approved Financial Assistance; and (v) provided that no default shall have occurred and be continuing under the Agreement (as defined herein) and provided the Company has executed and delivered all documents and certificates required by the Agency in conjunction with the Agency's undertaking of the Project, execute and deliver all other certificates and documents necessary or appropriate for the grant of the approved Financial Assistance or requested by the Agency, in form and substance acceptable to the Agency.

Section 5. Subject to the due execution and delivery by the Company of the Agreement, the satisfaction of the conditions of this Resolution and the Agreement, and the payment by the Company of any attendant fees, the Company and its designees, are appointed the true and lawful agent of the Agency to proceed with the construction, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf. The appointment made by this Section 5, and the conference of any approved Financial Assistance, shall not be effective until the Company and the Agency have executed and delivered a project agreement in substantially the same form used by the Agency in similar transactions (the "**Project Agreement**"). The amount of State and local sales and use tax exemption benefits comprising the Financial Assistance approved herein shall not exceed **\$1,440,000**.

Section 6. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from State and local sales and use tax exemptions benefits.

Section 7. The Company may utilize, and is hereby authorized to appoint, a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such

agents and subagents (collectively, “*Additional Agents*”) to proceed with the construction, equipping and completion of the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf, provided the Company execute, deliver and comply with the Agreement. The Company shall provide, or cause its Additional Agents to provide, and the Agency shall maintain, records of the amount of State and local sales and use tax exemption benefits provided to the Project and the Company shall, and cause each Additional Agent, to make such records available to the State Commissioner of Taxation and Finance (the “*Commissioner*”) upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company or Project’s receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits realized by the Project available to the Agency or its designee upon request. for purposes of exemption from New York State (the “*State*”) sales and use taxation as part of the Financial Assistance requested, “sales and use taxation” shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

Section 8. The Chairman and/or Vice Chairman of the Agency, acting individually, are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified herein and any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred herein and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this Resolution and the Agreement.

Section 9. The obligation of the Agency to consummate any transaction contemplated herein or hereby is subject to and conditioned upon the Agency’s approval of the Financial Assistance and the Company’s execution and delivery of, among other things, the Agreement, the Project Agreement and an Environmental Compliance and Indemnification Agreement in favor of the Agency in form and substance acceptable to the Agency and its counsel, in the discretion of the Chairman and/or Vice Chairman of the Agency.

Section 10. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

Section 11. Should the Agency’s participation in the Project, or the appointments made in accordance herewith, be challenged by any party, in the courts or otherwise, the

Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursement of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

Section 12. Counsel to the Agency is hereby authorized to work with the Company and others to prepare for submission to the Agency, all documents necessary to effect the grant of Financial Assistance and consummate the Lease Documents.

Section 13. The Secretary and/or the Executive Director of the Agency are hereby authorized and may distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 14. This Resolution shall take effect immediately. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

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

	<u>AYE</u>	<u>NAY</u>
William M. Ryan	X	
M. Catherine Richardson	X	
Steven Thompson	X	
Donald Schoenwald	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

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


I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on January 24, 2017, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

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 set my hand and affixed the seal of the Agency this 28th day of February, 2017.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)

EXHIBIT "A"

AGENCY/COMPANY AGREEMENT

THIS AGREEMENT is between CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY (the "**Agency**"), with an office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202 and CG USL VENTURES I, LLC, with a mailing address of 3 East Stow Road, P.O. Box 994, Marlton, New Jersey 08053 (the "**Company**").

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the "**Act**") to designate an agent for constructing, renovating and equipping "projects" (as defined in the Act).

1.02. The purposes of the Act are to promote, attract, encourage and develop recreation and economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to acquire and dispose of interests in real property and to appoint agents for the purpose of completion of projects undertaken by the Agency.

1.03. The Company, by application dated December 6, 2016 (the "**Application**"), requested the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "**Existing Buildings**") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of

the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

1.03(a). All documents necessary to effectuate the Agency's undertaking of the Project and the granting of the Financial Assistance between the Agency and the Company, including but not limited to, a project agreement, a company lease, an agency lease, a bill of sale and an environmental compliance and indemnification agreement, shall be collectively referred to herein as the "**Lease Documents**".

1.04. The Company hereby represents to the Agency that undertaking the Project, the designation of the Company as the Agency's agent for the construction, equipping and completion of the Project Facility, and the use and appointment, as necessary, by the Company of a Project operator, contractors, agents, subagents, subcontractors, contractors and subcontractors of such agents and subagents (collectively, "**Additional Agents**"): (i) will be an inducement to it to construct and equip the Project Facility in the City of Syracuse (the "**City**"); (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or of any other proposed occupant of the Project Facility from one area of the State to another or in the abandonment of one or more plants or facilities of the Company or of any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act; and (iii) undertaking the Project Facility will promote, create and/or preserve private sector jobs in the State. The Company hereby further represents to the Agency that the Project Facility is not primarily used in making retail sales to customers who personally visit the Facility.

1.05. The Agency has determined that the acquisition of a controlling interest in, and the construction and equipping of the Project Facility and the subleasing of the same to the Company will promote and further the purposes of the Act.

1.06. On January 24, 2017, the Agency adopted a resolution (the "**Inducement Resolution**") agreeing, subject to the satisfaction of all conditions precedent set forth in such Resolution, to designate the Company as the Agency's agent for the acquisition, construction and equipping of the Project Facility and determining that the leasing of the same to the Company will promote further purposes of the Act. For purposes of that designation, the Agency authorized as part of the approved Financial Assistance, State and local sales and use tax exemption benefits in an amount not exceed **\$1,440,000**.

1.07. In the Resolution, subject to the execution of, and compliance with, this Agreement by the Company, the execution and delivery of a project agreement by the Company, and other conditions set forth in the Resolution and herein, the Agency appointed the Company as its agent for the purposes of construction and equipping the Project Facility, entering into contracts and doing all things requisite and proper for construction and equipping the Project Facility.

Article 2. Undertakings on the Part of the Agency. Based upon the statement, representations and undertakings of the Company and subject to the conditions set forth herein,

the Agency agrees as follows:

2.01. The Agency confirms that it has authorized and designated, pursuant to the terms hereof, the Company as the Agency's agent for constructing and equipping the Project Facility.

2.02. The Agency will adopt such proceedings and authorize the execution of such Agency documents as may be necessary or advisable for: (i) acquisition of a controlling interest in the Project Facility; (ii) designation by the Company of Additional Agents for construction and equipping of the Project Facility subject to the terms hereof; and (iii) the leasing or subleasing of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.03. Nothing contained in this Agreement shall require the Agency to apply its funds to Project costs.

2.04. After satisfying the conditions precedent set forth in the Sections 2.05, 3.06 and 4.02 hereof and in the Inducement Resolution, the Company may proceed with the construction and equipping of the Project Facility and the utilization of and, as necessary the appointment of, Additional Agents.

2.05. Subject to the execution of the Lease Documents and Section 4.02 hereof, the Company is appointed the true and lawful agent of the Agency: (i) for the construction and equipping of the Project Facility; and (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for the construction and equipping of the Project Facility, all with the same powers and the same validity as if the Agency were acting in its own behalf.

2.06. The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof. The Agency may in accordance with Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "**SEQRA**"), undertake supplemental review of the Project. Such review to be limited to specific significant adverse environmental impacts not addressed or inadequately addressed in the Agency's review under SEQRA that arise from changes in the proposed Project, newly discovered information or a change in the circumstances related to the Project.

Article 3. Undertakings on the Part of the Company. Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein the Company agrees as follows:

3.01. (a) The Company shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services,

materials and supplies, including equipment, ordered or used in connection with the acquisition of a controlling interest in, and construction and equipping of the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether such claims or liabilities arise as a result of the Company or Additional Agents acting as agent for the Agency pursuant to this Agreement or otherwise.

(b) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove, any mechanics' or other liens against the Project Facility for labor or material furnished in connection with the acquisition, construction and equipping of the Project Facility.

(c) The Company shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project Facility, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(d) The Company shall defend, indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on the non-disclosure of information, if any, requested by the Company in accordance with Section 4.05 hereof.

(e) The defense and indemnities provided for in this Article 3 shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(f) The Company shall provide and carry: (i) worker's compensation and disability insurance as required by law; and (ii) comprehensive liability and property insurance with such coverages (including without limitation, owner's protective coverage for the benefit of the Agency, naming the Agency as an additional insured on all policies of coverage regarding the Project; providing the coverage with respect to the Agency be primary and non-contributory; and contractual coverage covering the indemnities herein provided for), with such limits and which such companies as may be approved by the Agency. Upon the request of the Agency, the Company shall provide certificates, endorsements, binders and/or policies of insurance in form satisfactory to the Agency evidencing such insurance.

(g) The Company shall apply and diligently pursue all approvals, permits and consents from the State of New York, the City, the City Planning Commission and any other governmental authority which approvals, permits and consents are required under applicable law for the development, construction and equipping of the Project and any related site

improvements. The Company acknowledges and agrees that the Agency's findings and determinations under SEQRA do not and shall not in and of themselves (except as specifically set forth in SEQRA) satisfy or be deemed to satisfy applicable laws, regulations, rules and procedural requirements applicable to such approvals, permits and consents.

(h) The Company shall complete a Contractor Status Report to be obtained from the City of Syracuse Industrial Development Agency and agrees to utilize, and cause its Additional Agents to utilize, local contractors and suppliers for the construction, equipping and completion of the Project unless a waiver is received from the Agency in writing. For purposes of this Agency Agreement, the term "**Local**" shall mean Onondaga, Oswego, Oneida, Madison, Cayuga and Cortland Counties. The Company agrees that such Local contractors shall be provided the opportunity to bid on contracts related to the Project Facility.

3.02. The Company agrees that, as agent for the Agency or otherwise, it will comply at the Company's sole cost and expense with all the requirements of all federal, state and local laws, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or Company with respect to the Project Facility, the acquisition of a controlling interest therein, construction and equipping thereof, the operation and maintenance of the Project Facility, supplemental review of adverse environmental impacts in accordance with SEQRA and the financing of the Project. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full, including, but not limited to, Section 875 of the Act; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.03. The Company agrees that, as agent for the Agency or otherwise, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute) it will comply with the requirements of Section 220 of the Labor Law of the State of New York, as amended.

3.04. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.05. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental or machinery or equipment, materials or supplies in connection with the Project Facility, or are in any manner otherwise payable directly or indirectly in connection with the Project Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.06 The Company shall proceed with the acquisition, construction, equipping and completion of the Project Facility and advance such funds as may be necessary to accomplish such purposes. The Company may appoint Additional Agents as agents of the Agency in furtherance thereof. Any appointment of an Additional Agent is conditioned upon the Company first obtaining and providing the Agency the following:

(1) A written, executed agreement, in form and substance acceptable to the Agency, from each Additional Agent which provides for the assumption by the Additional Agent, for itself, certain of the obligations under this Agreement relative to the appointment, work and purchases done and made by each Additional Agent; (ii) a commitment to utilize local contractors and suppliers for the construction and equipping of the Project (“local” being defined in Section 3.01(h) hereof); (iii) an acknowledgement that the Additional Agent is obligated, to timely provide the Company with the necessary information to permit the Company, pursuant to General Municipal Law §874(8), to timely file an Annual Statement with the Agency and the New York State Department of Taxation and Finance on “Annual Report of Sales and Use Tax Exemptions” (Form ST-340) regarding the value of sales and use tax exemptions the Additional Agent claimed pursuant to the agency conferred on it by the Company with respect to this Project; (iv) an acknowledgment by the Additional Agent that the failure to comply with the foregoing will result in the loss of the exemption; and (v) such other terms and conditions as the Agency deems necessary; and

(2) A completed “IDA Appointment of Project Operator or Agent for Sales Tax Purposes” (Form ST-60) for each Additional Agent appointed within fifteen (15) days of the appointment of each Additional Agent such that the Agency can execute and deliver said form to the State Department of Taxation and Finance within thirty (30) days of appointment of each such Additional Agent.

Failure of the Company to comply with the foregoing shall nullify the appointment of any Additional Agent and may result in the loss of the Company’s exemption with respect to the Project at the sole discretion of the Agency.

The Company acknowledges that the assumption by the Additional Agent in accordance with Section 3.06(1) above, does not relieve the Company of its obligations under those provisions or any other provisions of this Agreement with respect to the Project.

3.07 The Company ratifies and confirms its obligations to pay an annual administrative reporting fee in accordance with the Agency’s fee schedule to cover administrative and reporting requirements to comply with New York State reporting regulations on Agency assisted projects.

Article 4. General Provisions.

4.01. This Agreement shall take effect on the date of the execution hereof by the Agency and the Company and, subject to Section 4.04 hereof, shall remain in effect until the Lease Documents become effective. It is the intent of the Agency and the Company that, except as to those provisions that survive, this Agreement be superseded in its entirety by the Lease Documents.

4.02. (a) It is understood and agreed by the Agency and the Company that the grant of Financial Assistance and the execution of the Lease Documents and related documents are subject to: (i) payment by the Company of the Agency’s fee and Agency’s counsel fees; (ii)

obtaining all necessary governmental approvals, permits and consents of any kind required in connection with the Project Facility; (iii) approval by the members of the Agency; (iv) approval by the Company; and (v) the condition that there are no changes in New York State Law, including regulations, which prohibit or limit the Agency from fulfilling its obligations hereunder; (b) the Company, by executing this agreement, acknowledges and agrees to make, or cause its Additional Agents, to make, all records and information regarding State and local sales and use tax exemption benefits given to the Project as part of the Financial Assistance available to the Agency upon request, including but not limited to the Form ST-340 for itself and each Additional Agent; (c) the Company, by executing this Agreement, acknowledges and agrees to the terms and conditions of Section 875(3) of the Act as if such section were fully set forth herein and further agrees to cause all of its Additional Agents to acknowledge, agree and consent to same. Without limiting the scope of the foregoing the Company acknowledges that pursuant to Section 875(3) of the Act, and in accordance with the Agency's Recapture of Benefits Policy, the Agency shall, and in some instances may, recover, recapture, receive or otherwise obtain from the Company some or all of the Financial Assistance (the "**Recapture Amount**") including, but not limited to: (1) (a) that portion of the State and local sales and use tax exemption to which the Company was not entitled, which is in excess of the amount of the State and local sales and use tax exemption authorized by the Agency or which is for property or services not authorized by the Agency; or (b) the full amount of such State and local sales and use tax exemption, if the Company fails to comply with a material term or condition regarding the use of the property or services as represented to the Agency in its Application or otherwise; or (c) the full amount of such State and local sales and use tax exemption in the event the Company fails to execute and deliver the Lease Documents in accordance herewith or fails to complete the Project; and (2) any interest or penalties thereon imposed by the Agency or by operation of law or by judicial order or otherwise; and (d) the failure of the Company to promptly pay such Recapture Amount to the Agency will be grounds for the Commissioner to collect sales and use taxes from the Company under Article 28 of the State Tax Law, together with interest and penalties. In addition to the foregoing, the Company acknowledges and agrees that for purposes of exemption from New York State (the "**State**") sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight. In addition to the foregoing, the Agency may recapture other benefits comprising the Financial Assistance in accordance with the Agency's Recapture Policy (a copy of which is on the Agency's website).

4.03. The Company agrees that it will, within thirty (30) days of a written request for same, regardless of whether or not this matter closes or the Project Facility is completed: (i) reimburse the Agency for all reasonable and necessary expenses, including without limitation the fees and expenses of counsel to the Agency arising from, out of or in connection with the Project, and/or any documents executed in connection therewith, including, but not limited to any claims or actions taken by the Agency against the Company, Additional Agents or third parties; and (ii) indemnify the Agency from all losses, claims, damages and liabilities, in each case which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder, including but not limited to, any obligations related to Additional Agents.

4.04. If for any reason the Lease Documents are not executed and delivered by the Company and the Agency on or before **January 24, 2018**, the provisions of this Agreement (other than the provisions of Articles 1.04, 2.02, 2.04, 3.01, 3.02, 3.03, 3.05, 3.06, 4.02, 4.03, 4.04, 4.05 and 4.06, which shall survive) shall unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses incurred by the Agency in connection with the acquisition, construction and equipping of the Project Facility;

(b) The Company shall assume and be responsible for any contracts for the construction or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Project Facility; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency and counsel for the Agency incurred in connection with the Project Facility and will pay the fees of counsel for the Agency for legal services relating to the Project Facility, Additional Agents or the proposed financing thereof.

4.05. The Company acknowledges that Section 875(7) of the New York General Municipal Law (“GML”) requires the Agency to post on its website all resolutions and agreements relating to the Company’s appointment as an agent of the Agency or otherwise related to the Project, including this Agreement; and Article 6 of the New York Public Officers Law declares that all records in the possession of the Agency (with certain limited exceptions) are open to public inspection and copying. If the Company feels that there are elements of the Project or information about the Company in the Agency’s possession which are in the nature of trade secrets or information, the nature of which is such that if disclosed to the public or otherwise widely disseminated would cause substantial injury to the Company’s competitive position, the Company must identify such elements in writing, supply same to the Agency: (i) with respect to this Agreement, prior to or contemporaneously with the execution hereof; and (ii) with respect to all other agreements executed in connection with the Project, on or before the Closing Date, and request that such elements be kept confidential in accordance with Article 6 of the Public Officers Law. Failure to do so will result in the posting by the Agency of all information in accordance with Section 875 of the GML.

4.06 That every controversy, dispute or claim arising out of or relating to this Agreement shall be governed by the laws of the State of New York, without regard to its conflict-of-laws provisions that if applied might require the application of the laws of another jurisdiction; and that the Company irrevocably and expressly submits to the exclusive personal jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Northern District of New York, to the exclusion of all other courts, for the purposes of litigating every controversy, dispute or claim arising out of or relating to this Agreement.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the 24th day January, 2017.

**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
William M. Ryan, Chairman

CG USL VENTURES I, LLC

By: _____
Name: _____
Title: _____

EXHIBIT "H"

FINAL APPROVING RESOLUTION

FINAL APPROVING RESOLUTION

A regular meeting of the City of Syracuse Industrial Development Agency was convened in public session on January 24, 2017 at 8:30 o'clock a.m., local time, in the Common Council Chambers, City Hall, 233 East Washington Street, Syracuse, New York.

The meeting was called to order by the Chairman and upon the roll being duly called, the following members were:

PRESENT: William Ryan, M. Catherine Richardson, Esq., Steven Thompson, Donald Schoenwald, Esq., Kenneth Kinsey

The following persons were **ALSO PRESENT:** Staff Present: Honora Spillane, Judith DeLaney, Meghan Ryan, Esq., Susan Katzoff, Esq., John Vavonese, Debra Ramsey-Burns; Others: Timothy Lynn, Esq., Barry Lentz, Aggie Lane, James Trasher, Paul Curtin, Esq., Carol Zenzel, Esq., Peter King, Lisa Sparks, Neil Patel; Media Present: Rick Moriarty.

The following resolution was offered by Donald Schoenwald and seconded by Steven Thompson:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS BY THE AGENCY IN CONNECTION WITH A COMMERCIAL PROJECT UNDERTAKEN AT THE REQUEST OF THE COMPANY

WHEREAS, the City of Syracuse Industrial Development Agency (the "**Agency**") is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, together with Chapter 641 of the Laws of 1979 of the State of New York, as amended from time to time (collectively, the "**Act**"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, for the purpose of promoting economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living; and

WHEREAS, CG USL Ventures I, LLC, or an entity to be formed (the "**Company**"), by application dated December 6, 2016 (the "**Application**"), requested that the Agency undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "**Existing Buildings**") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility

and an 847 square foot café, all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (except as limited by Section 874 of the General Municipal Law) (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on January 24, 2017 pursuant to Section 859-a of the Act, notice of which was originally published on January 12, 2017, in the Post-Standard, a newspaper of general circulation in the City of Syracuse, New York and given to the chief executive officers of the affected tax jurisdictions by letters dated January 11, 2017; and

WHEREAS, pursuant to Article 8 of the State Environmental Conservation Law, as amended and the regulations promulgated thereunder (collectively “*SEQRA*”), the Agency is required to make a determination with respect to the environmental impact of any “action” (as defined by SEQRA) to be taken by the Agency and the approval of the Project and grant of Financial Assistance constitute such an action; and

WHEREAS, the Agency adopted a resolution on January 24, 2017 (the “*SEQRA Resolution*”) entitled:

RESOLUTION DETERMINING THAT THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A CERTAIN PROJECT AT THE REQUEST OF CG USL VENTURES I, LLC WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT

which resolution is in full force and effect and has not been amended or modified; and

WHEREAS, the Agency adopted a resolution on January 24, 2017 (the “*Inducement Resolution*”) entitled:

RESOLUTION AUTHORIZING THE UNDERTAKING, ACQUISITION, CONSTRUCTION, EQUIPPING AND COMPLETION OF A COMMERCIAL FACILITY; APPOINTING THE COMPANY AS AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, CONSTRUCTION, EQUIPPING AND COMPLETION OF

**THE PROJECT; AND AUTHORIZING THE EXECUTION
AND DELIVERY OF AN AGREEMENT BETWEEN THE
AGENCY AND THE COMPANY**

which resolution is in full force and effect and has not been amended or modified; and

NOW, THEREFORE, be it resolved by the members of the City of Syracuse Industrial Development Agency, as follows:

Section 1. Based upon the representations made by the Company to the Agency and after consideration of the comments received at the public hearing, if any, the Agency hereby ratifies all of its prior resolutions adopted in conjunction with the Project, including but not limited to the SEQRA Resolution, the Inducement Resolution and all other action with respect to the Project and Financial Assistance taken by the Agency, and makes the following findings and determinations:

(a) The acquisition of a controlling interest in the Project Facility by the Agency, the granting of the Financial Assistance and the designation of the Company as the Agency's agent for completion of the Project will be an inducement to, and permit, the Company to develop and operate the Project Facility in the City of Syracuse, thus serving the public purposes of Article 18-A of the General Municipal Law of New York State by promoting and preserving the job opportunities, general prosperity, health and economic welfare of the inhabitants of the City of Syracuse (the "**City**") in furtherance of the purposes of the Act.

(b) The Project will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act.

(c) The commitment of the Agency to provide Financial Assistance to the Company will enable and induce the Company to construct, equip and complete the Project Facility.

(d) The acquisition, construction, equipping and completion of the Project Facility and the attendant promotion of the local economy will advance the job opportunities, health, prosperity and economic welfare of the people of the City and the granting of the Financial Assistance is a necessary component to the financing of the Project.

(e) The Project Facility constitutes a "project" within the meaning of the Act.

(f) It is desirable and in the public interest for the Agency to grant Financial Assistance in connection with the Project.

Section 2. It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. The Project will serve the public purposes of Article 18-A of the General Municipal Law of the State of New York by advancing job opportunities and promoting economic development.

Section 3. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

Section 4. Subject to the conditions set forth in this and prior resolutions adopted by the Agency, the Project Agreement, and the Agreement (each as defined in the Inducement Resolution), the Agency will: (A) acquire a controlling interest in the Project Facility; (B) lease the Land and Facility from the Company pursuant to a lease agreement between the Agency and the Company (the “*Company Lease*”); acquire an interest in the Equipment pursuant to a bill of sale from the Company (the “*Bill of Sale*”); and sublease the Project Facility to the Company pursuant to a sublease agreement (the “*Agency Lease*”); (C) secure the Company’s borrowings with respect to the Project Facility by joining in one or more construction or permanent mortgages on the Project Facility in favor of the Company’s lenders(s); (D) provide the approved Financial Assistance; and (E) execute and deliver any other documents necessary to effectuate the actions contemplated by and consistent with this Resolution upon the advice of counsel to the Agency.

Section 5. The Chairman, Vice Chairman and any authorized representative of the Agency, acting individually, are each hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver the documents and agreements identified in Section 4 of this Resolution as well as the Lease Documents (as defined in the Inducement Resolution) and any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to in Section 4 of this Resolution and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this Resolution.

Section 6. The Agency’s participation in any of the documents referenced herein and in the Inducement Resolution, or the granting of the approved Financial Assistance, is contingent upon counsel for the Agency’s review and the Chairman or Vice Chairman’s approval of, all documents requested or required by the Agency in connection with the Project Facility, as well as the Company’s execution of the Agreement (as defined in the Inducement Resolution) and all other documents required by the Agency to effectuate the intent of this Resolution and as required in similar transactions.

Section 7. No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

Section 8. Counsel to the Agency is hereby authorized to work with the Company and others to prepare, for submission to the Chairman and/or Vice Chairman, all documents necessary to effect the undertaking of the Project and the grant of Financial Assistance in connection with the Project.

Section 9. The approvals provided for herein are contingent upon the Company's payment of all of the Agency's fees and costs, including but not limited to attorneys fees.

Section 10. The Secretary and/or Executive Director of the Agency is hereby authorized to distribute copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 11. This Resolution shall take effect immediately. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

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

	<u>AYE</u>	<u>NAY</u>
William M. Ryan	X	
M. Catherine Richardson	X	
Steven Thompson	X	
Donald Schoenwald	X	
Kenneth Kinsey	X	

The foregoing Resolution was thereupon declared duly adopted.

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


I, the undersigned Secretary of the City of Syracuse Industrial Development Agency, **DO HEREBY CERTIFY** that I have compared the annexed extract of the minutes of the meeting of the City of Syracuse Industrial Development Agency (the “*Agency*”) held on January 24, 2017, with the original thereof on file in my office, and that the same (including all exhibits) is a true and correct copy of the proceedings of the Agency and of the whole of such original insofar as the same relates to the subject matters referred to therein.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of such meeting, (ii) pursuant to Section 104 of the Public Officers Law (Open Meetings Law), such meeting was open to the general public and public notice of the time and place of such meeting was duly given in accordance with such Section 104, (iii) the meeting was in all respects duly held, and (iv) there was a quorum present throughout.

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 set my hand and affixed the seal of the Agency this 28th day of February, 2017.

City of Syracuse Industrial Development Agency



Steven P. Thompson, Secretary

(S E A L)

14

**GENERAL CERTIFICATE OF
SOUTHSIDE GENESEE ASSOCIATES, LLC**

This certificate is made in connection with the execution by Southside Genesee Associates, LLC, a New York State limited liability company (the “**Company**”) of the Project Agreement, the Company Lease, the Agency Lease, the Environmental Compliance and Indemnification Agreement and any other document now or hereafter executed by the Company in connection with the City of Syracuse Industrial Development Agency (the “**Agency**”) agreeing, at the Company’s request, to undertake a project (the “**Project**”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “**Existing Buildings**”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Project Facility is owned by the Company. The Company will lease the Land and Facility to the Agency pursuant to a Company Lease Agreement dated as of March 10, 2017 (the “**Company Lease**”) and transfer its interest in the Equipment to the Agency pursuant to a bill of sale dated as of March 10, 2017 (the “**Bill of Sale**”) and the Agency will sublease the Project Facility back to the Company pursuant to an Agency Lease Agreement dated as of March 10, 2017 (the “**Agency Lease**”).

Capitalized terms used herein which are not otherwise defined herein shall have the meanings ascribed to such terms in the Agency Lease, except that, for purposes of this certificate: (A) all definitions with respect to any document shall be deemed to refer to such document only as it exists as of the date of this Certificate and not as of any future date; and (B) all definitions with respect to any Person shall be deemed to refer to such Person only as it exists as of the date of this certificate and not as of any future date or to any successor or assign.

The undersigned does hereby certify as follows:

1. Attached hereto as **Exhibit “A”** is a true, correct and complete copy of the Articles of Organization of the Company and any amendments thereto filed with the New York

State Secretary of State with proof of publication thereof attached thereto, which Articles (including any amendments) are in full force and effect on the date hereof.

2. Attached hereto as **Exhibit “B”** is a true, correct and complete copy of the Company’s Operating Agreement, and any amendments thereto, and such Operating Agreement, as may have been amended, is in full force and effect on the date hereof.

3. The Company is, and at all times will be, a limited liability company, duly organized, validly existing and in good standing under the laws of New York State and authorized and licensed under the laws of New York State to transact business as a business corporation for the purpose of owning and operating the Project Facility in New York State. Attached hereto as **Exhibit “C”** is a true and correct copy of a Certificate of Good Standing of the Company issued by the New York State Secretary of State.

4. The Company has full legal right, power and authority to execute and deliver the Company Documents and to consummate the transactions on the part of the Company contemplated by the Company Documents. The Company Documents have been duly authorized, executed, and delivered by the Vice President of Syracuse-Michaels, LLC, as the managing member of CG USL Ventures I, LLC, the managing member of the Company and are in full force and effect as of the date hereof. Attached hereto as **Exhibit “D”** is a true, correct and complete copy of the authorizing resolution of the Managing Member of the Company (the “**Resolution**”) in respect of the execution, delivery and performance of the Company Documents.

5. The Company understands and agrees that, unless a written waiver is first obtained from the Agency, the Company and its Additional Agents shall utilize local labor, contractors and suppliers for the construction, renovation, reconstruction and equipping of the Project Facility. The term “**local**” shall mean Onondaga, Oswego, Madison, Cayuga, Oneida and Cortland Counties. The Company further understands and agrees that failure to comply with these local labor requirements may result in the revocation or recapture of benefits provided/approved to the Project by the Agency. In furtherance thereof, Appendix I to the Agency’s Application entitled “Local Access Agreement” has been completed and is attached hereto as **Exhibit “E”**.

6. The Company understands and agrees that it is the preference of the Agency that the Company provide opportunities for the purchase of goods and services from: (i) business enterprises located in the City; (ii) certified minority and or women-owned business enterprises; and (iii) business enterprises that employ residents of the City. The Company further understands and acknowledges that consideration will be given by the Agency to the Company’s efforts to comply, and compliance, with this objective at any time an extension of benefits is sought or involvement by the Agency with the Project is requested by the Company.

7. All consents, approvals, authorizations or orders of, notices to, or filings, registrations or declarations with, any court or governmental authority, board, agency, commission or body having jurisdiction which are required on behalf of the Company or for the execution and delivery by the Company of the Company Documents or the consummation on the part of the Company of the transactions contemplated thereby have been obtained.

8. After performing due diligence, there is no legal action, suit, proceeding, inquiry or investigation at law or in equity (before or by any court, agency, arbitrator, public board or body or other entity or person) pending or threatened against or affecting the Company or, to the knowledge of the Company, any basis therefor: (i) in any way affecting the organization, existence or good standing of the Company; (ii) contesting or materially affecting the validity or enforceability of the Company Documents; (iii) contesting the powers of the Company or its authority with respect to the Company Documents; (iv) contesting the authority of the Company to act on behalf of the Company or the authority of the representatives of the Company to act on behalf of the Company; (v) wherein an unfavorable decision, ruling or finding would have a material adverse effect on: (A) the financial condition or operations of the Company; or (B) the consummation on the part of the Company of the transactions contemplated by any Company Documents.

9. The execution and delivery by the Company of the Company Documents and the consummation by the Company of the transactions contemplated thereby are not prohibited by, do not violate any provision of, and will not result in a breach of or default under: (i) the organizational documents of the Company; (ii) any applicable law, rule, regulation, order, writ, injunction, judgment or decree of any court or governmental body or other requirement to which the Company is subject; or (iii) any contract, agreement, mortgage, lease, guaranty, commitment or other obligation or instrument to which the Company is a party or by which the Company or its properties is bound.

10. All information concerning the Project Facility and the Company submitted to the Agency and any Mortgagee by the Company is true and correct in all material respects and does not omit to state a material fact necessary to make the statements therein not misleading.

11. Assuming the valid authorization, execution and delivery of the Agency Lease and the other Company Documents by the other parties thereto, the Agency Lease and the other Company Documents are the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally or by the exercise of judicial discretion in accordance with general principles of equity. No default by the Company or, to the best of knowledge of the undersigned, no event of default on the part of any other party to the Company Documents has occurred or is continuing and no event has occurred which, with the giving of notice or passage of time or both, would be such an event of default. The Company has duly authorized the taking of and has taken all actions necessary to carry out and give effect to the transactions contemplated to be performed on its part by the Company Documents.

12. All permits (including building permits), licenses and authorizations necessary for the construction, ownership and operation of the Project in the manner contemplated by each of the Company Documents have been obtained or will be obtained, and said construction, ownership and operation will not, to the best knowledge of the Company, conflict with any zoning or similar ordinance applicable to the Project. To the best of the Company's knowledge, the Project conforms to all material environmental regulations.


13. There is no Event of Default or default on the part of the Company under the Company Lease, the Agency Lease, the Environmental Compliance and Indemnification Agreement or any other Company Document, and no event has occurred and is continuing which, after notice or passage of time or both, would give rise to a default under any thereof.

14. The Company Lease, the Agency Lease, the Environmental Compliance and Indemnification Agreement and the other Company Documents are in full force and effect and the Company has not assigned or pledged any of its rights under these documents.

15. The Company acknowledges and restates all of the obligations, representations and covenants in Sections 2.2, 8.12, 11.12 and 11.14 of the Agency Lease and incorporates same herein by reference as if fully set forth herein.

16. The Company further acknowledges its obligation under Section 8.5 of the Agency Lease to provide the additional information as set forth therein and agrees to same.

17. The authorized representatives of the Company who, pursuant to the Resolution, are authorized to execute the Company Documents and the office held by each person are as set forth below. The signature set opposite the name of such officer, if any, is a genuine specimen of such officer's signature:

<u>Name</u>	<u>Signature</u>	<u>Office/Title</u>
James A. Malesich, Jr.		Vice President of Syracuse-Michaels, LLC, as managing member of CG USL Ventures 1, LLC as managing member of the Company

18. The Company represents and warrants that it has no employees and therefore is not now required to carry worker's compensation insurance. The Company represents and acknowledges that in the event it hires any employees in the future, it has an obligation pursuant to the Agency Lease, dated as of March 10, 2017 by and between the Company and the Agency, to obtain worker's compensation insurance and provide proof of same to the Agency.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

¹ that upon commencement of construction it will provide the Agency with proof of property coverage and builder's risk as set forth in the Agency Lease; and

IN WITNESS WHEREOF, I have set my hand and signature as officer of the Company as of March 10, 2017.

SOUTHSIDE GENESEE ASSOCIATES, LLC

By: CG USL VENTURES I, LLC,
its Managing Member

By: SYRACUSE-MICHAELS, LLC,
its Managing Member

By:



James A. Malesich, Jr., Vice President

EXHIBIT "A"
ARTICLES OF ORGANIZATION

STATE OF NEW YORK

DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is true copy of said original.



WITNESS my hand and official seal of the Department of State, at the City of Albany, on January 13, 2017.

A handwritten signature in black ink, appearing to read "B. Fitzgerald", written over a horizontal line.

Brendan W. Fitzgerald
Executive Deputy Secretary of State

**ARTICLES OF ORGANIZATION
OF
Southside Genesee Associates, LLC**

Under Section 203 of the Limited Liability Company Law

THE UNDERSIGNED, being a natural person of at least eighteen (18) years of age, and acting as the organizer of the limited liability company hereby being formed under Section 203 of the Limited Liability Company Law of the State of New York certifies that:

FIRST: The name of the limited liability company is:

Southside Genesee Associates, LLC

SECOND: The county, within this state, in which the office of the limited liability company is to be located is ONONDAGA.

THIRD: The Secretary of State is designated as agent of the limited liability company upon whom process against it may be served. The address within or without this state to which the Secretary of State shall mail a copy of any process against the limited liability company served upon him or her is:

c/o University Student Living
3 East Stow Road, Suite 270
PO Box 994
Marlton, NJ 08053

FOURTH: The limited liability company is to be managed by: ONE OR MORE MANAGERS.

I certify that I have read the above statements, I am authorized to sign these Articles of Organization, that the above statements are true and correct to the best of my knowledge and belief and that my signature typed below constitutes my signature.

James J. Canfield, Authorized Person (signature)

James J. Canfield , ORGANIZER
Barclay Damon Tower
125 East Jefferson Street
Syracuse, NY 13202

Filed by:

Lauren A. Pistell
Barclay Damon Tower
125 East Jefferson Street
Syracuse, NY 13202

FILED WITH THE NYS DEPARTMENT OF STATE ON: 01/13/2017
FILE NUMBER: 170113010451; DOS ID: 5068195

CERTIFICATE OF PUBLICATION

OF

SOUTHSIDE GENESEE ASSOCIATES, LLC

Under Section 206 of the Limited Liability Company Law

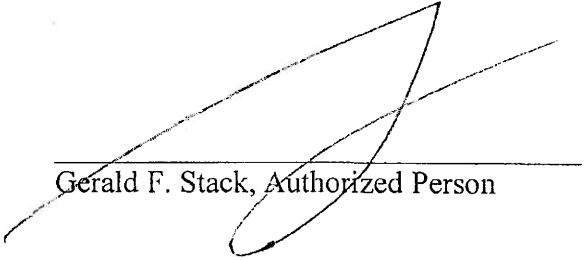
The undersigned is the Authorized Person of Southside Genesee Associates, LLC.

The published notices described in the annexed affidavits of publication contain all of the information required by Section 206 of the Limited Liability Company Law.

The newspapers described in such affidavits of publication satisfy the requirements set forth in the Limited Liability Company Law and the designation made by the county clerk.

I certify the foregoing statements to be true under penalties of perjury.

Date: March 3, 2017



Gerald F. Stack, Authorized Person

The Post-Standard

LEGAL AFFIDAVIT

INV#: 0008010361

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BARCLAY DAMON LLP
LAUREN A PISTELL
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SYRACUSE, NY 13202

Name: BARCLAY DAMON LLP

Sales Rep: Pamela Gallagher

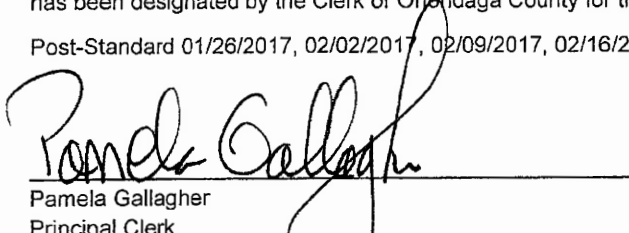
Account Number: 1056027

INV#: 0008010361

Date	Position	Description	P.O. Number	Ad Size
02/23/2017	Other Legals NY	Notice of Formation of LLC. Southside Genesee Associates,	Southside Genesee As	1 x 19.00 CL

Under Section 206 of the Limited Liability Company Law of New York, County of Onondaga, ss: The undersigned is publisher of The Post-Standard, a daily newspaper published in Syracuse, New York. A notice regarding: Southside Genesee Associates, LLC was published in said newspaper once in each week for six successive weeks, commencing on 1/19/2017 and ending on 2/23/2017. The text of the notice as published in said newspaper is as set forth below or in the annexed exhibit. This newspaper has been designated by the Clerk of Onondaga County for this purpose.

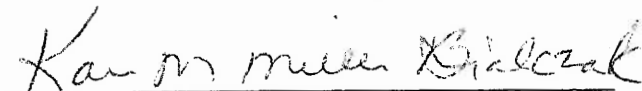
Post-Standard 01/26/2017, 02/02/2017, 02/09/2017, 02/16/2017, 02/23/2017, 01/19/2017



Pamela Gallagher

Principal Clerk

An Authorized Designee of the President, Timothy R. Kennedy
Subscribed and sworn to before me, this 23th day of February
2017



NOTARY PUBLIC

FOR QUESTIONS CONCERNING THIS AFFIDAVIT,
PLEASE CONTACT PAMELA GALLAGHER AT
(315) 470-2051 OR Legals@Syracuse.com

KAREN M. MILLER BIALCZAK
Notary Public- State of New York
No. 01M16334505
Qualified in Onondaga County
My Commission Expires:

12/21/19

Ad Number:0008010361

Date	Position	Description	P.O. Number	Ad Size
02/23/2017	Other Legals N	Notice of Formation of LLC. <u>Southside Genesee Associates,</u>	Southside Genesee	1 x 19.00 CL

Notice of Formation of LLC. Southside Genesee Associates, LLC (LLC) filed Arts. of Org. with Secy. of State of NY (SSNY) on 01/13/2017. Office location: Onondaga County. SSNY designated as agent of the LLC upon whom process may be served and SSNY shall mail process to the LLC at c/o University Student Living, PO Box 994, Marlton, NJ 08053. Purpose: any business permitted under law.

Affidavit of Publication
Under Section #206
of the Limited Liability Company Law

State of New York
County of Onondaga }SS.:

The undersigned is the authorized designee of COMMUNITY MEDIA GROUP, LLC
the publisher of EAGLE BULLETIN a weekly
newspaper published in Manlius, New York. A notice regarding
SOUTHSIDE GENESEE ASSOCIATES, LLC was published in said
newspaper once in each week for six successive weeks, commencing on
01/25/2017 and ending on 03/01/2017.

The text of the notice as published in said newspaper is as set
forth below, or in the annexed exhibit. This newspaper has been
designated by clerk of Onondaga County for this purpose.

01/25/2017 02/01/2017 02/08/2017 02/15/2017
02/22/2017 03/01/2017

Signature: Shannon Christian
By: Shannon Christian, Authorized Designee of David Tyler
COMMUNITY MEDIA GROUP, LLC

Sworn to before me this 2nd day of March, 2017

Notary Public Gayle M. Alexander

Gayle M. Alexander
Notary Public, State of New York
No. 01AL4977709
Qualified in Essex County

Commission expires: 02/11/2019
141886

Ad text :

Notice of Formation of LLC. Southside Genesee Associates, LLC (LLC) filed Arts. of Org. with Secy. of State of NY (SSNY) on 01/13/2017. Office location: Onondaga County. SSNY designated as agent of the LLC upon whom process may be served and SSNY shall mail process to the LLC at c/o University Student Living, PO Box 994, Marlton, NJ 08053. Purpose: any business permitted under law.
EB-141886

CERTIFICATE OF PUBLICATION

OF

SOUTHSIDE GENESEE ASSOCIATES, LLC

Under Section 206 of the Limited Liability Company Law

Filed by:

Lauren A. Pistell
Barclay Damon, LLP
125 East Jefferson Street
Syracuse, New York 13202
Cust. Ref. No. 3077707
#H2

EXHIBIT "B"
OPERATING AGREEMENT

OPERATING AGREEMENT

SOUTHSIDE GENESEE ASSOCIATES, LLC

THESE SECURITIES HAVE NOT BEEN REGISTERED OR QUALIFIED WITH OR APPROVED BY THE U.S. SECURITIES AND EXCHANGE COMMISSION (“SEC”) OR ANY STATE SECURITIES COMMISSION. NOR HAS THE SEC OR ANY STATE SECURITIES COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THESE SECURITIES MAY NOT BE SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN COMPLIANCE WITH THE REGISTRATION OR QUALIFICATION REQUIREMENTS OF ALL APPLICABLE FEDERAL AND STATE SECURITIES LAWS OR BASED ON AN OPINION OF COUNSEL IN SUBSTANCE, FORM AND SCOPE SATISFACTORY TO THE COMPANY TO THE EFFECT THAT AN EXEMPTION FROM SUCH REQUIREMENTS IS AVAILABLE. ACCORDINGLY, MEMBERS MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THESE SECURITIES FOR AN INDEFINITE PERIOD OF TIME.

THIS OPERATING AGREEMENT OF THE COMPANY PROVIDES FOR ADDITIONAL RESTRICTIONS ON THE TRANSFERABILITY OF INTERESTS.

**OPERATING AGREEMENT
SOUTHSIDE GENESEE ASSOCIATES, LLC**

THIS OPERATING AGREEMENT ("Agreement"), is made as of March 1, 2017, by and among CG USL Ventures I, LLC, a New York limited liability company (the "Manager") and Southside Genesee Investor, LLC, a New Jersey limited liability company ("Investor Member"). The Managing Member and Investor Member are sometimes individually referred to as a "Member" and collectively as the "Members". The Managing Member is also referred to herein as the "Manager" in that capacity.

BACKGROUND:

A. Managing Member and Investor Member intend to develop student housing project in Syracuse, New York. The Members agreed to form this limited liability company to develop and operate the project hereinafter described (the "Company").

B. This Agreement provides for, among other things: (i) the formation of the Company; (ii) the payment of capital contributions by the Members; (iii) the allocation of profits, losses and distributions of cash flow and other proceeds of the Company among the Members; (iv) the respective rights, obligations and interests of the parties hereto to each other and to the Company; and (v) certain other matters.

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE I
FORMATION OF COMPANY**

1.01 Formation. The undersigned hereby form the Company as a limited liability company under the New York Limited Liability Company Law, as same may be amended from time to time during the term of the Company by entering into this Agreement and by the filing of the Certificate of Formation of the Company on January 13, 2017 with the Secretary of State of the State of New York.

1.02 Name. The name of the Company is "Southside Genesee Associates, LLC".

1.03 Principal Office of the Company. The principal office of the Company shall be, and the books and records of the Company shall be kept, at Three E. Stow Road, Suite 100, Marlton, New Jersey 08053. The Company may change the location of its principal office to such other place or places as may hereafter be determined by the Managing Member. The Managing Member shall promptly notify the Members of any change in the location of the principal office. The Company may maintain such other offices at such other place or places as the Managing Member may from time to time deem advisable.

1.04 Term. The Company shall continue in perpetuity, unless the Company is

terminated in accordance with the provisions of this Agreement.

1.05 Recording of Certificate. The Managing Member shall take all necessary action required by law to continue to qualify and maintain the Company as a limited liability company under the laws of the State (as hereinafter defined), and shall register the Company under any assumed or fictitious name statute or similar law in force and effect in the State.

ARTICLE II DEFINED TERMS

In addition to the definitions set forth herein above and hereinafter, the following defined terms used in this Agreement shall have the meanings specified below:

“Accountants” – BDO Seidman, Philadelphia, Pennsylvania or such independent certified public accountant as may be engaged by the Managing Member to prepare the Company’s financial statements and/or income tax returns.

“Act” – New York Limited Liability Company Law, as amended.

“Adjusted Capital Account Deficit” - the deficit balance, if any, in a Member's Capital Account as of the end of the relevant fiscal year after giving effect to the following adjustments: (i) a credit to such Capital Account for any amounts which such Member is obligated to restore thereto pursuant to any provision of this Agreement or is deemed to be obligated to restore thereto pursuant to the penultimate sentences of Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Regulations; and (ii) a debit to such capital account for the items described in Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6) of the Regulations. The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

“Affiliate” - any Person that, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with a Member, or with another designated Person, as the context may require.

“Architect” – Erdy McHenry Architecture, LLC.

“Architect Contract” - the architectural contract entered into between the Company and the Architect.

“Bankruptcy” - the filing of a petition for relief as to a Person as debtor or bankrupt (the “Bankrupt”) under the Bankruptcy Code of 1978 or like provision of law (except if such petition is contested by such Person and has been or is dismissed within 90 days after the filing of the Petition); insolvency of such Person as finally determined by a court proceeding; filing by such Person of a petition or application to accomplish the same or for the appointment of a receiver or a trustee for such Person or a substantial part of such Person's assets; commencement of any proceeding relating to such Person under any other reorganization, arrangement, insolvency, adjustment of debt or liquidation law of any

jurisdiction, whether now in existence or hereinafter in effect, either by such Person or by another, and such Person indicates his, her or its approval of such proceeding, consents thereto or acquiesces therein, or such proceeding is contested by such Person and has not been finally dismissed within 90 days after commencement of such proceeding.

“Capital Account” - the capital account of a Member as described in Section 10.06 of this Agreement.

“Capital Contributions” - the total amount of money and the fair market value of other property (net of liabilities thereon) contributed or required to be contributed to the Company by a Member pursuant to the terms of this Agreement. Any reference to the Capital Contributions of a Member shall include the Capital Contributions made by a predecessor holder of the Interest of such Member.

“Certificate” - the Articles of Organization or any certificate or other instrument or document which is required under the laws of the State hereinafter to be signed by a Member(s) of the Company and filed in the appropriate public offices within the State to perfect or maintain the existence of the Company as a limited liability company under the laws of the State.

“Code” - the Internal Revenue Code of 1986, as amended, or any succeeding similar law.

“Completion” - means the issuance of Certificates of Occupancy (final or temporary) for all of the residential units in the Project.

“Consultant” – Hueber-Breuer Construction Co, Inc.

“Consultant Contract” - the AIA Standard Form Consultant Contract entered into between the Company and the Consultant.

“Consent” - the prior written consent or approval of the Member or any other Person, as the context may require, to do the act or thing for which the consent is solicited, which unless otherwise stated herein will not be unreasonably withheld, delayed or conditioned.

“Construction Contract” - the AIA Standard Form Construction Contract – Stipulated Sum with a Guaranteed Maximum Price, together with approved change orders (including all exhibits and attachments thereto) entered into between the Company and the Contractor, pursuant to which the Project will be constructed.

“Construction Loan” – means the construction loan in the principal amount of approximately \$34,200,000 from Citizens Bank.

“Contractor” - the general contractor to be hired by the Company to construct the Project.

“Conversion” – the date when both Completion and closing of the Permanent Loan have occurred.

“Developer” – Manager.

“Engineer” – Passero Associates, Engineering, Architecture, & Surveying, D.P.C.

“Engineering Contract” – the contract entered into between the Company and the Engineer.

“Excess Development Costs” - all development expenditures in excess of (a) the proceeds of the Permanent Loan; (b) Capital Contributions; (c) the proceeds of the sale of tax credits or energy rebates, and (d) any other funds that become available during construction of the Project, which are required to achieve Conversion. Without limiting the generality of the foregoing, the term “Excess Development Costs” shall include (1) the cash equity required to be provided to the Lender by or on behalf of the Company at closing of the Construction Loan and at Conversion, (2) any mortgage loans fees, (3) any interest, taxes, and property insurance premiums not payable from mortgage loans proceeds for the period up to Completion, (4) all construction costs including any construction cost overruns and the cost of any change orders which are not funded from the proceeds of the Construction Loan and Capital Contributions, (5) any reserves or escrow deposit requirements which are conditions to the Conversion, including, without limitation, any amounts necessary for local taxes, utilities, earthquake and other insurance premiums and other purposes which might be required (provided, however, that if any such deposits are made by the Managing Member and the funds, or any portion thereof, subsequently are released from such deposit, the funds so released shall be paid to the Managing Member), (6) any Operating Deficits incurred by the Company prior to the Conversion, and (7) any fees, as may be imposed by the Lender and which are not payable out of the proceeds of the Permanent Loan, or revenues and rents of the Company available at Conversion.

“Guarantors” – The Michaels Development Company I, L.P. and Geiger Cuse, LLC, joint and several.

“Interest” or “Percentage Interest” - the ownership interest of a Member in the Company at any particular time, including the right of such Member to any and all benefits to which such Member may be entitled as provided in this Agreement and in the Act, together with the obligations of such Member to comply with all of the terms and provisions of this Agreement and of the Act. The Percentage Interests of the Members are set forth on Schedule A attached hereto.

“Managing Member/Manager” – CG USL Ventures I, LLC.

“Member” – the Managing Member or Investor Member, together, the “Members”.

“Net Cash Flow” - the gross cash receipts from operation of the Project (excluding the proceeds of a Sale or Refinance Transaction) and other funds of the Company which are not

required to offset development costs of the Project, less the portion thereof used to pay, or establish reserves for, all operating expenses, mandatory debt payments, capital improvements, replacements, and contingencies and escrows (all as determined by the Managing Member in its reasonable discretion). Net Cash Flow shall not be reduced by depreciation, cost recovery deductions such as amortization or similar allowances.

“Notices” - a writing containing the information required by this Agreement to be communicated to a Member and sent by registered or certified mail, postage prepaid, return receipt requested, to such Member at the address set forth above, or to such other address as the parties may designate from time to time by notice given in accordance with this Agreement, the date of registry thereof or the date of such certified receipt therefore being deemed the date of such Notice; provided, however, that any written communication containing such information sent to such Member actually received by such Member shall constitute Notice for all purposes of this Agreement as of the date received.

“Operating Deficit” - for any period, the amount by which (a) the receipts of the Company from all sources including any reserves and earnings thereon that are currently available to pay Company operating expenses (other than Capital Contributions) for a particular period of time, is exceeded by (b) the sum of all accrued operating expenses of the Company.

“Permanent Loan” – the permanent loan from a Lender. The Permanent Loan will be used, in whole or in part, to satisfy the Construction Loan.

“Person” - any individual, limited liability company, partnership, corporation, foundation, trust, estate or other entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Persons.

“Plans and Specifications” – means the plans and specifications for the construction of the Project.

“Preferred Return” – with respect to a Member, an amount equal to 18% per annum, cumulative but not compounded, on the average daily balance of its Unreturned Capital, from time to time during the period during which such Preferred Return is determined, commencing on the date such Member first makes a Capital Contribution to the Company.

“Project” means an approximately 363 bed student housing project located in Syracuse, New York to be constructed, owned and operated by the Company, and all fixtures, furnishings and personal property used or to be used in connection with the operation thereof.

“Project Budgets” – the development and operating budgets for the Project.

“Project Costs” – means the direct land acquisition, entitlement, development and construction costs for the Project, including architectural and engineering costs, permitting fees, any construction management costs, the costs of materials and equipment incorporated into or used in connection with construction of the Project, other amounts payable to construction contractors and subcontractors, insurance costs during construction, interest,

fees, costs and expenses of the Construction Loan, including initial funding of required loan reserves, real estate taxes, taxes on any of the foregoing, the development fee, and any other categories of costs included as line items in the Project Budget.

“Project Development Plan” – the development plan for the Project, including the Project description, Project Budgets, the Plans and Specifications and debt financing plan.

“Project Documents” - the Architect Contract, Construction Contract, Plans and Specifications, all Construction Loan documents, and all other documents and instruments executed in connection with the development and construction of the Project, and as any such documents may be amended from time to time.

“Property Manager” – University Student Living Management, LLC.

“Regulations” - the regulations promulgated by the Department of Treasury of the United States with respect to the Code.

“Residual Interests” - the percentage interests of the Members in certain allocations and distributions made pursuant to Article 10 of this Agreement. The initial Residual Interests of the Members are set forth on Exhibit A hereto.

“Sale or Refinancing Transaction” - any sale, refinancing or other disposition of the Company's business and/or property, whether partially or totally, casualty proceeds (where the proceeds are not to be used for reconstruction), condemnation proceeds or similar event, in whole or in part, of property owned by the Company and all other transactions not in the ordinary course of the business of the Company.

“State” means the State of New York.

“Substitute Member” - any Person admitted to the Company or a Member pursuant to Section 8.02 hereof.

“Unreturned Capital” – with respect to a Member, an amount equal to its aggregate Capital Contributions made to the Company, reduced only by the sum of all distributions made by the Company to such Member pursuant to Sections 10.01(c)(iii) and 10.02(c)(v) of this Agreement. A Member's Unreturned Capital shall not be adjusted by allocations of profits, gains, losses or other items of income and expense.

“Voluntary Loans” – loans made pursuant to Section 5.03(d) of this Agreement.

ARTICLE III PURPOSE AND BUSINESS OF THE COMPANY

3.01 Purpose. The purpose of the Company is to acquire, develop, finance, syndicate, construct and operate the Project and to engage in all activities in connection therewith.

3.02 Authority of the Company. In order to carry out its purpose, the Company is empowered and authorized to do any and all acts and things necessary, appropriate, proper, advisable, incidental to or convenient for the furtherance and accomplishment of its purpose, and for the protection and benefit of the Company, subject to other limitations expressly set forth elsewhere in this Agreement and the Act, including, but not limited to, the following:

(a) Enter into any kind of activity, and perform and carry out contracts of any kind necessary to, or in connection with, or incidental to, the accomplishment of the purposes of the Company;

(b) Borrow money and issue evidences of indebtedness in furtherance of the Company Business and secure any such indebtedness by pledge or other lien, provided, however, that any evidences of indebtedness and any documents amending, modifying or replacing it shall have the legal effect that the Members and their Affiliates shall have no direct personal liability for the repayment of the principal of or payment of interest on such indebtedness, and that the sole recourse of any lender with respect to the principal thereof and interest thereon shall be to the assets of the Company, including the property securing the indebtedness;

(c) Negotiate for and conclude agreements for the sale, exchange, lease or other disposition of all or substantially all of the property of the Company; and

(d) Do any and all other acts and things necessary or proper in furtherance of the Company business.

ARTICLE IV

GENERAL DUTIES AND OBLIGATIONS OF THE MANAGING MEMBER

4.01 Duties and Obligations. The Manager shall use its best efforts in connection with the performance of the following duties and obligations with respect to the Company:

(a) taking all action that may be necessary or appropriate to carry out the purposes of the Company as described in this Agreement; and

(b) doing all other things (subject to the restrictions contained herein) that may be necessary or desirable in order to properly and efficiently administer and carry on the affairs, assets and business of the Company.

ARTICLE V

CAPITAL CONTRIBUTIONS

5.01 Agreement to Contribute. Each Member shall contribute to the capital of the Company at the time and in the manner herein provided and shall undertake on behalf of the Company the covenants set forth in this Article 5.

5.02 Initial Capital Contributions of the Members.

(a) The Managing Member has contributed cash or property with a fair market value equal to \$474,078 to the Company. The Managing Member shall make 10% of additional Capital Contributions required by the Manager until such time as the Managing Member has contributed \$1,555,300.

(b) Upon the execution of this Agreement by all of the parties, the Investor Member shall make a Cash Capital Contribution to the Company in the amount of 4,266,705. The Investor Member shall make 90% of all additional Capital Contributions required by the Manager until such time as Investor Member has contributed \$13,997,700.

(c) Except as expressly provided herein, no Member shall be required to make any additional Capital Contributions to the Company.

5.03 Additional Capital Contributions. (a) The Managing Member will contribute to the Company such additional funds in the form of Capital Contributions (and not as a Loan) as are needed to fund all Excess Development Costs. The Investor Member shall not be obligated to make a Capital Contribution under this Section 5.03(a). The Guarantors guarantee the obligations of the Managing Member under this Section 5.03(a).

(b) The Members may contribute to the Company such additional funds in the form of Capital Contributions to fund all Operating Deficits occurring after Conversion, 10% from the Managing Member and 90% from the Investor Member.

(c) Unless otherwise expressly agreed by all of the Members, all additional Capital Contributions shall be in the form of money, by personal or bank check, and shall be made within twenty-one (21) days after the giving of Notice by the Managing Member of the occurrence or anticipated occurrence of an Excess Development Cost or an Operating Deficit, in which Notice the amount due and owing by each Member shall be specified.

(d) If a Member (hereafter, a "Defaulting Member") shall fail to fund its share of a Capital Contribution due pursuant to Sections 5.03(a) or (b) of this Agreement (in each case, a "Capital Call"), no other Member(s) shall be required to fund its/their shares of such Capital Call, but may, if any one or more of them elects to do so in its/their sole discretion, advance all or any portion of such Capital Call as a loan to the Company (a "Voluntary Loan"), in such proportions as such Members (each, a "Lending Member" and collectively, the "Lending Members") shall agree, but in absence of such an agreement, in the same proportion that each such Lending Member's Percentage Interests in the Company bears to the Percentage Interests of all such Lending Members. A Voluntary Loan made pursuant to this Section 5.03(b) shall bear interest at 15% per annum from the date of advance until repaid, shall be repaid from Net Cash Flow before any distributions are made to any Member pursuant to Section 10.01(c) hereof, and from the proceeds of any Sale or Refinance Transaction and the liquidation of the Company, before any other distributions are made to the Members pursuant to Section 10.02(c) of this Agreement.

The rights of the Non-Defaulting Member under Section 5.03(d) hereof are the sole

remedies of the Company and the Non-Defaulting Member(s) for the Defaulting Member's failure to make an additional Capital Contribution as required by Sections 5.03(a) and (b) hereof.

5.04 Return of Capital Contributions. Notwithstanding any provisions of the Act and except as otherwise provided in this Agreement, no Member shall be entitled to demand or receive the return of such Member's Capital Contributions or any portion thereof; no Member shall have priority over any other Member as to return of such Member's Capital Contributions; no Member shall be personally liable for the return of the Capital Contributions to any other Member, or any portion thereof, it being expressly understood that any such return shall be made solely from assets of the Company; and no Member shall have the right to demand return of such Member's Capital Contributions unless the Managing Member determines to make distributions in accordance with this Agreement; provided, however that in no event shall a Member have the right to demand or receive property other than cash in return for such Member's Capital Contributions in the event that the Managing Member determines to make a cash distribution on account thereof. No Member shall be required to pay to the Company or to any other Member any deficit in its Capital Account upon a dissolution of the Company or otherwise. No interest shall be paid on the return of any Capital Contributions.

ARTICLE VI
RIGHTS, OBLIGATIONS AND
POWERS OF THE MANAGING MEMBER

6.01 Management of the Company. Except as otherwise set forth in this Agreement, the Manager, within the authority granted to it under this Agreement, shall have full, complete and exclusive discretion to manage and control the business of the Company for the purposes stated in Article 3 of this Agreement, shall make all decisions affecting the business of the Company and shall manage and control the affairs of the Company. In so doing, the Managing Member shall take all actions reasonably necessary or appropriate to protect the interests of the Members and of the Company to the extent that such actions are subject to the Manager's control; provided, however, that the Manager shall only be required to utilize Company funds for such purpose. The Manager shall have the authority to execute documents on behalf of the Company including, without limitation, executing and delivering the Project Documents and to bind the Company thereby, and third parties shall have the right to rely on the Manager's signature as being binding on the Company. The Manager shall devote such of the Manager's time as is necessary to manage the affairs of the Company.

6.02 Limitations Upon the Authority of the Manager. (a) The Manager shall not have any authority to: (i) perform any act in violation of any applicable law or regulation thereunder any Project Document or any agreement between the Company and any governmental authority or lender; (ii) do any act required to be approved or ratified in writing by the Members under the Act, unless the right to do so is expressly given in this Agreement or unless such act is approved or ratified in writing by the Members as provided in this Agreement; or (iii) borrow from the Company or commingle Company funds with funds of the Managing Member or any other Person.

(b) The Managing Member shall not have authority to enter into, or approve any transactions on behalf of the Company which is not consistent with and reasonably related to the achievement of the purposes of the Company stated in Article III of this Agreement, or do any of the following except with the Consent of the Investor Member, which Consent shall not be unreasonably withheld, delayed or conditioned:

(i) Sell, convey or lease or otherwise encumber any portion of the Company's property except in furtherance of the development of the Project in accordance with this Agreement.

(ii) Cause the Company to redeem or repurchase all or any portion of the Interest of a Member; admit additional Members to the Company; or cause or permit the Company to be merged with any other entity.

(iii) Cause the Company to settle, compromise, mediate or otherwise relinquish any claim (actual or prospective) or to release, waive or diminish any material Company rights in any litigation or arbitration matter involving a claim in excess of \$50,000.

(iv) Perform any act that would make it impossible to carry on the business of the Company or that is in contravention of this Agreement or any of the Project Documents.

(v) Permit conversion of the assets of the Company to use by any Member or the Managing Member.

(vi) Permit the payment by the Company to the Managing Member or any of its Affiliates, of any salary, fees, profits, distributions or allocations from the Company, unless such amounts are expressly provided by this Agreement.

(vii) Dissolve the Company or Amend the Certificate of Formation for the Company or this Agreement.

(viii) (A) Consolidate or merge the Company with or into any Person; (B) institute proceedings to have the Company be adjudicated bankrupt or insolvent; (C) consent to the institution of Bankruptcy proceedings against the Company; (D) file a petition seeking, or consent to, reorganization or relief with respect to the Company under any applicable federal or state law relating to Bankruptcy; (E) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Company or a substantial part of its property; (F) participate in any involuntary Bankruptcy proceeding against the Company, (G) make any assignment for the benefit of creditors of the Company; (H) admit in writing the Company's inability to pay its debts generally as they become due, or take action in furtherance of any such action; (I) to the fullest extent permitted by law, dissolve or liquidate the Company; (J) confess a judgment against the Company; or (L) change the legal form of the Company.

(ix) Permit a sale, transfer, encumbrance, other disposition or refinancing (including any modification of any loan) of all or any portion of the Project other than (A) to close the Construction Loan and Permanent Loan and (B) grant utility easements, (C) lease units in the Project to residential tenants or (D) replace of fixtures, furniture and equipment in the ordinary course of business.

(x) Permit the Company to become a surety, guarantor, indemnitor or accommodation party to any obligation or for any person or organization.

(xi) Take any action that would cause any Member or any member, manager or other Affiliate of a Member to be personally liable for any debt, liability or obligation of the Company or of any other Member, without the Consent of such Member, other than as required of Affiliates of the Managing Member.

(xii) Amend or modify the Plans and Specifications or the project budget, approve, or permit the general contractor to make, any changes in the amount of the project costs, or approve, or permit the general contractor to make, any change order or orders in connection with the construction of the Improvements.

(xiii) Amend, modify or terminate the Architect's Contract, Construction Contract, the Consultant Contract, the Engineer's Agreement, the Property Management Agreement, or the exercise any right of the Company thereunder; terminate the services of the Accountants, Consultant, Architect, Developer, Contractor, or Property Manager, or approve any change order exceeding ten percent (10%) of the cost of construction.

(xiv) Change accounting policies, or approve, publish or distribute, other than to existing or prospective lenders or purchasers or Lender, audited or unaudited accounts of the Company except to the extent required by any legal requirement.

(xv) Modify or waive the Development Fee or terminate the engagement of either of the Developers.

(xvi) Possess Company property or assign rights in Company property, in either case, other than for the Company's purpose.

(xvii) Act in any manner which Managing Member knew or should have known will cause the termination of the Company for federal income tax purposes (other than the transactions relating to the admission of Member into the Company as contemplated by this Agreement), or cause the Company to be treated for federal income tax purposes as an association taxable as a corporation.

(xviii) Withdraw, admit or substitute a Managing Member or any other Member.

(xix) Make a loan of Company funds to any Person including Managing Member or any Affiliate.

(xx) Borrow funds in the name of the Company (except for the Construction Loan and Permanent Loan), refinance the loan, or incur any indebtedness for borrowed money except for trade payables in the normal course of business.

(xxi) Make income tax elections, except for those elections which are purely ministerial in nature.

(xxii) Acquire any real or personal property tangible or intangible in addition to the Project or any replacement of personal property within the Project, the aggregate value of which will exceed \$20,000 in a single fiscal year (other than easements or similar rights necessary or convenient for the operation of the Project and other than as set forth in the construction budget or any annual budget approved pursuant to the terms of this Agreement) other than as may be required by any governmental authority.

(xxiii) Pay any salary, fees or other compensation to the Managing Member or Member or any Affiliate thereof, except the Development Fee as authorized by the Project Documents or this Agreement or except as disclosed by an annual budget approved by Investor Member provided that such approved annual budget specifically discloses that such payment is to be made to Managing Member or such Affiliate.

(xxiv) Engage a substitute Property Manager or approve the delegation by the Property Manager of all or a substantial portion of its duties to a third party.

(xxv) Amend, modify, or terminate any guaranty of Managing Member's or Guarantors' obligations under this Agreement, or grant any waiver or consent thereunder.

(xxvi) Following Completion, to construct any new or replacement capital improvements on the Project which would substantially alter the use or character of the Project except as required by the Project lenders or any governmental authority.

(xxvii) Cause the Company to convert the Project to cooperative or condominium ownership.

(xxiii) Except in emergency circumstances, operate, or permit the operation of, the Project in any manner in which such operations would cause the actual operating results for the Project to vary from the annual budget by more than 10%, without Investor Member's prior Consent, which consent will not be unreasonably withheld, conditioned, or delayed.

(xxix) Cause the Company to be classified other than as a partnership for federal income tax purposes.

6.03 Delegation of Authority. The Manager may delegate all or any of its powers, rights and obligations hereunder, and may appoint, employ, contract or otherwise deal with any Person for the transaction of the business of the Company, which Person may perform any acts or services for the Company as the Manager may approve, provided, however that the Manager shall not be relieved of any obligation hereunder.

6.04 Other Activities of the Manager. The Manager and all Affiliates thereof may engage in or possess interests in other business ventures of any and every kind and description for their own account, including, without limitation, serving as managing member or member of other entities which own and/or operate, either directly or indirectly through other limited liability companies or entities, businesses similar to the business of the Company or in competition with the business of the Company. Neither the Company nor any of the Members shall have any rights by virtue of this Agreement in or to such other business ventures or to the income or profits derived there from.

6.05 Liability for Acts and Omissions of Manager. Except for gross negligence, willful misconduct or fraud with respect to any act or omission which has a material adverse financial effect on the Company, the Manager shall not be liable, responsible or accountable in damages to any of the Members and/or the Company for any act or omission performed or omitted by it on behalf of the Company, in a manner reasonably believed by the Manager to be within the scope of the authority granted to it by this Agreement. Any loss or damage incurred by the Manager by reason of any act or omission performed or omitted by the Manager on behalf of the Company in a manner reasonably believed by the Manager to be within the scope and authority granted to the Manager by this Agreement (but not, in any event, any loss or damage incurred by any Manager by reason of gross negligence, willful misconduct or fraud of the Manager with respect to such act or omission which has a material adverse financial effect on the Company) shall be paid from Company assets to the extent available (but the Members shall not have any personal liability to the Manager under any circumstances on account of any such loss or damage incurred by the Manager or on account of the payment thereof).

6.06 Loans to the Company. In the event that the Manager determine that additional funds are required by the Company for any purpose relating to the business of the Company or for any of the Company's obligations, expenses, costs or expenditures, the Company may borrow such funds as are on such terms as the Manager and the lenders may agree.

6.07 Manager or Affiliates Dealing with Company. The Manager or any Affiliate thereof shall have the right to contract or otherwise deal with the Company for the sale of goods or services to the Company (a) compensation paid for such goods or services is reasonable (*i.e.*, no greater than fair market value) and is paid only for the goods or services actually furnished to the Company, (b) the goods or services to be furnished are reasonable for and necessary to the Company, and (c) the fees, terms and conditions of such transactions are at least as favorable to the Company as would be obtainable in an arms-length transaction. The Company shall not, by the making payments to any Person for disbursement by such Person, circumvent the provisions of this Section 6.07. Each contract or agreement between

the Manager or an Affiliate of such Manager and the Company shall be subject to the prior approval of the Investor Member.

ARTICLE VII
DEVELOPMENT AND OPERATION

7.01 Development Fee. In consideration for the services of the Company, in connection with the acquisition, construction, financing and general development of the Project, the Company will pay the Developer, subject to the approval of the construction lender, a development fee in the amount of \$1,806,000 (the "Development Fee"), payable one-third at the closing of the Construction Loan, one third during construction, pro-rata with advances of the Construction Loan, and one third upon Completion.

7.02 Disputes. (a) If the Members are unable to agree upon any matter or matters arising under this Agreement for which Consent or approval is required, such matter shall, upon the request of either be submitted to, and settled by, arbitration in the State as follows:

(i) The dispute shall be resolved by arbitration in accordance with, but not under the Expedited Procedures of the Commercial Arbitration Rules of the American Arbitration Association and this Section 7.02.

(ii) An arbitrator shall be selected by the Members, but shall in all events be an attorney with at least ten (10) years' experience in real estate development, and shall be independent as to the parties hereto. If the Members cannot agree on an arbitrator, they shall each select one arbitrator and the two arbitrators shall select a third independent arbitrator who shall act as the arbitrator.

(iii) Consistent with the expedited nature of arbitration, each party will, upon the written request of the other party, promptly provide the other with copies of all documents relative to the matter in dispute. Any dispute regarding discovery, the relevance or scope thereof, shall be determined by the arbitrator. All discovery shall be completed within forty five (45) days following appointment of the arbitrator.

(iv) The arbitrator shall be directed to promptly conduct the arbitration, and shall be directed to give notice of its determination within ninety (90) days of its appointment.

(v) The arbitrator shall be required to strictly adhere to State and local law and the terms of this Agreement. The arbitrator will have no authority to award punitive or other damages not measured by the prevailing party's actual damages. The arbitrator shall not award consequential damages.

(vi) The award of the arbitrator shall be accompanied by a reasoned opinion including findings of fact and conclusions of law.

(vii) Each party shall bear its own cost and expenses of the arbitration

and an equal share of the arbitrator's and administrative fees.

7.03 Guarantees. The Guarantors will provide any and all requested or required guarantees and indemnitees (each a "Guaranty") related to the Project and the Company, including to the Project lenders and the Investor Members. Notwithstanding anything to the contrary, however, no Guarantor shall be obligated to provide any particular guaranty to a third party, including a lender, until and unless all of the following occur: (i) the Project Development Plan and the Project Documents have been finalized or executed; (ii) all sources of construction financing are committed; and (iii) in each instance, the Guarantors have approved the form of each Project Guaranty each in their sole discretion. The Parties understand and agree that at no times will Investor Member or any of its Affiliates, employees, agents or representatives be required to provide any guarantee or indemnification.

7.04 Selection of the Management Agent. The Company has engaged University Student Living Management, LLC (the "Management Agent") to property manage the operation of the Project.

ARTICLE VIII
TRANSFERS OF AND RESTRICTIONS
ON TRANSFERS OF INTERESTS OF MEMBERS

8.01 Restrictions on Transfer of a Member's Interest.

(a) Except as set forth herein, under no circumstances will any offer, sale, transfer, assignment, hypothecation or pledge of any Member's Interest be permitted; provided, however, nothing in this Section 8.01 shall prohibit a Member from selling, transferring, assigning or otherwise disposing of all or any part of such Member's Interest in the Company, now owned or hereinafter acquired, to another Member of the Company on such terms and conditions as they shall agree. Notwithstanding the preceding sentence, each Member may transfer its Interest in the Company to an Affiliate, but such assignment shall not relieve the transferor Member of its obligations hereunder. Such Affiliate shall be a Substitute Member of the Company without the Consent of the other Member. Subject to the approval of the lender(s) for the Project, if required, nothing contained herein shall prohibit an indirect interest holder from transferring its interest so long as the transfer is consistent with such Member's Operating Agreement and is for estate or wealth planning reasons.

(b) In the event that a Member (the "Selling Member") receives a bona fide binding written offer from a third party (the "Written Offer") to purchase, transfer, assign, or otherwise dispose of all or any part of such Member's Interest in the Company now owned or hereinafter acquired, , at their election, the other Members of the Company, shall have the option to purchase or otherwise acquire the Selling Member's Interest on the same terms and conditions contained in the Written Offer. The Selling Member shall give at least thirty (30) day's written Notice to the other Members, which Notice shall include a copy of the Written Offer, which Written Offer shall be subject to the prior right of the other Members to purchase the interest that is for sale. Within such thirty (30) day period, the Company and/or the other Members, as the case may be, shall determine whether or not to elect to purchase or otherwise acquire all, but

not less than all, of such Interest. If the option is exercised, the closing on the sale or other acquisition of the Member's Interest shall occur on the later of sixty (60) days after the date the Notice required hereunder is provided or the date set for closing in the Written Offer. The purchase price or other consideration of such Interest and the terms of purchase or other acquisition shall be the same as the price and terms contained in the Written Offer. If the option is exercised by all of the remaining members, then such Members shall purchase or otherwise acquire all of the Selling Member's Interest that is for sale in proportion to their respective Percentage Interests, unless otherwise agreed among the purchasing Members. If the option is exercised by less than all of the remaining Members, then such Members shall purchase or otherwise acquire all of the Selling Member's Interest in proportion to the acquiring Members' Percentage Interest that is for sale relative to each other, unless otherwise agreed among the purchasing Members.

8.02 Admission of Substitute Members.

(a) Except as otherwise provided in this Article VIII, an assignee of the Interest of any Member (which shall be understood to include any purchaser, transferee, donee or other recipient of any disposition of such Interest) shall be admitted as a Substitute Member of the Company only upon the satisfactory completion of the following:

(i) Consent of the remaining Members (which Consent may be arbitrarily or unreasonably withheld in their sole and absolute discretion) shall have been given; and

(ii) The assignee shall have accepted and agreed to be bound by the terms and provisions of this Agreement by executing a counterpart hereof or an appropriate amendment hereto, and such other documents or instruments as the Managers may require in order to effect the admission of such Person as a Member.

(b) For the purpose of allocation of profits, losses and credits, and for the purpose of distributing cash of the Company, a Substitute Member shall be treated as having become, and as appearing in the records of the Company as, a Member upon such Substitute Member's signing of a joinder to this Agreement, agreeing to be bound hereby.

8.03 Rights of Assignee of Company Interest.

(a) Except as provided in this Article VIII and as required by operation of law, the Company shall not be obligated for any purpose whatsoever to recognize the assignment by any Member of an Interest until the Company has received actual Notice thereof, and the other provisions of Article 8 of this Agreement are satisfied.

(b) Notwithstanding anything to the contrary, an assignee of the Interest of a Member who does not become a Substitute Member pursuant to Section 8.02 hereof shall be allocated the profits, gains and losses, and shall have the right to participate in the distributions, to be made to the Member pursuant to Article X of this Agreement, but such assignee shall not have the right to participate in the management of the Company or to vote or Consent to any

matter to be submitted to the Members. Any Person who is the assignee of all or any portion of a Member's Interest, but does not become a Substitute Member pursuant to Section 8.02 hereof and desires to make a further assignment of such Interest, shall nevertheless be subject to all the provision of this Article VIII to the same extent and in the same manner as any Member desiring to make an assignment of such Member's Interest.

8.04 Withdrawal of Member. Except as provided herein, a Member may not resign or withdraw from the Company prior to the dissolution and winding up of the Company as set forth in Article XI hereof.

8.05 Effectiveness of Transfer. A Member shall cease to be a Member upon the disposition of his, her or its entire Interest in accordance with the terms hereof.

8.06 Necessary Documents. If a Member's Interest is purchased under this Agreement, such Member shall execute and deliver to the Company, and/or any other Member purchasing said Membership Interest, at closing an assignment of such entire interest and all other necessary documents that may be reasonably required to effect the transfer of such Interest.

ARTICLE IX RIGHTS AND OBLIGATIONS OF MEMBERS

9.01 Management of the Company. Except as otherwise expressly provided in this Agreement, no Member other than the Managing Member shall take part in the management or control of the business of the Company nor transact any business in the name of the Company. No Member other than the Managing Member shall have the power or authority to bind the Company or to sign any agreement or document in the name of the Company. No Member other than the Managing Member shall have any power or authority with respect to the Company except insofar as the Consent of any Member shall be expressly required and except as otherwise expressly provided in this Agreement.

9.02 Limitation on Liability of Members. The liability of the Members shall be limited to their Capital Contributions as and when payable under the provisions of this Agreement. The Members shall not have any other liability to contribute money to, or in respect of the liabilities or obligations of, the Company, nor shall the Members be personally liable for any obligations of the Company. The Members shall not be obligated to make loans to the Company.

9.03 Other Activities. Each Member may engage in or possess interests in other business ventures of every kind and description for its own account, including, without limitation, serving as a member of other entities or business ventures which own, either directly or through interests in other entities, businesses similar to the business of the Company. Neither the Company nor any of the Members shall have any right by virtue of this Agreement in or to such other business ventures or to the income or profits derived therefrom.

9.04 Assignment of Rights in Project. The Members acknowledge that they and

their Affiliates have transferred and assigned, and do hereby transfer and assign to the Company as a contribution to capital and for no compensation except at the election of the Managing Member to the Project Company, all of its and their right, title and interest in and to the Project, including the following: (a) all contracts with architects, contractors and supervising architects with respect to the development of the Project; (b) all plans, specifications and working drawings, prepared or obtained in connection with the Project and all governmental approvals obtained, including planning, zoning, environmental and building permits, and (c) any other work product related to the Project.

9.05 Representations and Warranties. Each Member hereby represents and warrants to the Company and the other Member as follows:

(a) It is acquiring its Interest in the Company for its own account for investment only and not for the purpose of, or with a view to the resale or distribution thereof in whole or in part. No one other than the Member has any interest in or any right to acquire such Member's Interest in the Company.

(b) It understands that its Interest in the Company is not registered under the Securities Act of 1933, as amended (the "Act"), or under the securities or "blue sky" laws of any state and that the future transfer of such interest may be limited by (i) the necessity of effecting any registration or complying with the exemption required by the Act or any applicable state securities or "blue sky" laws and (ii) the restrictions on transfer contained in this Agreement.

(c) It is a sophisticated investor with knowledge and experience in financial and business matters and is capable of evaluating the merits and risks of the prospective investment in the Company and has not relied and will not rely on any information provided by or representations or warranties of the Company, except as expressly provided in this Agreement, in evaluating the merits and risks of the prospective investment in the Company and the prospective investment by the Company in the Project.

(d) It is an "accredited investor" as defined under regulation D of the Securities Act of 1933, as amended, and is not an Investment Company subject to the Investment Company Act of 1940.

(e) It is and will be duly organized, validly existing, and in good standing under the laws of the jurisdiction of its formation.

(f) The execution and delivery of this Agreement by such Member and the performance by it of the transactions contemplated hereby have been duly authorized by all requisite corporate action and proceedings. The execution and delivery of this Agreement by the Member and the performance of the transactions contemplated hereby will not violate or result in a breach of, or default under, any instrument or agreement to which it is a party or is bound, and this Agreement is binding upon and enforceable against it in accordance with its terms, except for the provisions of the bankruptcy and similar laws affecting creditors' rights generally and equitable principles.

(g) No consent, authorization, approval, order, license, certificate, or permit or act of or from, or declaration or filing with, any governmental authority or any party to any contract, agreement, instrument, lease, or license to which the Member is a party or by which it is bound, is required for acquisition of the Interest as contemplated hereby or the execution, delivery, or compliance by it with the terms of this Agreement.

(h) The Members believe there is a reasonable possibility of profit and intend to take all action reasonably required for the Company to realize a profit, provided, however, that no Member nor any of its Affiliates shall incur any economic burden except as provided in this Agreement. Nonetheless, the Members understand and acknowledge that the Company has no guaranty of a specified return nor a guaranty against loss of income or capital.

(i) Each party agrees to indemnify and hold the other harmless from all suits, claims, actions, loss or expense (including reasonable attorneys' fees) arising from any breach of the representations and warranties set forth in this Section 9.04. This Section 9.04 shall survive the expiration or termination of this Agreement, including any amendment or restatement of the same.

9.06 Investor Member's Right to Sell. Notwithstanding anything to the contrary in this Agreement, the Members agree that at any time after Conversion, the Investor Member may notify the Managing Member in writing that it wants the Company to sell the Project (a "Sale Notice"). The Sale Notice shall set forth the sale price, which shall initially be not less than the fair market value of the Project. Fair market value shall be based either on an appraisal dated within 6 months of the Sale Notice, or if no such appraisal then exists, based on the average fair market value determined by two independent real estate brokers familiar with the Syracuse market for similar properties, one chosen by the Investor Member and one selected by Urban. In the event that a binding agreement to purchase the Project for the fair market value is not entered into within six (6) months of the Sale Notice, then the Project may be offered for sale at a price not less than the amount required to retire all debt associated with the Project (including, without limitation, the outstanding balance of the Permanent Loan, as the case may be) (the "Sale Price") and the other terms and conditions on which the Investor Member proposes that the Project be sold. The Investor Member for and on behalf of the Company, for a term not to extend beyond the date that is two hundred seventy (270) days after the date of the Sales Notice is authorized to engage a real estate broker or other third-party consultant, at the expense of the Company is authorized to seek a prospective purchaser of the Project at a purchase price of not less than ninety-five percent (95%) of the Sale Price and on such other terms and conditions as are substantially similar to the terms and conditions set forth in the Sale Notice. The Managing Member hereby consents to the sale of the Project to such third party purchaser, provided that the purchaser is a bona-fide third party that is not an Affiliate of the Investor Member and agree to cooperate diligently and in good faith to consummate the sale of the Project to such third party.

9.07 No Fiduciary Duties; Other Activities of Members. The Company is managed by a Manager. As a result, no Member, other than the Managing Member, owes any fiduciary

duties to the Company or the other Members solely by reason of being a Member. Nothing in this Agreement shall be deemed to restrict in any way the rights of any Member, or of any affiliate of any Member, to conduct any other business or activity whatsoever, and the Member shall not be accountable to the Company or to any Member with respect to that business or activity even if the business or activity competes with the Company's business. Each Member waives any rights such Member might otherwise have to share or participate in such other interest or activities of any other Member or any Member's affiliates.

9.08 Contractual Obligation of Good Faith and Fair Dealing. A Member shall exercise any rights and discharge any duties to the Company and the other Members under this Agreement and the Act in a manner consistent with the contractual obligation of good faith and fair dealing.

9.09 Related Transactions of other Members. Each Member understands and acknowledges that the conduct of the Company's business may involve business dealings and undertakings with Members and their Affiliates. In any of those cases, those dealings and undertakings shall be at arm's length and on commercially reasonable terms and shall be approved in advance by the affirmative vote of Members holding at least a majority Interest.

9.10 No Personal Liability. Except as provided in Sections 6.05 and 7.03, no Member shall, solely by virtue of being a Member, be personally liable for any debts, liabilities, obligations, or losses of the Company beyond their respective Capital Contributions, whether arising in contract, tort or otherwise, including under a judgment, decree, or order of a court.

9.11 Indemnification.

(a) Indemnification of Investor Member. The Company and the Managing Member shall, jointly and severally, indemnify, defend, and hold harmless Investor Member and its members, officers, directors, principals, employees, agents, representatives, and Affiliates from and against any and all costs, expenses (including, but not limited to, reasonable attorney's fees), damages, or liabilities incurred by Investor Member, which may arise out of or relate to any costs, expenses, damages or liabilities incurred in connection with the Project, Managing Member's gross negligence, willful misconduct, or malfeasance (provided that Managing Member's obligations under this Section 9.11(a) will only relate to the portion of such costs, expenses, damages, or liabilities which exceeds any applicable insurance proceeds paid to the harmed party), Managing Member's breach of fiduciary duty to the Company, and Managing Member's breach of its representations, warranties, or covenants made under this Agreement or the Project Documents, except for claims arising from Investor Member's own gross negligence, willful misconduct, or malfeasance. Without limiting the generality of the foregoing, Managing Member will, regardless of any negligence or fault on the part of Managing Member, indemnify, defend and hold harmless Investor Member and its members, officers, directors, principals, employees, agents, representatives, and Affiliates from and against any and all costs, expenses (including, but not limited to, reasonable attorney's fees), damages or liabilities incurred in connection with the use, generation, handling, production, transaction, disposal, presence, release or storage of any

hazardous substance in, under or on the land or in the Project, or any violation of environmental laws.

(b) Indemnification with Respect to Third Party Actions. To the full extent permitted by the laws of the State, as they exist on the date hereof or as they may hereafter be amended, the Company shall indemnify, defend and hold harmless any Member, Manager, and their Affiliates officers, directors, members, owners, principals, employees, agents, and their representatives who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Company) (collectively, "Indemnified Party") against expenses (including reasonable attorneys' fees), judgments, fines, taxes, penalties, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if, with respect to an Indemnified Party, he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company and, with respect to a Manager, it acted in a manner consistent with its fiduciary duties and, with respect to any criminal action or proceeding, such Indemnified Party had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding, by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that such person (i) did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interests of the Company, (ii) with respect to a Manager, the Manager also did not act in a manner consistent with its fiduciary duties and, (iii) with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(c) Indemnification with Respect to Actions by or in the Right of the Company. The Company shall indemnify, defend and hold harmless any Indemnified Party who was or is a party or is threatened to be made a party to any threatened, pending or completed proceeding by or in the right of the Company to procure a judgment in its favor by reason of the fact that he is or was a Member, whether acting as a Member, employee or other agent of the Company, against expenses (including reasonable attorneys' fees), judgments, fines, taxes, penalties, and amounts paid in settlement actually and reasonably incurred by such person in connection with such proceeding if, with respect to an Indemnified Party, he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company and, with respect to a Manager, it also acted in a manner consistent with its fiduciary duties. However, no indemnification shall be made in respect of any claim, issue or matter as to which such person has been adjudged to be liable for gross negligence or willful misconduct in the performance of its duty to the Company, unless and only to the extent that it is determined upon application in the proceeding in which such claim was brought that, despite the adjudication of liability, such person is in view of all the circumstances of the case, fairly and reasonably entitled to indemnity for such expenses so determined. Any indemnification under this Section 9.11(c) (unless ordered in such proceeding) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the person is proper in the circumstances because he has met the applicable standard of conduct set forth in this Section 9.11(c). Such determination shall be made: (i) by independent legal counsel in a written opinion, or (ii) by the Members

owning a majority interest (determined without regard to any Member seeking indemnity).

(d) Reimbursed Expenses. Notwithstanding any other provision of this Section 9.11, the Company shall pay or reimburse expenses incurred by an Indemnified Party in connection with such Indemnified Party's appearance as a witness or other participation in a proceeding involving or affecting the Company at a time when the Indemnified Party is not a named defendant or respondent in the proceeding.

(e) Insurance. The Manager may cause the Company to purchase and maintain insurance, at the Company's expense, on behalf of the Indemnified Parties, as he shall reasonably determine, against any liability that may be asserted against, or any expense that may be incurred by, such Indemnified Parties in connection with the activities of the Company and/or the actions or omissions of the Indemnified Parties, regardless of whether the Company would have the power to indemnify such person against such liability under this Section 9.11 or under applicable law.

(f) Indemnification Provided in This Section Non-Exclusive. The indemnifications provided by this Section 9.11 shall not be exclusive of any other rights to which those seeking indemnification may be entitled under any agreement, vote of Members or otherwise, and shall continue as to a person who has ceased to be a Member or Manager and shall inure to the benefit of the heirs, executors and administrators of such person. No amendment, alteration, change or repeal of or to this Agreement shall deprive any person of any rights under this Section 9.11 with respect to any act or omission of such person occurring prior to such amendment, alteration, change, addition or repeal.

(g) Certain Transactions. Subject to Section 9.11(a) and (b), an Indemnified Party shall not be denied indemnification in whole or in part because the Indemnified Party had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

ARTICLE X PROFITS, LOSSES AND DISTRIBUTIONS

10.01 Allocation of Profits, Losses and Distributions From Operations.

(a) Profits. Subject to Section 10.04 hereof, profits, as determined in accordance with Section 10.03 hereof, for the fiscal year (other than those arising from a Sale or Refinancing Transaction) shall be allocated to the Members as follows:

(i) to the Members, in proportion and to the extent of all previous allocations of loss made to the Members pursuant to Sections 10.01(b) and 10.02(b) of this Agreement, reduced by all prior allocations of profits and gains made pursuant to this Section 10.01(a)(i) and Section 10.02(c)(i) hereof;

(ii) to the Members, in proportion and to the extent of the aggregate amounts distributed to the Members pursuant to Sections 10.01(c)(ii) and 10.02(c)(iv) hereof,

reduced by all prior allocations made pursuant to this Section 10.01(a)(ii) and 10.02(a)(ii) hereof;

(ii) to the Managing Member and to the extent of the aggregate amounts distributed to the Managing Member pursuant to Sections 10.01(c)(iii) and 10.02(c)(iv) hereof, reduced by all prior allocations made pursuant to this Section 10.02(a)(iii) and 10.01(a)(iii) of this Agreement;

(iv) the balance, to the Members, in accordance with their then Residual Interests.

(b) Losses. Subject to Section 10.04 hereof, losses as determined in accordance with Section 10.03 hereof, for the fiscal year (other than those arising from a Sale or Refinancing Transaction) shall be allocated to the Members as follows:

(i) to the Members, in proportion and to the extent of all previous allocations of profits and gain made to the Members pursuant to Sections 10.01(a)(i) and 10.02(a)(i) hereof, reduced by all prior allocations made pursuant to this Section 10.01(b)(i) and Section 10.02(b)(i) hereof.

(ii) to the Members, in proportion and to the extent of their respective positive Capital Account balances, until such balances are reduced to zero.

(iii) to the Members, in accordance with their then Percentage Interests.

(c) Net Cash Flow. Net Cash Flow for the fiscal year shall be distributed to the Members in the following order of priority:

(i) to repay all loans (including payments due under the Loans if any) made by the Members and their Affiliates, in proportion to the outstanding balances of such loans on the date of distribution;

(ii) 10% to the Managing Member and 90% to the Investor Member, distributed until the Investor Member has received an amount equal to the Preferred Return on its Unreturned Capital, reduced by all prior distributions made pursuant to this Section 10.01(c)(ii) and 10.02(c)(iv) hereof ;

(iii) 10% to the Managing Member and 90% to the Investor Member, distributed until the Investor Member has received an amount equal to its Unreturned Capital;

(iv) the balance, distributed to the Members in accordance with their then Residual Interests.

10.02 Allocation of Gains, Losses and Distributions from Sale and Liquidation of Company Property.

(a) Gains. Subject to Sections 10.04 and 11.02(b) hereof, recognized by the Company upon Sale or Refinance Transaction shall be allocated as follows:

(i) to the Members, in proportion and to the extent of all previous allocations of loss made to the Members pursuant to Sections 10.01(b) and 10.02(b) hereof, reduced by all prior allocations made pursuant to this Section 10.02(a)(i) and Section 10.01(a)(i) hereof.

(ii) to the Members, in proportion and to the extent of the aggregate amounts distributed by the Company to the Members pursuant to Section 10.01(c)(ii) and 10.02(c)(iv) hereof, reduced by all prior allocations made pursuant to this Section 10.02(a)(ii) and 10.01(a)(ii) of this Agreement.

(iii) to the Managing Member and to the extent of the aggregate amounts distributed to the Managing Member pursuant to Sections 10.01(c)(iii) and 10.02(c)(iv) hereof, reduced by all prior allocations made pursuant to this Section 10.02(a)(iii) and 10.01(a)(iii) of this Agreement;

(iv) the balance, to the Members, in accordance with their then Residual Interests.

(b) Losses. Subject to Sections 10.04 and 11.02(b) hereof losses recognized by the Company upon Sale or Refinance Transaction shall be allocated to the Members as follows:

(i) to the Members, in proportion and to the extent of all previous allocations of profits and gain made to the Members pursuant to Sections 10.01(a)(i) and 10.02(a)(1) hereof, reduced by all prior allocations made pursuant to this Section 10.02(b)(i) and Section 10.01(b)(1) hereof.

(ii) to the Members, in proportion and to the extent of their respective positive Capital Account balances, until such balances are reduced to zero.

(iii) to the Members, in accordance with their then Percentage Interests.

(c) Sale or Refinance Proceeds. Subject to Sections 5.03, and 9.04 and except as may be required under Section 11.02(b) hereof, the net proceeds resulting from the liquidation of the Company assets pursuant to Section 11.02 of this Agreement, and the net proceeds resulting from any Sale or Refinance Transaction, as the case may be, shall be distributed and applied in the following order of priority:

(i) to the payment of all matured debts and liabilities of the Company, excluding debts and liabilities of the Company to Members;

(ii) to the setting up of any reserves which the Managing Member deems reasonably necessary for contingent, unmatured or unforeseen liabilities or obligations of the Company; provided, however, that the balance of any such reserve remaining at such time as the Managing Member reasonably determines such reserve is no longer needed, shall be distributed in accordance with Sections 10.02(c)(iii) through 10.02(c)(vi) hereof;

(iii) to the repayment of any unpaid debts and liabilities (including unpaid fees) owed to the Members, in proportion to the amounts then owed;

(iv) 10% to the Managing Member and 90% to the Investor Member, distributed until the Investor Member has received an amount equal to the Preferred Return, reduced by all prior distributions made pursuant to this Section 10.02(c)(iv) and 10.01(c)(ii) hereof;

(v) 10% to the Managing Member and 90% to the Investor Member, distributed until the Investor Member has received an amount equal to its Unreturned Capital;

(vi) the balance, distributed to the Members in accordance with their Residual Interests.

10.03 Determination of Profits and Losses. Profits and losses for all purposes of this Agreement (but not necessarily for Federal, State or local income tax purposes) shall be determined in accordance with the accrual method of accounting for Federal income tax purposes, with the following adjustments:

(a) any income exempt from Federal income tax and not otherwise taken in to account in computing profits and losses shall be added;

(b) any expenditure described in or treated as subject to Section 705 (a)(2)(B) of the Code and not otherwise taken into account in computing profits and losses, shall be subtracted;

(c) any adjustments made pursuant to Section 754 of the Code shall not be taken into account;

(d) any adjustment to Company assets pursuant to Section 1.704-1(b)(2)(f) of the Regulations shall be taken into account; and

(e) any items which have been specifically allocated pursuant to Sections 10.04 and 10.07 of this Agreement shall not be taken into account.

Except as required by Section 704(c) of the Code and the Regulations thereunder (relating to allocations with respect to appreciated contributed property), items of Company income, gain, loss and deductions for purposes of Federal Income Tax purposes shall be allocated among the Members in the same manner as such items are allocated to the Members'

Capital Accounts.

10.04 Overriding Allocations. Notwithstanding any other provision of this Article X to the contrary, the following special allocations shall be made in the following order:

(a) Except as otherwise provided in Section 1.704-2(f) of the Regulations, if there is a net decrease in Company Minimum Gain during any fiscal year, each Member shall be specially allocated items of Company income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to such Members' share of the net decrease in Company Minimum Gain, determined in accordance with Section 1.704-2(g) of the Regulations. Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to the Members pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(f)(6) and 1.704-2(j)(2) of the Regulations. This Section 10.04(a) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith.

(b) Except as otherwise provided in Section 1.704-2(i)(4) of the Regulations, and notwithstanding any other provision of this Article X, if there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Company fiscal year, each Member who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(5) of the Regulations, shall be specifically allocated items of Company income and gain for such fiscal year (and, if necessary, subsequent fiscal years) in an amount equal to such Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(4) of the Regulations. Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(i)(4) and 1.704-2(j)(2) of the Regulations. This Section 10.04(b) of this Agreement is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

(c) The losses allocated pursuant to Sections 10.01(b) and 10.02(b) of this Agreement shall not exceed the maximum amount of losses that can be so allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any fiscal year. In the event some, but not all, of the Members would have an Adjusted Capital Account Deficit as a consequence of an allocation of losses pursuant to this Section 10.04(c), the limitations set forth in this Section 10.04(c) shall be applied on a Member by Member basis so as to allocate the maximum permissible losses to each Member under Section 1.704-1(b)(2)(ii)(d) of the Regulations.

(d) In the event any Member unexpectedly is subjected to an adjustment, allocation or distribution described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5) or 1.704-1(b)(2)(ii)(d)(6) of the Regulations, items of Company income and gain shall be

specially allocated to such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible, provided that an allocation pursuant to this Section 10.04(d) shall be made only if and to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article X have been tentatively made as if this paragraph were not in this Agreement. This Section 10.04(d) is intended to be a qualified income offset provision described in Section 1.704-1(b)(2)(ii)(d)(3) of the Regulations, and shall be interpreted in accordance therewith.

(e) In the event any Member has a deficit Capital Account at the end of any Company fiscal year which is in excess of the sum of (i) the amount such Member is obligated to restore (pursuant to the terms of such Member's Capital Note or otherwise), and (ii) the amount such Member is deemed to be obligated to restore pursuant to the penultimate sentences of Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Regulations, each such Member shall be specifically allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 10.04(e) shall be made if and only to the extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article X have been tentatively made as if Sections 10.04(e) and 10.04(d) hereof were not in this Agreement.

(f) Nonrecourse Deductions, depreciation with respect to the Company's real property and Credits for a fiscal year shall be specially allocated in accordance with the Member's Percentage Interests.

(g) Any Member Nonrecourse Deductions for any fiscal year shall be specially allocated to the Member who bears the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Section 1.704-2(i)(1) of the Regulations.

(h) In accordance with Section 704(c) of the Code (relating to allocations with respect to appreciated contributed property) and the Regulations thereunder, income, gain, loss and deductions with respect to any property contributed to the capital of the Company shall be allocated, solely for tax purposes, among the Members so as to take account of any variation between the adjusted basis of such property to the Company for Federal income tax purposes and its fair market as quickly as possible using an allocation method in Treasury Regulation §1.704-3 selected by the Managing Members.

(i) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Section 734(b) or Section 743(b) of the Code is required, pursuant to Section 1.704-1(b)(2)(iv)(m)(2) or Section 1.704-1(b)(2)(iv)(m)(4) of the Regulations, to be taken into account in determining Capital Accounts as the result of a distribution to the Member in complete liquidation of its interest in the Company, the amount of such adjustment to Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their interests in the Company in the event that Section 1.704-1(b)(2)(iv)(m)(2) of the Regulations applies, or to the Members to whom such distribution was made in the event that Section 1.704-1(b)(2)(iv)(m)(4) of the Regulations

applies.

Capitalized terms used in this Section 10.04, not otherwise defined in this Agreement, shall have the meaning ascribed to them in the Regulations.

10.05 Additional Allocations. (a) In any year in which a Member sells, assigns or transfers all or any portion of an Interest to any Person who during such year is admitted as a substitute Member, the share of all profits and losses under Sections 10.01 and 10.02 of this Agreement allocated to, and all Net Cash Flow and of all cash proceeds distributable under Section 10.02 of this Agreement distributed to, all Members which are attributable to the Interest sold, assigned or transferred shall be divided between the assignor and the assignee using any one of the following methods as determined by agreement between the assignor and assignee: (i) ratably on the basis of the number of days in such year before, and the number of days on and after, the execution by assignee of this Agreement, or (ii) by dividing the Company fiscal year into two segments, the first segment being the time period in such year before the execution by the assignee of this Agreement and the second segment being the time period in such year beginning on the date of execution by the assignee of this Agreement, and allocating profits and losses under Sections 10.01 and 10.02 of this Agreement and Net Cash Flow and all cash proceeds distributable under Section 10.02 of this Agreement to each such segment among the Persons who were Members during that segment, or (iii) such other method as may be provided by the Code or Regulations thereunder.

10.06 Capital Accounts. A separate Capital Account shall be maintained and adjusted for each Member. There shall be credited to each Member's Capital Account the amount of such Member's Capital Contributions, the fair market value of any property contributed to the Company (net of any liabilities secured by such property) and such Member's distributive share of the profits of the Company; and there shall be charged against each Member's Capital Account the amount of all Net Cash Flow distributed to such Member pursuant to this Article X, the fair market value of any property distributed to such Member (net of any liabilities secured by such property), the net proceeds resulting from the liquidation of the Company's assets or from any sale or refinancing of the Company's property distributed to such Member, pursuant to this Article X, and such Member's distributive share of the losses of the Company. Each Member's Capital Account shall be maintained and adjusted in accordance with the Code and the Regulations thereunder. The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Section 1.704-1(b) of the Regulations, and shall be interpreted and applied in a manner consistent with such Regulations. It is the intention of the Members that the Capital Accounts maintained under this Agreement be determined and maintained throughout the full term of this Agreement in accordance with the accounting rules of Section 1.704-1(b)(2)(iv) of the Regulations.

10.07 Authority of Managing Member to Vary Allocations to Preserve and Protect Members' Intent.

(a) It is the intent of the Members that each Member's distributive share of income, gain, loss, deduction or credit (or any item thereof) shall be determined and allocated

in accordance with this Article X to the fullest extent permitted by Section 704(b) of the Code. In order to preserve and protect the determinations and allocations provided for in this Article X, the Managing Member is hereby authorized and directed to allocate income, gain, loss, deduction or credit (or any item thereof) arising in any year differently than otherwise provided for in this Article X to the extent that allocating income, gain, loss, deduction or credit (or any item thereof) in the manner provided for in Article X would cause the determinations and allocations of each Member's distributive share of income, gain, loss, deduction or credit (or any item thereof) not to be permitted by Section 704(b) of the Code and the Regulations promulgated thereunder. Any allocation made pursuant to this Section 10.07 of this Agreement shall be deemed to be a complete substitute for any allocation otherwise provided for in this Article X, and no amendment of this Agreement or approval of any Member shall be required.

(b) In making any allocation (the "new allocation") under Subsection 10.07(a) of this Agreement, the Managing Member is authorized to act only if (i) the new allocation is necessary under Section 704(b) of the Code and the Regulations thereunder, and (ii) the new allocation is the minimum modification of the allocations otherwise provided for in this Article X necessary in order to assure that, either in the then current year or in any preceding year, each Member's distributive share of income, gain, loss, deduction or credit (or any item thereof) is determined and allocated in accordance with this Article X to the fullest extent permitted by Section 704(b) of the Code and the Regulations thereunder.

(c) If the Managing Member is required by Section 10.07(a) of this Agreement to make any new allocation in a manner less favorable to the Investor Member than is otherwise provided for in this Article X, then the Managing Member is authorized and directed, only if permitted by Section 704(b) of the Code, to allocate income, gain, loss, deduction or credit (or any item thereof) arising in later years in such manner so as to bring the allocations of income, gain, loss, deduction or credit (or any item thereof) to the Investor Member as nearly as possible to the allocations thereof otherwise contemplated by this Article X.

(d) New allocations made by the Managing Member under Sections 10.07(a) and 10.07(c) of this Agreement in reliance upon the advice of the Accountants shall be deemed to be made pursuant to the fiduciary obligation of the Managing Member to the Company and to the Member(s), and no such allocation shall give rise to any claim or cause of action by any Member.

10.08 Designation of Tax Matters Member.

(a) The Managing Member is hereby designated and shall act as the Tax Matters Partner for the Company, as that term is defined in Section 6231(a)(7) of the Code, and as Partnership Representative for the Company, as that term is defined in Section 6223 of the Code as amended by the Bipartisan Budget Act of 2015, to receive all notices and information from the Internal Revenue Service and to provide appropriate information to the Internal Revenue Service in connection with any such proceeding.

(b) The Members through the Tax Matters Partner or Partnership Representative shall make any and all decision on behalf of the Company respecting federal income tax returns and elections.

(c) The Partnership Representative shall consult with and obtain the approval of Members owning a majority of the ownership interests in the Company prior to making any and all elections or taking any and all actions that are available to be made or taken by the Partnership Representative under the Bipartisan Budget Act of 2015, as amended, and the Regulations promulgated thereunder (collectively the “BBA”) (including an election under Section 6226 of the Code as amended by the BBA and any elections or actions provided in the subsections below), and the Members shall take such actions requested by the Partnership Representative consistent with any such elections made and actions requested by the Partnership Representative, including filing amended tax returns and paying any tax due in accordance with Section 6225(c)(2) of the Code as amended by the BBA.

(d) For any year in which the Company is eligible to make the election in Section 6221(b) to opt out of Subchapter C of Chapter 63 of the Code (the “BBA Opt Out Regime”), Members shall cause the Company to timely make such election in accordance with the provisions set forth in Section 6221 of the BBA.

(e) No later than ten (10) business days after it has knowledge of any tax audit or tax proceeding, the Partnership Representative shall notify the Members of the existence of any such tax audit or tax examination of the Company. Each Member shall have the right to have a tax advisor of its own choosing participate in, but not direct, the prosecution or defense of such tax audit or tax examination at such Member’s sole expense. The Partnership Representative shall make commercially reasonable efforts to facilitate such tax advisor’s participation.

(f) If the Company pays any imputed adjustment amount under Code Section 6225 as amended by the BBA, the Company shall seek payment from the Members (including any former Member) to whom such liability relates, and each such Member (including any former Member) hereby agrees to pay such amount to the Company, and such amount shall not be treated as a Capital Contribution. Without reduction in the Member’s (or former Member’s) obligation under the preceding sentences of this Section, any imputed adjustment amount paid by the Company that is attributable to a Member (or former Member), and that is not paid by such Member shall be treated as a distribution to such Member (or former Member).

(g) To the extent that a portion of the tax liabilities imposed under Code Section 6225 as amended by the BBA relates to a former Member of the Company, the Company may require a former Member to indemnify the Company for its allocable portion of such tax. Each Member acknowledges that, notwithstanding the transfer or redemption of all or any portion of its Membership Interest, such Member may remain liable for tax liabilities with respect to its allocable share of income and gain of the Company for the Company’s taxable years (or portions thereof) prior to such transfer or redemption.

(h) The obligations of each Member or former Member under the provisions of this Section shall survive the transfer or redemption by such Member of its Membership Interest and the termination or the dissolution of the Company.

(i) In the event of any controversy with the Internal Revenue Service or any other taxing authority involving the Company or any Member, the outcome of which may adversely affect the Company, directly or indirectly, or the amount of allocation of profits, gains, credits or losses of the Company to an individual Member, the Company may, at its option, incur expenses it deems necessary or advisable in the interest of the Company in connection with any such controversy, including, without limitation, attorneys and accountants fees.

10.10 Tax Withholdings. Any amount required to be paid by the Company for or with respect to any Member on account of any required withholding or other tax payment with respect to the income, profits or distributions of the Company pursuant to the Code, the Treasury Regulations, or any state or local statute, regulation or ordinance requiring such payment (each a "Withholding Tax Act") shall be treated as a distribution to the Member for all purposes of this Agreement. To the extent that the amount required to be remitted by the Company under a Withholding Tax Act exceeds the amount then otherwise distributable to the Member, the excess shall constitute a loan from the Company to the Member (a "Tax Payment Loan"). Each Tax Payment Loan shall bear interest, from the date that the Company makes the payment to the relevant taxing authority, at the applicable Federal short-term rate under Code section 1274(d)(1), determined and compounded semiannually. So long as any Tax Payment Loan or the interest thereon remains unpaid, the Company shall make future distributions due to the applicable Member under this Agreement by applying the amount of any such distribution first to the payment of any unpaid interest on all Tax Payment Loans of the Member and then to the repayment of the principal of all Tax Payment Loans of the Member. The Members shall take all actions necessary to enable the Company to comply with the provisions of any Withholding Tax Act applicable to the Company and to carry out the provisions of this subsection. The Managing Member shall notify the affected Member when any tax payment is made pursuant to this Section 10.10.

ARTICLE XI SALE, DISSOLUTION AND LIQUIDATION

11.01 Dissolution of the Company. The Company shall be dissolved upon:

- (a) The sale or other disposition of all or substantially all of the assets of the Company;
- (b) The Consent of all the Members;
- (c) The entry of a decree of judicial dissolution by a court of competent jurisdiction, or
- (b) The abandonment of the Project by the Company.

11.02 Winding Up and Distribution. (a) Upon the dissolution of the Company pursuant to Section 11.01 of this Agreement, (i) a certificate of cancellation or such other

documents shall be filed in such offices within the State as may be required or appropriate, and (ii) the Company business shall be wound up and its assets liquidated as provided in this Section 11.02 and the net proceeds of such liquidation, except as provided in Section 11.02(b) of this Agreement, shall be distributed in accordance with Section 10.02(c) of this Agreement.

(b) It is the intent of the Members that, upon liquidation of the Company, any liquidation proceeds available for distribution to the Members be distributed in accordance with the Members' respective positive Capital Account balances and the Members believe that distributions under Section 10.02(c) of this Agreement will effectuate such intent. In the event that, upon liquidation, there is any conflict between a distribution pursuant to the Members' respective positive Capital Account balances and the intent of the Members with respect to distribution of proceeds as provided in Section 10.02(c) of this Agreement, the Managing Member shall, notwithstanding the provisions of Sections 10.01(a) and (b) and 10.02(a) and (b) of this Agreement, allocate the Company's items of gains, losses and deductions among the Members in a manner that will effectuate the distribution of liquidation proceeds to the Members as provided in Section 10.02 (c) to be in accordance with the Members' respective positive Capital Account balances.

(c) The Managing Member shall file all certificates and notices of the dissolution of the Company required by law. The Managing Member shall proceed without any unnecessary delay to sell and otherwise liquidate the Company's property and assets upon dissolution; provided, however, that if the Managing Member shall determine that an immediate sale of part or all of the Company property would cause undue loss to the Members, then, in order to avoid such loss, the Managing Member may, except to the extent required by the Act, defer such sale and liquidation as may be necessary to satisfy the debts and liabilities of the Company to Persons other than the Members. Upon the complete liquidation and distribution of the Company's assets, the Members shall cease to be Members of the Company, and the Managing Member shall execute, acknowledge and cause to be filed all certificates and notices required by the law to terminate the Company.

(d) Upon the dissolution of the Company pursuant to Section 11.01 of this Agreement, the Accountants shall promptly prepare, and the Managing Member shall furnish to each Member, a statement setting forth the assets and liabilities of the Company upon its dissolution. Promptly following the complete liquidation and distribution of the Company property and assets, the Accountants shall prepare, and the Managing Member shall furnish to each Member, a statement showing the manner in which the Company assets were liquidated and distributed.

(e) Post-Dissolution Actions. Upon the filing of a certificate of dissolution, the existence of the Company shall cease, except for the purpose of lawsuits and other proceedings and appropriate action as provided in the Act. The Manager shall have authority to distribute any Company property discovered after dissolution, convey real estate, and take such other action as may be necessary on behalf of and in the name of the Company.

ARTICLE XII
CONSENTS AND MEETINGS

12.01 Method of Giving Consent. Any Consent required by this Agreement may be given by a written Consent of the consenting Member and received by the Managing Member at or prior to the doing of the act or thing for which the Consent is solicited.

12.02 Submissions to Members. The Managing Member shall give the Members Notice of any proposal or other matter required by any provision of this Agreement or by law to be submitted for consideration and approval of the Members. Such Notice shall include any information required by the relevant provision or by law.

12.03 Meetings. Any action required to be taken by meeting may be accomplished by written consent in lieu of a meeting.

ARTICLE XIII
BOOKS AND RECORDS,
ACCOUNTING TAX ELECTIONS, ETC.

13.01 Books and Records. Except as otherwise specifically provided herein or as may be set forth in footnotes to the Company's financial statements, the books and records of the Company shall be maintained on an accrual basis in accordance with generally-accepted accounting principles. These and all other records and financial statements of the Company, including information relating to the status of the business of the Company and information with respect to the sale by the Managing Member or any Affiliate of goods or services to the Company, shall be kept at the principal office of the Company and shall be available for examination there by any Member or its duly authorized representatives, at reasonable times upon reasonable notice to the Managing Member. Any Member, or its duly authorized representative, upon paying the costs of collating, duplicating and mailing, shall be entitled to a copy of the list of names and addresses of the Members.

13.02 Bank Accounts. All funds of the Company not otherwise invested shall be deposited in the Company's name in one or more accounts maintained in such banking institutions as the Managing Member shall determine, and withdrawals shall be made only in the regular course of Company business on such signature or signatures as the Managing Member may, from time to time, determine.

13.03 Accountants. The Accountants shall annually prepare for execution by the Managing Member all tax returns of the Company, shall annually compile the books of the Company, and shall prepare such financial statements as the Managing Member shall determine.

13.04 Reports to Members. The Managing Member shall furnish or shall cause to be furnished to the Members all such information as the Members may reasonably request from time to time with respect to the financial condition of the Company and such information as may be required pursuant to the requirements of any applicable governmental agencies and

the financial and administrative affairs of the Company.

13.05 Section 754 Elections. In the event of a transfer of all or any part of the Interest of a Member, the Company may, in the Managing Member's reasonable discretion, elect, pursuant to Section 754 of the Code (or any corresponding provision of succeeding law), to adjust the basis of the Company property if, in the opinion of the Managing Members, based upon the advice of the Accountants, such election would be most advantageous to the Company and its Members. Each Member agrees to furnish the Company with all information necessary to give effect to such election. Notwithstanding the foregoing, if the Investor Member provides notice to Managing Member to make such an election pursuant to Section 754 of the Code upon the transfer of all or any part of the Interest of a Member, the Managing Member will cause the Company to make such election.

13.06 Fiscal Year and Accounting Method. The fiscal year of the Company shall be the calendar year. The Company's books and records shall be maintained on the accrual basis. The Company may report its income for federal and state income tax purposes on the cash basis.

13.07 Tax Classification. The Members agree that the Company shall be treated as a partnership for federal and state income tax purposes.

ARTICLE XIV GENERAL PROVISIONS

14.01 Burden and Benefit. The covenants and agreements contained herein shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and permitted assigns of the respective parties hereto.

14.02 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State, without regard to conflicts of laws.

14.03 No Third Party Beneficiary Except as otherwise specifically provided in this Agreement this Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions, or remedies to any person or entity as a third party beneficiary, decree, or otherwise.

14.04 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original copy and all of which together shall constitute one agreement binding on all of the parties hereto, notwithstanding that all of the parties shall not have signed the same counterpart.

14.05 Separability of Provisions. Each provision of this Agreement shall be considered separable and, if for any reason any provision which is not essential to the effectuation of the basic purposes of this Agreement is determined to be invalid or contrary to any existing or future law, such invalidity shall not impair the operation of or effect the other provisions of this Agreement which are valid.

14.06 Entire Agreement. This Agreement sets forth all (and is intended by all parties to be an integration of all) of the representations, promises, agreements and understandings among the parties hereto with respect to the Company, the Company business and the property of the Company, and there are no representations, promises, agreements or understandings, oral or written, express or implied, among them other than as set forth or incorporated herein.

14.07 Amendment. This Agreement may only be amended by a writing signed by both Members.

14.08 Waiver of Jury Trial. Each Member hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Agreement or the actions of such Member in the negotiation, administration, performance and enforcement hereof.

14.09 Consent to Jurisdiction. The Members (i) irrevocably submit to the exclusive jurisdiction of any federal or state court located in Camden, New Jersey in any action arising out of this Agreement, (ii) agree that all claims in such action may be decided in such court, (iii) waive, to the fullest extent it may effectively do so, the defense of an inconvenient forum, and (iv) consents to the service of process by mail. Nothing herein shall affect the right of any party to serve legal process in any manner permitted by law or affect its right to bring any action in any other court.

14.10 Construction. Whenever the context requires, references in this Agreement to the singular number shall include the plural, and words denoting gender shall include the masculine, feminine and neuter.

14.11 Headings. The headings in this Agreement are for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any of its provisions.

14.12 Waiver. The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, that would have originally constituted a violation, from having the effect of an original violation

14.13 Further Action. Each Member agrees to execute, acknowledge and deliver such additional documents, and to take such further actions, as may reasonably be required from time to time to carry out each of the provisions and the intent of this Agreement, and every agreement or document relating hereto or entered into in connection herewith.


[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have affixed their signatures and seals to this Agreement as of the date first written above.

MANAGING MEMBER:

CG USL VENTURES 1, LLC

By: SYRACUSE-MICHAELS, LLC,
its Managing Member

By: 
Name: _____
Title: **John J. O'Donnell**
President

INVESTOR MEMBER:

SOUTHSIDE GENESEE INVESTOR, LLC

By: Syracuse-Levitt, LLC, its managing member

By: 
Michael J. Levitt, sole member

The undersigned hereby joins in this Agreement for the purposes of Sections 5.03 and 7.06, and agrees to be bound thereby.

THE MICHAELS DEVELOPMENT COMPANY I, L.P.

By: The Michaels Development Holding Company, L.L.C., its sole General Partner

By: _____

John J. O'Donnell, President

The undersigned hereby joins in this Agreement for the purposes of Sections 5.03 and 7.06 and agrees to be bound thereby.

GEIGER CUSE, LLC

By: _____

Name: _____

Title: _____

The undersigned hereby joins in this Agreement for the purposes of Sections 5.03 and 7.06, and agrees to be bound thereby.

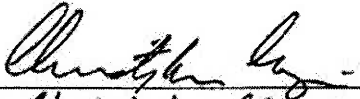
THE MICHAELS DEVELOPMENT COMPANY I, L.P.

By: The Michaels Development Holding Company, L.L.C., its sole General Partner

By: _____
John J. O'Donnell, President

The undersigned hereby joins in this Agreement for the purposes of Sections 5.03 and 7.06 and agrees to be bound thereby.

GEIGER CUSE, LLC

By: 
Name: Christopher Geiger
Title: Managing Member

SCHEDULE A

<u>Member</u>	<u>Percentage Interests</u>	<u>Residual Interests</u>
CG USL Ventures I, LLC	10%	50%
Southside Genesee Investor, LLC	<u>90%</u>	<u>50%</u>
	<u>100%</u>	<u>100%</u>

EXHIBIT "C"
GOOD STANDING CERTIFICATE

**State of New York
Department of State } ss:**

I hereby certify, that SOUTHSIDE GENESEE ASSOCIATES, LLC a NEW YORK Limited Liability Company filed Articles of Organization pursuant to the Limited Liability Company Law on 01/13/2017, and that the Limited Liability Company is existing so far as shown by the records of the Department.

I further certify, that no other documents have been filed by such Limited Liability Company.



*Witness my hand and the official seal
of the Department of State at the City
of Albany, this 27th day of March
two thousand and seventeen.*

A handwritten signature in black ink, appearing to read "B. Fitzgerald", is written over a horizontal line.

Brendan W. Fitzgerald
Executive Deputy Secretary of State

EXHIBIT "D"
RESOLUTION

**SOUTHSIDE GENESEE ASSOCIATES, LLC
ACTION
BY MEMBERS WITHOUT MEETING**

Pursuant to the Operating Agreement of **SOUTHSIDE GENESEE ASSOCIATES, LLC**, a New York limited liability company (“Company”), the undersigned, being all the Members of the Company, do hereby consent to the following resolutions in lieu of a formal meeting:

WHEREAS the Company has acquired certain real property located at 1200-1224 E Genesee St. and 509-511 Walnut Avenue, both of which properties are located in the City of Syracuse, Onondaga County, New York (the “Property”) for the purpose of redeveloping the Property involving the demolition of the two existing buildings and the construction of approximately 126 residential units for use as a student apartment complex (the “Project”); and

WHEREAS the Company desires to obtain financial assistance for Project in the form of New York State and local sales and use tax exemption benefits in an amount not to exceed \$1,440,000.00 and mortgage recording tax exemption in the approximate amount of \$367,000.00 (collectively the “Benefits”) which benefits have been approved by the City of Syracuse Industrial Development Agency (“IDA”); it is hereby

RESOLVED that the Company be and is hereby authorized to enter into a Lease, a Lease-back, a bill of sale, an environmental compliance and indemnification agreement and other related certificates and documents (collectively the “Agency Documents”) with the IDA for the purpose of receiving the Benefits; and be it further

RESOLVED that James Malesich be and hereby are authorized and directed to take or cause to be taken such action or actions as necessary or desirable to carry out the purposes of this resolution and execute the Agency Documents; and be it further


RESOLVED that James Malesich has the authority to bind the Company with respect to the negotiation, execution and delivery of the Agency Documents; and be it further

RESOLVED that the contents of the application dated December 6, 2016 filed by CG USL Ventures I, LLC with the Agency in conjunction with the Project is true and accurate in all respects and is binding upon the Company.


Date: March 24, 2017

CG USL VENTURES 1, LLC
By: SYRACUSE-MICHAELS, LLC,
its Managing Member

SOUTHSIDE GENESEE INVESTOR, LLC
By: Michael J. Levitt, its Managing
Member




VICE PRESIDENT



Michael J. Levitt
Partner/Member

Filed in the minutes of the company this ____ day of March, 2017.



Name: JAMES A. MALESICH JR
Title: Member

EXHIBIT "E"
LOCAL ACCESS AGREEMENT

City of Syracuse

Industrial Development Agency

Local Access Agreement

Southside Genesee Associates, LLC (the Company) understands and agrees that local labor, contractors and suppliers will be used for the construction, renovation, reconstruction and equipping of the Project unless a written waiver is first received from the Agency, and agrees to provide the information requested below as a way to provide access for local participation.

Company	Southside Genesee Associates, LLC					General Contractor	Hueber-Breuer Construction Co, Inc.				
Representative for Contract Bids and Awards	Mike Cassarino					Contact	Andy Breuer				
Address	3 E. Stow Road					Address	148 Berwyn Ave.				
City	Marlton	ST	NJ	Zip	08053	City	Syracuse	ST	NY	Zip	13210
Phone	704-907-5984		Fax			Phone	315-476-7917		Fax		
Email	mcassarino@themichaelsorg.com					Email	abreuer@hueber-breuer.com				
Project Address	505 Walnut Ave.					Construction Start Date	Spring 2017				
City	Syracuse	ST	NY	Zip	13210	Occupancy Date	Fall 2018				

Project Components – Indicate those for which bids will be sought:

Item	Estimated Value	Bid Date	Contact
Site work/Demolition	\$1,844,650	02/10/17 & 03/08/17	Lan-Co Companies & Hueber-Breuer
Foundation and footings	\$854,575	03/08/17	Hueber-Breuer
Building	\$3,371,561	03/08/17	Hueber-Breuer
Masonry	\$1,633,500	03/08/17	Hueber-Breuer
Metals	\$1,031,871	03/08/17	Hueber-Breuer
Wood/casework	\$4,893,988	03/08/17	Hueber-Breuer
Thermal/moisture proof	\$1,833,925	03/08/17	Hueber-Breuer
Doors, windows, glazing	\$2,411,425	03/08/17	Hueber-Breuer
Finishes	\$3,390,709	03/08/17	Hueber-Breuer
Electrical	\$2,890,000	03/08/17	Hueber-Breuer
HVAC	\$2,816,100	03/08/17	Hueber-Breuer
Plumbing	\$2,590,750	03/08/17	Hueber-Breuer
Specialties	\$268,637	03/08/17	Hueber-Breuer
Machinery & Equipment	\$356,675	03/08/17	Hueber-Breuer
Furniture and Fixtures	\$37,772	03/08/17	Hueber-Breuer
Utilities	\$294,500	03/08/17	Hueber-Breuer
Paving	\$180,000	03/08/17	Hueber-Breuer
Landscaping	\$550,400	03/08/17	Hueber-Breuer
Other (identify)			

Date: 3.30.17

Company: Southside Genesee Associates, LLC

City of Syracuse

Industrial Development Agency

Signature: _____



Name: _____

JANESA MALESICH, JR

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March 31, 2017

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202

Southside Genesee Associates, LLC
1 East Stow Road
Marlton, New Jersey 08053

Re: City of Syracuse Industrial Development Agency
Lease/Leaseback Transaction
Southside Genesee Associates, LLC Project

Ladies and Gentlemen:

We have acted as counsel to the City of Syracuse Industrial Development Agency (the “*Agency*”) in connection with a project (the “*Project*”) undertaken by the Agency at the request of Southside Genesee Associates, LLC (the “*Company*”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “*Existing Buildings*”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the “*Land*”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company has also requested that the Agency grant the Financial Assistance to the Project. Capitalized terms used herein which are not otherwise defined shall have the meanings ascribed to them in the Agency Lease.

As counsel to the Agency, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates, and documents as we have deemed necessary or appropriate for the purposes of the opinion expressed below. In such examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to the original documents of all documents submitted to us as copies, and have assumed the accuracy and truthfulness of the factual information, expectations, conclusions, representations, warranties, covenants and opinions of the Company and its counsel and representatives as set forth in the various documents executed and delivered by them or any of them and identified in the Closing Memorandum in connection with the Project.

We are of the opinion that:

1. The Agency is a duly organized and existing corporate governmental agency constituting a public benefit corporation of the State of New York.
2. The Agency is duly authorized and empowered by law to acquire, construct, reconstruct, renovate and equip the Project, to lease the Land and the Facility from the Company pursuant to the Company Lease; to accept an interest in the Equipment pursuant to the Bill of Sale; to sublease the Project Facility back to the Company pursuant to the Agency Lease and to appoint the Company as its agent for completion of the Project.
3. The Agency Documents have been authorized by and lawfully executed and delivered by the Agency and (assuming the authorization, execution, and delivery by the other respective parties thereto) are valid and legally binding obligations enforceable against the Agency in accordance with their respective terms.

In rendering this opinion, we advise you of the following:

The enforceability of the Agency Documents may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium, or similar law or enactment now or hereafter enacted by the State of New York or the Federal government affecting the enforcement of creditors' rights generally and the general principles of equity, including limitations on the availability of the remedy of specific performance which is subject to discretion of the court.

This opinion is rendered to the addressees named above and their successors and/or assigns, and may not be relied upon by any other person without our prior, express written consent.

March 31, 2017
Page 3

Very truly yours,

BARCLAY DAMON, LLP

Barclay Damon, LLP

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ZENZEL LAW OFFICES

6320 Fly Rd. Suite 207
East Syracuse, NY 13057
Phone: (315) 701-1115 • Fax: (315) 431-9771
E-Mail: carol@zenzellaw.com

March 31, 2017

Southside Genesee Associates, LLC
1 East Stow Road
Marlton, New Jersey 08053

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202

Re: City of Syracuse Industrial Development Agency
Lease/Leaseback Transaction
Southside Genesee Associates, LLC Project

Ladies and Gentlemen:

We have acted as counsel to Southside Genesee Associates, LLC (the “**Company**”) in connection with a certain project (the “**Project**”) undertaken by the City of Syracuse Industrial Development Agency (the “**Agency**”) at the Company’s request. The Project consists of: A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “**Existing Buildings**”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the

Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Agency has acquired an interest in the Project Facility pursuant to that certain Company Lease Agreement dated as of March 10, 2017 (the "*Company Lease*") and transfer its interest in the Equipment to the Agency pursuant to a bill of sale dated as of March 10, 2017 (the "*Bill of Sale*") and the Agency will sublease the Project Facility back to the Company pursuant to an Agency Lease Agreement dated as of March 10, 2017 (the "*Agency Lease*"). Capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Agency Lease.

In that regard, we have examined the Project Agreement, the Company Lease, the Agency Lease, the Bill of Sale, the Environmental Compliance and Indemnification Agreement and the other documents identified in the Closing Memorandum and defined in the Agency Lease to which the Company is a party (collectively, the "*Company Documents*").

We have also examined corporate documents and records of the Company and made such investigation of law and/or fact that we deem necessary or advisable in order to render this opinion. For purposes of such examination, we have assumed the genuineness of all certificates and the authenticity of all documents submitted to us as original counterparts or as certified or photostatic copies; the genuineness of all signatures of all parties to the Company Documents other than on behalf of the Company; and the due authorization, execution and delivery of the Company Documents by and the enforceability thereof against all parties thereto other than the Company.

As to questions of fact material to our opinion, we have relied upon the representations and warranties made by the Company in the Company Documents and upon one or more certificates of officers of the Company. Whenever the phrase "to the best of our knowledge" is used in this opinion, it refers to actual knowledge of members of this firm obtained from our representation of the Company and inquiries of responsible officers of the Company made in connection with this opinion, but no further investigation or review has been conducted.

Based upon the foregoing, it is our opinion that:

1. The Company is a validly existing New York limited liability company and possesses full corporate power and authority to own its property, to conduct its business, to execute and deliver the Company Documents, and to carry out and perform its obligations thereunder.

2. The execution, delivery and performance of the Company Documents have been duly authorized by the Company and the Company Documents have been duly executed and delivered by an Authorized Representative of the Company.

3. The Company Documents constitute the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms, except as enforceability may be limited by applicable bankruptcy and insolvency laws and laws affecting creditors' rights generally and to the extent that the availability of the remedy of specific performance or injunctive relief or other equitable remedies is subject to the discretion of the court before which any proceeding therefor may be brought.

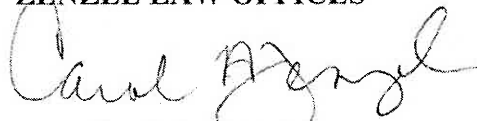
4. To the best of our knowledge, in reliance on the certificates and opinions specified herein, the execution and delivery by the Company of the Company Documents, the execution and compliance with the provisions of each and the consummation of the transactions contemplated therein do not and will not constitute a breach of, or default under the Company's Articles of Organization, Operating Agreement or any indenture, mortgage, deed of trust, bank loan or credit agreement or other agreement or instrument to which the Company or any of its Property may be bound, for which a valid consent has not been secured; nor is any approval or any action by any governmental authority required in connection with the execution, delivery and performance thereof by the Company.

5. To the best of our knowledge, in reliance on the certificates and opinions specified herein, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened against, or affecting the Company wherein an unfavorable decision, ruling or finding would in any way adversely affect in a material fashion the validity or enforceability of the Company Documents.

Our examination of law relevant to matters herein is limited to the laws of the State of New York and also the Federal law, where appropriate, and we express no opinion as to matters governed by the laws of any other state or jurisdiction.

This opinion is only for the benefit of and may be relied upon only by the Agency, its successors and assigns. The opinions set forth in this letter are limited to those expressly stated and no other opinion may be inferred nor is any implied. No other use of this opinion may be made without prior written consent. This opinion is given as of the date hereof and we undertake no obligation, and hereby disclaim any obligation, to update or supplement this opinion in response to a subsequent change in the law or future events affecting the documents identified in this letter.

Very Truly Yours,
ZENZEL LAW OFFICES



Carol A. Zenzel

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CLOSING MEMORANDUM

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY

SOUTHSIDE GENESEE ASSOCIATES, LLC PROJECT

DATE AND TIME OF CLOSING: March 31, 2017

PLACE OF CLOSING: Barclay Damon, LLP
Barclay Damon Tower
125 East Jefferson Street
Syracuse, New York 13202

I. Action Taken Prior to Closing

At the request of Southside Genesee Associates, LLC (the “*Company*”), the City of Syracuse Industrial Development Agency (the “*Agency*”), a public benefit corporation organized under the laws of the State of New York, has undertaken a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “*Existing Buildings*”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (collectively, the “*Land*”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company also requested that the Agency appoint the Company as its agent for purposes of completing the Project and the granting of certain Financial Assistance.

The Company is the owner of the Project Facility.

The Agency will acquire a leasehold interest in the Land and Facility from the Company pursuant to a Company Lease Agreement dated as of March 1, 2017 (the “*Company Lease*”), between the Company, as landlord and the Agency, as tenant; and an interest in the Equipment pursuant to a bill of sale from the Company dated as of March 1, 2017 (the “*Bill of Sale*”). The Agency will sublease the Project Facility back to the Company, pursuant to an Agency Lease Agreement dated as of March 1, 2017 (the “*Agency Lease*”) between the Agency, as sublessor and the Company, as sublessee. Capitalized terms used herein and not otherwise defined shall have the meaning given to such terms in Exhibit “C” to the Agency Lease.

Among the actions taken by the Agency with respect to the Project prior to Closing were the following:

- | | |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| December 6, 2016 | The Company submitted an application for financial assistance for the project. |
| December 20, 2016 | A resolution determining that the acquisition, construction and equipping of a mixed-use project constitutes a project; describing the financial assistance in connection therewith; and authorizing a public hearing (the “ <i>Public Hearing Resolution</i> ”). |
| January 11, 2017 | Notice of the Public Hearing was mailed to the chief executive officers of the affected tax jurisdictions pursuant to Section 859-a of the Act. |
| January 12, 2017 | Notice of the Public Hearing was published in the <u>Post-Standard</u> pursuant to Section 859-a of the Act. |
| January 24, 2017 | The Agency conducted the Public Hearing pursuant to Section 859-a of the Act. |
| January 24, 2017 | A resolution determining that the acquisition, construction and equipping of a certain Project will not have a significant effect on the environment |
| January 24, 2017 | A resolution authorizing the undertaking, acquisition, construction, equipping and completion of a commercial facility; appointing the Company agent of the Agency for the purpose of the acquisition, construction, equipping and completion of the Project and |

authorizing the execution and delivery of an agreement between the Agency and the Company (the “**Inducement Resolution**”).

January 24, 2017

A resolution authorizing the execution and delivery of certain documents by the agency at the request of the Company (the “**Final Approving Resolution**”).

II. Action To Be Taken At Closing

The following documents, or copies thereof, are to be delivered (except as indicated) to the Agency (A), Agency's Counsel (AC), the Company (C) and Company's Counsel (CC), as follows:

A. Basic Documents	Responsible Party	Signatories
1. Project Agreement	AC	C, A
2. Company Lease Agreement	AC	C, A
3. Memorandum of Company Lease Agreement with TP-584	AC	C, A
4. Bill of Sale		
5. Agency Lease Agreement	AC	C, A
6. Memorandum of Agency Lease Agreement with Form TP-584	AC	C, A
7. Company Certification re: Local Labor Policy	AC	C
8. Certificates of casualty, liability, workers' compensation and other required insurance	AC	
9. Environmental Compliance and Indemnification Agreement	AC	C
10. Closing Receipt	AC	C, A
11. Sales Tax Exemption Letter	AC	A
12. Form ST-60 indicating appointment of the Company to act as the agent of the Agency	AC	A
B. Items To Be Delivered By The Agency		
1. General Certificate of the Agency	AC	A

relating to incumbency and signatures of officers, execution and delivery of Agency Documents to which it is a party, no litigation and continued existence, with the following items included as exhibits:

- | | |
|-------------------------------------------------------------------------------------------------------------------------|----|
| Exhibit "A" - Chapter 641 of the Laws of 1979 of the State of New York, as amended | A |
| Exhibit "B" - Certificate of Establishment of the Agency and Certificates of appointment of current members | A |
| Exhibit "C" - By-laws | A |
| Exhibit "D" - Public Hearing Resolution | AC |
| Exhibit "E" - Notice of Public Hearing with evidence of publication and copies of letters to affected tax jurisdictions | AC |
| Exhibit "F" - SEQRA Resolution | AC |
| Exhibit "G" - Inducement Resolution | AC |
| Exhibit "H" - Final Approving Resolution | AC |

C. Items To Be Delivered By The Company

1. General Certificate of the Company relating to capacity and signatures of officers, execution and delivery of the Documents to which it is a party, no litigation and approval, with the following items included as exhibits:

- | | | |
|----------------------------------------|---|---|
| Exhibit "A" - Articles of Organization | C | C |
| Exhibit "B" - Operating Agreement | C | C |

Exhibit "C"	Certificate of Good Standing	C	
Exhibit "D"	Company Resolution	C	
Exhibit "E"	Local Access Agreement	C	
D.	Opinions of Counsel	C	
1.	Opinion of Barclay Damon, LLP, counsel to the Agency, addressed to the Company and the Agency	AC	AC
2.	Opinion of Carol Zenzel, Esq., counsel to the Company, addressed to the Agency and the Company.	AC	CC

III. Action To Be Required Concurrently With Or After Closing

Memorandum of Company Lease Agreement and Memorandum of Agency Lease Agreement are to be filed with the Onondaga County Clerk

IV. Post-Closing

Scan copy of Local Access Agreement to SIDA.

V. SUBSEQUENT LENDER CLOSING (JUNE 30, 2017)

1. Building Loan Mortgage
2. Building Loan Assignment of Leases and Rents
3. Project Loan Mortgage
4. Project Loan Mortgage Assignment of Lease and Rents
5. Mortgage Recording Tax Affidavit
6. Certification of Southside Genesee Associates, LLC re: mortgage closing
7. Opinion of counsel to the Company addressed to the Lender and the Agency
8. Opinion of counsel to the Agency addressed to the Agency and the Company

SCHEDULE "A"

PERSONS APPEARING

For the Agency: City of Syracuse Industrial Development Agency
William M. Ryan, Chairman

For the Company: Southside Genesee Associates, LLC
James A. Malesich, Jr.

Company Counsel: Carol Zenzel, Esq.

Agency's Counsel: Barclay Damon, LLP
Susan R. Katzoff, Esq.

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ONONDAGA COUNTY CLERK'S OFFICE
 LISA DELL - COUNTY CLERK
 401 Montgomery St - Room 200
 Syracuse, NY 13202

Phone: 315-435-2226
 Fax: 315-435-3455

Doc Type: MTG
 Mortgagor: SOUTHSIDE GENESEE ASSOCIATES
 CITY OF SYRACUSE INDUSTRIAL
 Mortgagee: CITIZENS BANK OF PENNSYLVANI

Receipt: 1360058 RS
 Book/Page: 18324/0261 Inst: 22256
 Date Filed: 06/30/2017 at 2:13PM
 Updated: 07/03/2017 MO
 Record and Return To:

Legal Desc: SYR L1-3 WALNUT AVENUE
 APARTMENTS S E

HARRIS BEACH LLP
 99 GARNSEY RD
 PITTSFORD NY 14534

Prop Address: 1200-24 GENESEE ST E & WALNUT AVE Submitted by: FITCH

Recording Fees		Miscellaneous Fees	
Addl pages:	35 x 5.00 = \$ 175.00	RMI:	\$ 20.00
Addl Names:	0 x 0.50 = \$ 0.00	TP 584:	\$ 0.00
Addl Refs:	0 x 0.50 = \$ 0.00	RP5217:	\$ 0.00
Misc:	0.00	AFFTS:	\$ 5.00
Basic:	\$25.50		
	=====		=====
TOTAL:	\$200.50	TOTAL:	\$ 25.00

MORTGAGE TAX		DEED TRANSFER TAX	
Mortgage:	\$3760000.00	Consideration	
Basic:	\$0.00	Transfer Tax:	\$0.00
Ins Fund:	\$0.00	SWIS:	
Net Add:	\$0.00	Map #:	
Misc:	\$0.00		
	=====	Total Paid	\$ 225.50
TOTAL	\$0.00	Control no	DI3637

WARNING - This sheet constitutes the Clerk's endorsement, required by Section 319 of the Real Property Law of the State of New York. Do not detach. Taxes imposed on this instrument at time of recording were paid. Certain information contained in this document is not verified by this office.

LISA DELL
 Onondaga County Clerk

Book/Page 18324 / 0261 Instrument no.: 22256



M183240261

35

D11003637R

UPON RECORDATION RETURN TO:

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

ONONDAGA COUNTY	
BASIC TAX	\$ _____
MTG. INS. FUND TAX	\$ _____
NET ADDITIONAL TAX	\$ _____
TOTAL MTG. TAX PAID	\$ <u> </u> _____

**FEE, LEASEHOLD AND SUBLEASEHOLD BUILDING LOAN MORTGAGE,
SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE
FILING**

SOUTHSIDE GENESEE ASSOCIATES, LLC,
a New York limited liability company,
("Mortgagor")
and

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a body corporate and
politic and a public instrumentality of the State of New York,
("Agency")

in favor of

CITIZENS BANK OF PENNSYLVANIA, a Pennsylvania state chartered savings bank
("Mortgagee")

Made as of the 30th day of June, 2017

Location: As set forth on *Exhibit A* attached hereto.

THE MAXIMUM PRINCIPAL AMOUNT SECURED BY THIS MORTGAGE IS
\$33,000,000.00 (SEE DEFINITION OF "MAXIMUM PRINCIPAL AMOUNT" HEREIN FOR
THE MAXIMUM TOTAL AMOUNT THAT THIS MORTGAGE SECURES).

**THIS FEE, LEASEHOLD AND SUBLEASEHOLD BUILDING LOAN MORTGAGE, SECURITY
AGREEMENT AND FIXTURE FILING DOES NOT COVER REAL PROPERTY PRINCIPALLY
IMPROVED OR TO BE IMPROVED BY ONE OR MORE STRUCTURES CONTAINING IN THE
AGGREGATE NOT MORE THAN SIX RESIDENTIAL DWELLING UNITS, EACH HAVING THEIR
OWN SEPARATE COOKING FACILITIES.**

07735

**FEE, LEASEHOLD AND SUBLEASEHOLD BUILDING LOAN MORTGAGE,
SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE
FILING**

This FEE, LEASEHOLD AND SUBLEASEHOLD BUILDING LOAN MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (this "Mortgage") is made as of the date set forth on the cover page, by **SOUTHSIDE GENESEE ASSOCIATES, LLC**, a New York limited liability company, having a business address at c/o The Michaels Organization, 3 East Stow Road., Suite 260, Marlton, NJ 08053, (herein "Mortgagor") and the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a body corporate and politic and a public instrumentality of the State of New York, having its principal office at 201 East Washington Street, 7th Floor, Syracuse, NY 13202 (the "Agency") for the benefit of **CITIZENS BANK OF PENNSYLVANIA**, a Pennsylvania state chartered savings bank, having a business address at One Logan Square, 130 N. 18th Street, Suite 1310, Philadelphia, PA 19103 (the "Mortgagee").

BUILDING LOAN MORTGAGE. This Mortgage is intended to constitute a "building loan mortgage" as defined in the New York Lien Law (the "Lien Law") §2(14) and secures repayment of a loan made pursuant to a "building loan contract" (as defined in Lien Law §2(13)), which building loan contract has been duly filed in compliance with the Lien Law.

RECITALS:

WHEREAS, pursuant to that certain Building Loan Agreement dated as of even date herewith by and between Mortgagor and Mortgagee (the "Loan Agreement"), Mortgagor has agreed to borrow from the Mortgagee the principal sum of Thirty-three Million Dollars and 00/100 Dollars (\$33,000,000.00) (the "Loan"), which Loan is also evidenced by that certain Building Loan Promissory Note by Mortgagor to the order of the Mortgagee in the aggregate principal sum of Thirty-three Million Dollars and 00/100 Dollars (\$33,000,000.00) (the "Note"). The Loan Agreement, the terms of which are binding solely upon the Mortgagor, is incorporated by reference herein and made a part hereof. Terms not otherwise defined herein shall have the respective meanings ascribed thereto in the Loan Agreement;

WHEREAS, Mortgagee is desirous of securing the prompt performance of Mortgagor's obligations under the Note together with interest, costs and any other amounts due thereunder and any additional indebtedness accruing to Mortgagee on account of any payments, advances or expenditures made by Mortgagee pursuant to the Note, this Mortgage, the Loan Agreement or any of the other Loan Documents (as hereinafter defined);

WHEREAS, Mortgagor has conveyed title to certain fixtures, equipment and improvements to the Agency pursuant to that certain Bill of Sale to the Agency dated March 10, (the "Bill of Sale");

WHEREAS, Mortgagor, as lessor, and Agency, as lessee, have entered into that certain Lease Agreement, dated as of March 10, 2017, a memorandum of which has been recorded in the Onondaga County Clerk's Office (as the same may be amended, modified, supplemented, replaced and/or restated with the prior written consent of Lender in the exercise of its sole

reasonable discretion, the "Agency Lease") specifying the terms and conditions under which Mortgagor has leased to Agency Mortgagor's interest in the Premises (as hereinafter defined) and the Facility (as defined in the Company Lease (hereinafter defined)); and

WHEREAS, Agency, as sub-lessor, and Mortgagor, as sub-lessee, have entered into that certain Leaseback Agreement, dated as of March 10, 2017, a memorandum of which has been recorded in the Onondaga County Clerk's Office, (as the same may be amended, modified, supplemented, replaced and/or restated with the prior written consent of Lender in the exercise of its sole reasonable discretion, the "Company Lease" and together with the Agency Lease, the "Agency Leases") specifying the terms and conditions under which Agency has leased to Mortgagor the fixtures, equipment and improvements conveyed to Agency pursuant to the Bill of Sale and has subleased Agency's leasehold interest in the Premises and Facility back to Mortgagor.

TO SECURE THE PAYMENT AND PERFORMANCE TO and in favor of Mortgagee the following obligations (the "Indebtedness"):

(a) the repayment of the indebtedness evidenced by the Note and the Loan Agreement, with interest thereon, in the principal amount not to exceed Thirty-three Million Dollars and 00/100 Dollars (\$33,000,000.00) ("Maximum Principal Amount"). (b) any sums advanced by Mortgagee or which may otherwise become due pursuant to the provisions of this Mortgage, the Loan Agreement or the Note (the provisions of the Note and Loan Agreement being incorporated herein by reference) or pursuant to any other document or instrument executed by Mortgagor or Guarantors and at any time delivered to Mortgagee to evidence or secure any of the Indebtedness or which otherwise relates to any of the Indebtedness under the Loan Agreement (all such documents and instruments, including the Note, the Loan Agreement, this Mortgage, and any other agreements, documents or instruments herein above referenced, as the same may be amended, modified, supplemented, replaced or restated from time to time, being individually and collectively referred to herein as the "Loan Documents"). (c) any and all sums that shall become due and payable by Mortgagor with respect to any interest rate swap agreements, interest rate cap agreements and interest rate collar agreements, and all other agreements or arrangements with Mortgagee designed to protect Mortgagor against fluctuations in interest rates or currency exchange rates to the extent such agreement or arrangement relates to the Note (such contracts being "Hedging Contracts" and any obligations arising thereunder being "Additional Interest"), and (d) for any and all costs and expenses herein provided for or which may arise in respect of this Mortgage or the indebtedness hereby secured or the property herein described;

provided, however, that notwithstanding anything to the contrary contained in this Mortgage, the maximum amount of the principal indebtedness secured by this Mortgage at execution or which under any contingency may become secured by this Mortgage is Maximum Principal Amount, plus interest, Additional Interest and late payment and prepayment charges in respect thereof, plus all amounts expended by Mortgagee after default by Mortgagor hereunder in respect of insurance premiums and real estate taxes, and all legal costs or expenses of collection of the debt secured hereby or of the defense or prosecution of the rights and lien created hereby. Nothing in this paragraph limits the extent to which this Mortgage secures (x) interest and (y) any other

sums that may be secured without incurring additional mortgage recording tax or making this Mortgage an infinite mortgage:

Mortgagor and Agency do hereby mortgage, grant, assign, release, transfer, pledge, and set over unto the Mortgagee, its successors and assigns, with power of sale, their respective interests (except the Agency's Unassigned Rights, as defined in the Agency Lease) in the Property (as hereinafter defined), subject to matters of record in the relevant real property records, and confirms this Mortgage constitutes a valid first lien upon the following described property (herein referred to collectively as the "Property"), subject to the Permitted Encumbrances:

(a) All of Mortgagor's and Agency's, right title and interest in the land located in the County of Onondaga, State of New York and more particularly described on *Exhibit A* attached hereto and made a part hereof (the "Premises");

(b) All right, title and interest of Agency in and to the leasehold estate created by the Agency Lease and all rights, options and other benefits inuring to Agency under the Agency Lease with respect to the Premises and Facility;

(c) All right, title and interest of Mortgagor in and to the leasehold and/or subleasehold estate created by the Company Lease and all rights, options and other benefits inuring to Mortgagor under the Company Lease with respect to the Premises, Facility and the fixtures, equipment and improvements leased thereunder;

(d) All the improvements now or hereafter erected on the Premises (the "Improvements"), and all of Mortgagor's and/or Agency's right, title and interest in and to all easements, rights of way, appurtenances, uses, servitudes, licenses, tenements, hereditaments, rents, proceeds, royalties, mineral, oil and gas rights and profits, waters, water rights, and water stock, and any and all fixtures, goods, chattels, equipment and articles of personal property of every kind and character, including any replacements, additions, substitutions therefor, any sale, exchange, transfer, loss or damage thereto, now or at any time in the future owned by Mortgagor and/or Agency and affixed to or placed upon or used in connection with the occupancy, enjoyment and operation of the Premises all of which are hereby declared and shall be deemed to be a portion of the security for the Indebtedness herein described and to be subject to the lien of this Mortgage, including but not limiting the generality of the foregoing, all heating, lighting, incinerating, power and total energy equipment, engines, pipes, pumps, tanks, motors, conduits, switchboards, plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigeration, ventilating, and communications apparatus, air cooling and air-conditioning apparatus, elevators, escalators, wall-to-wall carpeting, shades, awnings, screens, storm doors and windows, attached cabinets, partitions, ducts and compressors, and such other goods, chattels, and equipment as are adapted to the complete and comfortable use, enjoyment and occupancy of the Property, excluding any of the aforesaid which is owned by any tenant of any individual space leased to such tenant and which according to the terms of any applicable lease may be removed by such tenants at the expiration or termination of said lease;

(e) All of Mortgagor's and/or Agency's rights, title and interest in and to all existing and future appurtenances, privileges, easements, franchises and tenements of the Premises,

including all minerals, oil, gas, other hydrocarbons and associated substances, sulphur, nitrogen, carbon dioxide, helium and other commercially valuable substances which may be in, under or produced from any part of the Premises, all development rights and credits, air rights, water, water rights (whether riparian, appropriative or otherwise, and whether or not appurtenant) and water stock, and any Premises lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Premises and Improvements;

(f) All of Mortgagor's and/or Agency's, rights, title and interest in and to all existing and future leases (excluding the Agency Leases), subleases, subtenancies, license agreements, occupancy agreements and concessions ("Leases") relating to the use and enjoyment of all or any part of the Premises and Improvements, and any and all guaranties and other agreements relating to or made in connection with any of such Leases:

(g) All of Mortgagor's and/or Agency's, rights, title and interest in and to all goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Premises and Improvements, whether stored on the Premises or elsewhere, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Mortgage; and any assignable manufacturer's warranties or guaranties with respect thereto;

(h) All of Mortgagor's and/or Agency's, rights, title and interest in and to all building materials, equipment, work in process or other personal property of any kind, whether stored on the Premises or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Premises or Improvements;

(i) All of Mortgagor's rights, title and interest, to the extent assignable, in and to all agreements, contracts, rights, licenses or other interests of any type (whether exclusive or non-exclusive) granted or given to any person to provide any products or services to or for or with respect to the Property or any occupants of the Property;

(j) All of Mortgagor's rights, title and interest in and to all options to purchase, sell and rights of first refusal to purchase, sell or acquire a fee and/or leasehold estate, easement interest or other real property right to land, both vacant and improved, adjoining the Premises now or hereafter in effect;

(k) All of Mortgagor's rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, rebates, tax refunds, credits, cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by Mortgagor with third parties (including all utility deposits), to the extent assignable, all contract rights, development and use rights, governmental permits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, drafts and letters of credit, which arise from or relate to construction on the Premises or to any business now or later to be conducted on

it, or to the Premises and Improvements generally; and any builder's or manufacturer's warranties with respect thereto;

(l) All of Mortgagor's, rights, title and interest in and to all insurance policies pertaining to the Premises or Property and all proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Premises, Improvements or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Premises, Property, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud or concealment of a material fact;

(m) All of Mortgagor's rights, title and interest in and to all books and records pertaining to any and all of the property described above, including computer-readable memory and any computer hardware or software necessary to access and process such memory;

(n) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above;

(o) All of Mortgagor's and/or Agency's rights in "Equipment" as that term is defined in the Uniform Commercial Code;

(p) All of Mortgagor's and/or Agency's, rights in "Goods" as that term is defined in the Uniform Commercial Code; and

(q) All of Mortgagor's rights in "Accounts" as that term is defined in the Uniform Commercial Code.

PROVIDED, HOWEVER, THAT THE Agency's Unassigned Rights are not mortgaged hereunder by the Agency.

TO HAVE AND TO HOLD all and the singular Property hereby conveyed unto Mortgagee.

This Mortgage secures the payment of and includes all future or further advances as hereinafter set forth as allowed by law, to the same extent as if such were made on the date of execution of this Mortgage, and to the extent provided herein any disbursements made for the payment of tax, levies or insurance on the Property shall, on demand, be due and payable with interest thereon in accordance with the terms of this Mortgage.

Mortgagor and Agency, each for itself, covenant with Mortgagee that Mortgagor and Agency are lawfully seized of the above described Property hereby conveyed and have the right to mortgage, grant and convey the Property, that the Property is free and clear of all defects, liens and encumbrances, except the Agency Leases and those items set forth in Schedule B of the final ALTA Loan Policy of Title Insurance (File No. FTA-17-160EC) issued by Barclay Damon, LLP

through the office of Fitch Title Agency, Inc. as agent for Old Republic National Title Insurance Company with respect to this Mortgage, encumbrances consented to by Mortgagee in writing and the lien of this Mortgage (the "Permitted Encumbrances"), and that Mortgagor will warrant and defend the title to the Property unto the Mortgagee against all claims and demands whatsoever other than the Permitted Encumbrances.

The Mortgagor and Agency covenant, agree and stipulate to and with the Mortgagee as follows:

1. **PAYMENT OF PRINCIPAL AND INTEREST.** Mortgagor shall promptly pay when due the principal of and interest on the Indebtedness at a rate or rates which may vary from time to time as specified in the Loan Documents, prepayment and late charges as provided in the Loan Documents, and the principal of and interest on any advances, including Future Advances provided by this Mortgage.

2. **TAXES AND INSURANCE.** Mortgagor will pay or cause to be paid all real estate taxes and assessments on the Property and all insurance premiums for hazard and liability insurance covering the Property as the same shall become due as required by the Loan Agreement, subject to Mortgagor's rights to contest taxes and assessments pursuant to the Loan Agreement. Upon the occurrence and during the continuance of an Event of Default under this Mortgage or any of the Loan Documents, Mortgagee shall have the right (but not the obligation) to place and maintain insurance required to be placed and maintained by Mortgagor pursuant to the Loan Agreement (to the extent Mortgagor has not done so) and to treat the amounts expended therefor as additional disbursements of Loan proceeds (even if the total amount of disbursements would exceed the face amount of the Note). In the event of a default in the payment of such taxes or insurance then Mortgagee shall be permitted to pay the taxes and/or insurance to protect the Property and charge the same to the Mortgagor as additional indebtedness secured by this Mortgage.

3. **APPLICATION OF PAYMENTS.** Unless an Event of Default has occurred and is continuing, unless applicable law provides otherwise, all payments received by Mortgagee under the Note and Sections 1 and 2 hereof shall be applied by Mortgagee first in payment of amounts payable to Mortgagee by Mortgagor under Section 2 hereof, then to interest payable on the Note and on any protective advances, if any, and then to the principal of the Note and to the principal of any protective advances, if any.

4. **LIENS.** Mortgagor and the Agency shall not, without Mortgagee's prior written approval, create or permit or suffer to be created or to remain, and Mortgagor will, discharge or bond over to Mortgagee's satisfaction, or promptly cause to be discharged or bonded over to Mortgagee's satisfaction or otherwise contest, in a manner permitted by the Loan Agreement, any lien, encumbrance or charge or pledge of, or conditional sale, or other title encumbrance with respect to the Property or any part thereof, other than (i) Permitted Encumbrances, and (ii) encumbrances for real estate taxes not yet due and payable; provided, however, that Mortgagor may contest or otherwise appeal in good faith the validity and amount of any lien in accordance with the Loan Agreement without being deemed in default of the provisions of this Section 4.

5. **INSURANCE.** Mortgagor shall keep the Improvements now existing or hereafter erected on the Property insured in accordance with the requirements set forth in *Exhibit E* of the Loan Agreement.

6. **PRESERVATION AND MAINTENANCE OF PROPERTY.** Mortgagor shall keep the Property in good repair and shall not permit or commit waste, impairment, or deterioration of the Property (ordinary wear and tear, casualty and condemnation excepted), including those acts or omissions characterized under the Loan Agreement as waste which arises out of Hazardous Materials. Furthermore, Mortgagor shall restore or repair promptly and in good and workmanlike manner, free of mechanics, materialman's, laborer's and like liens and claims therefor (subject to the right of Mortgagor to contest or otherwise appeal in good faith the validity and amount of any such lien in accordance with Section 4 above), all or any part of the Property to the equivalent of its immediately pre-existing condition, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of restoration or repair.

7. **PROTECTION OF MORTGAGEE'S SECURITY.** If Mortgagor fails to perform the covenants and agreements contained in this Mortgage within any applicable notice and cure period set forth in the Loan Agreement or herein, or if any action or proceeding is commenced including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, which could reasonably be expected to materially and adversely affect Mortgagee's interest in the Property, as reasonably determined by Mortgagee, then Mortgagee at Mortgagee's option, upon reasonable prior written notice to Mortgagor, may make such appearances, disburse such sums and take such action as is reasonably necessary to protect Mortgagee's interest, including, but not limited to, disbursement of reasonable attorneys' fees and entry upon the Property upon reasonable prior notice from Mortgagee, during regular business hours to make repairs. Any amounts disbursed by Mortgagee pursuant to this Section 7, with interest thereon, shall become additional indebtedness of Mortgagor secured by this Mortgage. Unless Mortgagor and Mortgagee agree to other terms of payment, such amount shall be immediately due and payable within twenty (20) days following notice from Mortgagee to Mortgagor requesting payment thereof, and shall bear interest from the date of disbursement at the rate applicable in the Note. Nothing contained in this Section 7 shall require Mortgagee to incur any expense or do any act hereunder.

8. **INSPECTION.** Mortgagee, for the protection of its interest in the Property, may make or cause to be made reasonable entries upon and inspections of the Property, upon reasonable prior notice from Mortgagee, during regular business hours, subject to the rights of any applicable Tenants and the terms of the Loan Agreement.

9. **CONDEMNATION.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby collaterally assigned and shall be paid to Mortgagee, and any such proceeds shall be paid to and applied in the manner set forth in Article 14 of the Loan Agreement.

10. **MORTGAGOR NOT RELEASED.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Mortgagee to any

successor in interest of Mortgagor shall not operate to release, in any manner, the liability of the original Mortgagor and Mortgagor's successors in interest absent an express written agreement from Mortgagee to the contrary. Mortgagee shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Mortgagor and Mortgagor's successors in interest.

11. FORBEARANCE BY MORTGAGEE NOT A WAIVER. Any forbearance by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy hereunder absent an express written agreement from Mortgagee to the contrary. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate the maturity of the Indebtedness secured by this Mortgage so long as any Event of Default is continuing.

12. REMEDIES CUMULATIVE. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

13. SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CAPTIONS. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Mortgagee, Mortgagor and Agency, subject to the provisions of Section 18 hereof. The captions and headings of the Sections of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

14. COMPLIANCE WITH LAWS. Mortgagor hereby covenants and agrees to materially comply with, and to use commercially reasonable efforts to cause all occupants of all or any portion of the Property to materially comply with, all applicable zoning, building, use and environmental restrictions, all permits, approvals, licenses and other governmental impositions (collectively "Permits"), and all laws, rules, statutes, ordinances, regulations, codes, orders and requirements, including, without limitation, environmental matters and notices of violation of all governmental authorities having jurisdiction over the Property or the maintenance, use and operation thereof, and all restrictions and requirements of record (collectively, the "Laws"). Mortgagor will deliver to Mortgagee within twenty (20) Business Days after Mortgagee's request therefor any additional permits or renewals, issued and approved or disapproved in writing with respect to the Property after the date hereof. **Mortgagor hereby indemnifies and agrees to defend and hold harmless Mortgagee from and against any and all claims, demands, loss, cost, damage, liability or expense incurred or suffered by Mortgagee arising from any failure of the Property to comply in all material respects with all Laws (except to the extent that such failure arises at a time when Mortgagor no longer controls the Property or is caused by the gross negligence or willful misconduct of Mortgagee or Mortgagee's agents, contractors or employees), or from any failure of Mortgagor to obtain, maintain or renew, or to have obtained, maintained or renewed, any Permit required with respect to the Property.** Mortgagor hereby warrants and represents that, on the date hereof, to its knowledge, the Property complies in all material respects with all Laws.

15. **NOTICE.** Except for any notice required under applicable law to be given in another manner, any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be in writing and shall be deemed to have been properly given if delivered in accordance with the Loan Agreement; addressed in each case as follows:

If to Mortgagor:

Southside Genesee Associates, LLC
c/o The Michaels Organization
3 East Stow Rd., Suite 260,
Marlton, NJ, 08053
Tel: (856) 355-2546
Attn: James A. Malesich, Jr.
Email: jmalesich@themichaelsorg.com

With copies to:

Barclay Damon LLP
125 East Jefferson Road
Syracuse, NY 13202
Attention: Kevin R. McAuliffe, Esq.
Tel: (315) 425-2875
Email: kmcauliffe@barclaydamon.com

E. Allan Mack, Esq.
3 East Stow Road
Suite 270
Marlton, NJ 08053
Tel: (856) 355-4973
Email: amack@eam-law.com

If to Mortgagee:

Citizens Bank of Pennsylvania
One Logan Square
130 N. 18th Street, Suite 1310
Philadelphia, PA 19103
Attention: David Ross, Senior Vice President
Email: davidross@citizensbank.com

With a copy to:

Harris Beach PLLC
99 Garnsey Road
Pittsford, NY 14534
Attn: Charles W. Russell, Esq.
Email: crussell@harrisbeach.com

If to Agency:

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, NY 13202
Attn: William M. Ryan, Chairman

With a copy to:

Barclay Damon LLP
Barclay Damon Tower
125 East Jefferson Street
Syracuse, NY 13202
Attn: Susan R. Katzoff, Esq.
Email: skatzoff@barclaydamon.com

or at such other address or to such other addressee as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice.

16. **GOVERNING LAW; SEVERABILITY.** This Mortgage shall be governed by the law of the State of New York, except to the extent pre-empted by Federal laws without reference to the choice of law or conflicts of law principles of that State. The Mortgagee is authorized and empowered to do all things provided to be done by a Mortgagee under the laws of the State of New York. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note, which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable.

17. **MORTGAGOR'S COPY.** Mortgagor shall be furnished a photocopy of this Mortgage at the time of execution or after recordation hereof.

18. **TRANSFER OF THE PROPERTY; ASSUMPTION.** Until such time as the Indebtedness is paid in full, and except as otherwise permitted by the Loan Agreement, no portion of the Property, nor any direct or indirect interest in Mortgagor shall be sold, assigned, transferred, leased, conveyed, contracted to be sold, mortgaged or in any way encumbered or disposed of directly or indirectly, without the prior written consent of Mortgagee in each such event. Mortgagee shall be under no obligation to consent to such transfer or conveyances, except to the extent set forth in the Loan Agreement. However, no payment of or tender of any

consideration to Mortgagee in connection with any proposed transfer or conveyance shall obligate Mortgagee to consent to such transfer or conveyance. Notwithstanding the foregoing, Mortgagor shall have the right to dispose of personal property in the ordinary course of business without Mortgagee's consent, free of the lien of this Mortgage, so long as it is either (a) replaced with personal property of equivalent value and utility, and is subject to the lien of this Mortgage or the other Loan Documents, or (b) no longer necessary in connection with the operation of the Property (provided, however, that to the extent occurring during the existence of an Event of Default, any cash proceeds arising from the disposition thereof shall be immediately remitted to Mortgagee to be applied to the Loan). In the case of a transfer of Mortgagor's entire interest in the Property, Mortgagee may also require the transferee to sign an assumption agreement that is acceptable to Mortgagee and that obligates the transferee to keep all the promises and agreements made in the Note, in this Mortgage or any other Loan Documents. To the extent Mortgagee's consent is required under the Loan Agreement, any sale, assignment, transfer, lease, conveyance or mortgage of the Property without Mortgagee's consent shall be null and void.

19. EVENT OF DEFAULT; ACCELERATION. If any one of the following events (herein referred to as "Events of Default") shall occur:

(a) Mortgagor shall fail to pay any principal of or interest or any other amounts due on the Note when the same becomes due and payable after giving effect to any applicable grace, notice or cure period described in the Note or the Loan Agreement; or

(b) Mortgagor shall fail to comply in any material respect with any of the provisions, conditions, or covenants contained in this Mortgage and such failure continues for more than thirty (30) days (unless a shorter grace period is described herein) after written notice of such failure from Mortgagee to Mortgagor; provided, that such thirty (30)-day period shall be extended to permit the cure of any default which by its nature is not reasonably susceptible to cure within such thirty (30)-day period, so long as Mortgagor promptly within such thirty (30)-day period commences its efforts to cure and thereafter diligently pursues the same to completion within ninety (90) days after the lapse of the initial thirty (30) days;

(c) (i) A default by Mortgagor beyond any applicable notice or cure period occurs under the Agency Lease and/or the Company Lease; and/or (ii) the occurrence of any other event which results in the termination of the Agency Lease or the Company Lease;

(d) An Event of Default occurs under any Hedging Contract or any of the Loan Documents; or

(e) The occurrence of an Event of Default under the Loan Agreement, Note or any of the other Loan Documents.

19.1 Remedies. Upon the occurrence and during the continuation of any Event of Default, Mortgagor and Agency agree that Mortgagee may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Mortgagor in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Mortgagee may determine, in its

sole, but commercially reasonable discretion, without impairing or otherwise affecting the other rights and remedies of Mortgagee:

(a) declare the entire unpaid principal balance of the Note together with all other Indebtedness to be immediately due and payable, which unpaid sums shall bear interest at the Default Rate from the due date until paid; and/or

(b) with or without entry, institute proceedings, by judicial action, advertisement or such other statutory procedures as are then available in the state where the Premises is located, for the complete or partial foreclosure of this Mortgage under any applicable provision of law in which case the Premises or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner, any partial foreclosure to be subject to the continuing lien and security interest of this Mortgage for the balance of the Indebtedness not then due, unimpaired and without loss of priority; and/or

(c) sell for cash or upon credit the Premises or any part thereof and all estate, claim, demand, right, title and interest of Mortgagor and/or Agency therein and rights of redemption thereof, pursuant to power of sale (to the extent then available in the state where the Premises is located), judicial decree or otherwise, at one or more sales, as an entirety or in one or more parcels; and/or

(d) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note or in the other Loan Documents; and/or

(e) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Mortgage or the other Loan Documents, to the extent permitted by the laws of the state where the Premises is located; and/or

(f) apply for the appointment of a receiver, liquidator or conservator of the Premises, without notice and without regard for the adequacy of the security for the Indebtedness and without regard for the solvency of Mortgagor or Guarantor or of any other person, firm or other entity liable for the payment of the Indebtedness in accordance with and in the manner prescribed by applicable law in the State of New York and in accordance with the terms hereof; and/or

(g) enter into or upon the Premises, either personally or by its agents, nominees or attorneys and dispossess Mortgagor and their agents and servants therefrom without liability for trespass, and exclude Mortgagor and their agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Mortgagor and/or Agency agrees to surrender possession of the Premises and of such books, records and accounts in connection therewith to Mortgagee upon demand, and thereupon Mortgagee may exercise all rights and powers of Mortgagor with respect to the Premises including, without limitation:

(1) the right to use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Premises and conduct the business thereat; and/or

(2) the right to make or complete any construction, alterations, additions, renewals, replacements and improvements to or on the Premises as Mortgagee deems advisable; and/or

(3) the right to make, cancel, enforce or modify leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents (defined below) of the Premises and every part thereof;

(h) require Mortgagor to pay monthly in advance to Mortgagee, or any receiver appointed to collect the Rents (defined below), the fair and reasonable rental value for the use and occupation of such part of the Premises as may be occupied by Mortgagor; and/or

(i) require Mortgagor to vacate and surrender possession of the Premises to Mortgagee or to such receiver and, in default thereof, Mortgagor may be evicted by summary proceedings or otherwise; and/or

(j) apply the receipts from the Premises, and/or any unearned insurance premiums paid to Mortgagee upon the surrender of any insurance policies maintained pursuant to the Loan Agreement (it being agreed that Mortgagee shall have the right to surrender such insurance policies upon the occurrence of an Event of Default), to the payment of the Indebtedness, in such order, priority and proportions as Mortgagee shall deem appropriate in its sole, but commercially reasonable discretion; and/or

(k) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing:

(1) the right to take possession of the personal property pledged hereunder (the "Collateral") or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Collateral, and

(2) request Mortgagor at its expense to assemble the Collateral and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Collateral sent to Mortgagor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Mortgagor. Upon any foreclosure or other sale of the Premises pursuant to the terms hereof, Mortgagee may bid for and purchase the Premises and shall be entitled to apply all or any part of the Indebtedness as a credit against the purchase price.

Without limiting any other provisions of this Mortgage, Mortgagee shall have the right to conduct any such sale on the Property, and Mortgagee shall have such right of possession of the Property as shall be necessary or convenient for such purpose or any other purpose under this Section 19.1. Mortgagee may sell the Property without giving any warranties relating to title, possession, quiet enjoyment, merchantability, fitness or the like as to the Property and may specifically disclaim any warranties, which shall not be considered to adversely affect the commercial reasonableness of any sale of the Property. Mortgagee has no obligation to clean up or otherwise prepare the Property for sale.

In the event of a sale, by foreclosure, power of sale, or otherwise, of less than all of the Premises, this Mortgage shall continue as a lien and security interest on the remaining portion of the Premises unimpaired and without loss of priority.

19.2 Application of Proceeds. The proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Mortgagee pursuant to the Note, this Mortgage or the other Loan Documents, shall be applied as follows:

(a) First, to pay the portion of the Indebtedness attributable to the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to reimburse Mortgagee under the Loan Documents and under this Mortgage;

(b) Second, to pay the portion of the Indebtedness attributable to any sums expended or advanced by Mortgagee under the terms of this Mortgage which then remain unpaid;

(c) Third, to pay all other Indebtedness in any order and proportions as Mortgagee in its sole discretion may choose;

(d) Fourth, to pay any obligations under a Hedging Contract; and

(e) Fifth, to remit the remainder, if any, to the person or persons entitled to it.

19.3 Right to Cure Defaults. Upon the occurrence and during the continuation of any Event of Default, Mortgagee may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder or curing or being deemed to have cured any default hereunder, make or do the same in such manner and to such extent as Mortgagee may reasonably deem necessary to protect the security hereof. Mortgagee is authorized to enter upon the Premises for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Premises or to foreclose this Mortgage or collect the Indebtedness, and the cost and expense thereof (including actual reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 19.3, shall constitute a portion of the Indebtedness and shall be due and payable to Mortgagee upon demand. All such costs and expenses incurred by Mortgagee in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period after notice from Mortgagee that such cost or expense was incurred to the date of payment to Mortgagee. All such costs and

expenses incurred by Mortgagee together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Indebtedness and be secured by this Mortgage and the other Loan Documents and shall be immediately due and payable upon demand by Mortgagee therefor.

19.4 Receiver. Upon the occurrence and during the continuation of an Event of Default, Mortgagee shall be entitled as a matter of right without notice and without regard to the solvency or insolvency of Mortgagor, or the existence of waste on the Premises or adequacy of the security of the Premises, and without giving bond to apply for the appointment of a receiver in accordance with the statutes and law made and provided for who shall collect the Rents, and all other income of any kind; manage the Premises so to prevent waste; execute Leases within or beyond the period of receivership, pay all expenses for normal maintenance of the Premises and perform the terms of this Mortgage and apply the Rents, issues, income and profits to the costs and expenses of the receivership, including actual reasonable attorneys' fees, to the repayment of the Indebtedness and to the operation, maintenance and upkeep and repair of the Premises, including payment of taxes on the Premises and payments of premiums of insurance on the Premises and any other rights permitted by law. Mortgagor and Agency do hereby irrevocably consent to such appointment. The receiver may, to the extent permitted under applicable law, without notice, enter upon and take possession of the Premises, or any part thereof, by force, summary proceedings, ejectment or otherwise, and remove Mortgagor or any other person or entity and any personal property therefrom, and may hold, operate and manage the same, receive all rents, earnings, incomes, issues and proceeds and do the things the receiver finds necessary to preserve and protect the Premises, whether during pendency of foreclosure, during a redemption period, if any, or otherwise.

19.5 Rights Under Uniform Commercial Code. In addition to the rights available to a Mortgagee of real property, Mortgagee shall also have all the rights, remedies (while any Event of Default is continuing) and recourse available to a secured party under the Uniform Commercial Code in the State where the Premises are located (the "Code") including the right to proceed under the provisions of the Code governing default as to any Collateral as defined in this Mortgage which may be included on the Premises or which may be deemed nonrealty in a foreclosure of this Mortgage or to proceed as to such Collateral in accordance with the procedures and remedies available pursuant to a foreclosure of real estate.

19.6 Mortgagor Not Released. No delay or omission by Mortgagee in the exercise of any rights or remedies arising under this Mortgage, the Note or any other Loan Document at any time following the happening of an Event of Default shall constitute a waiver of the right of Mortgagee to exercise such rights and remedies at a later time by reason of such Event of Default or by reason of any subsequently occurring Event of Default.

20. **ASSIGNMENT OF LEASES AND RENTS; SECURITY AGREEMENT.** As additional security for the Indebtedness, Mortgagor hereby irrevocably, absolutely, presently and unconditionally assigns to Mortgagee all rents, royalties, issues, profits, revenue, income, accounts, proceeds and other benefits of the Property, whether now due, past due or to become due, including all prepaid rents and security deposits (some or all collectively, as the context may require, "Rents"). This is an absolute assignment, not an assignment for security only. The

Mortgagee shall have all of the rights against lessces of the Property as set forth in Section 291-f of the Real Property law of New York.

Mortgagee hereby confers upon Mortgagor a license ("License") to collect, retain, use, enjoy, and distribute (subject to any applicable restrictions on distributions set forth in the Loan Agreement) the Rents as they become due and payable, so long as no Event of Default, as defined in Section 19, has occurred and is continuing. If an Event of Default occurs this License shall automatically be revoked for so long as such Event of Default exists without notice to or demand upon Mortgagor, and without regard to the adequacy of Mortgagee's security under this Mortgage.

The parties intend for this Mortgage to create a lien on the Property, and an absolute assignment of the Rents, all in favor of Mortgagee. The parties acknowledge that some of the Property and some or all of the Rents may be determined under applicable law to be personal property or fixtures. To the extent that any Property or Rents may be or be determined to be personal property, Mortgagor, as debtor hereby grants Mortgagee as secured party a security interest in all such Property and Rents, to secure payment and performance of the Indebtedness. This Mortgage constitutes a security agreement under the Code covering all such Property and Rents.

21. **FUTURE ADVANCES.** This Mortgage secures all present and future loan disbursements, obligations and/or advances (including protective advances) made by Mortgagee under the Loan Agreement and the other Loan Documents, and all other sums from time to time owing to Mortgagee by Mortgagor under the Loan Agreement and the Loan Documents.

22. **RIGHT TO PERFORM MORTGAGOR'S COVENANTS, PROTECTIVE ADVANCES, ETC.** If Mortgagor shall fail to make any payment or perform any act required to be made or performed hereunder within the time specified, subject to applicable notice and cure periods, if any, Mortgagee, after such notice to Mortgagor as may be reasonable under the circumstances, without waiving or releasing any obligation or default, shall have the right, but shall not be obligated, to make such payment or perform such act at any time thereafter for the account and at the expense of Mortgagor, and shall have the right to enter upon the Property or any part thereof, upon reasonable prior notice from Mortgagee, during regular business hours, for such purpose and take all such action thereon as, in the opinion of Mortgagee, may be necessary or appropriate therefor. All sums so paid by Mortgagee and all costs and expenses (including, without limitation, reasonable attorneys' costs and expenses actually incurred to the fullest extent permitted by law) so incurred, together with any other sums expended by Mortgagee for the payment of real estate taxes and assessments, insurance premiums, utilities, charges, costs of maintenance and repair and other expenditures for the protection of the Property and/or Mortgagee's interest therein, also together with interest thereon at the Default Rate, from the date of payment or incurring, shall constitute indebtedness secured by this Mortgage with the highest priority allowed by law, and shall be payable by Mortgagor to Mortgagee within twenty (20) days following written notice thereof.

23. **APPLICABILITY OF SECTION 13 OF THE LIEN LAW.** Pursuant to Section 13 of the Lien Law of New York, Mortgagor shall receive the advances secured hereby and shall hold the right to receive such advances as a trust fund to be applied first for the purpose

of paying the cost of any improvement and shall apply such advances first to the payment of the cost of any such improvement on the Premises before using any part of the total of the same for any other purpose.

24. **BENEFIT OF SECTION 254 OF THE REAL PROPERTY LAW.** Nothing herein contained shall be construed as depriving Mortgagee of any right or advantage available under Section 254 of the Real Property Law of the State of New York, but all covenants herein differing therefrom shall be construed as conferring additional and not substitute rights and advantages.

25. **RELEASE.** Upon payment of all sums secured by the Note and this Mortgage, and the performance of all the terms, conditions and covenants contained therein, this Mortgage shall be void. Upon request thereafter, Mortgagee will, at Mortgagor's cost, execute a release of this Mortgage. Mortgagor shall pay all costs of recordation of any cancellation or satisfaction hereof.

26. **WAIVER OF TRIAL BY JURY.** EACH OF MORTGAGOR AND MORTGAGEE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION ARISING IN ANY WAY IN CONNECTION WITH THIS MORTGAGE, THE NOTE, OR ANY OF THE OTHER LOAN DOCUMENTS, THE LOAN OR ANY OTHER STATEMENTS OR ACTIONS OF MORTGAGOR OR MORTGAGEE. MORTGAGOR ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS MORTGAGE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS DISCUSSED THIS WAIVER WITH SUCH LEGAL COUNSEL. MORTGAGOR FURTHER ACKNOWLEDGES THAT (i) IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER, (ii) THIS WAIVER IS A MATERIAL INDUCEMENT FOR MORTGAGEE TO MAKE THE LOAN, ENTER INTO THIS MORTGAGE AND EACH OF THE OTHER LOAN DOCUMENTS, AND (iii) THIS WAIVER SHALL BE EFFECTIVE AS TO EACH OF SUCH OTHER LOAN DOCUMENTS AS IF FULLY INCORPORATED THEREIN. FURTHER, MORTGAGOR HEREBY CONSENTS AND SUBJECTS ITSELF TO THE JURISDICTION OF THE STATE AND FEDERAL COURTS HAVING JURISDICTION IN THE COUNTY OF ONONDAGA AND THE STATE OF NEW YORK; AND, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TO THE VENUE OF SUCH COURTS.

27. **INCONSISTENCIES.** In the event of any inconsistency between this Mortgage and the Loan Agreement, the terms hereof shall be controlling as necessary to create, preserve and/or maintain a valid mortgage lien and security interest upon the Property, otherwise the provisions of the Loan Agreement shall be controlling.

28. **UCC FINANCING STATEMENTS.** Each of the Mortgagor and the Agency hereby authorizes Mortgagee to file UCC financing statements to perfect Mortgagee's security interest in any part of the Property. In addition, Mortgagor agrees to sign any and all other documents that Mortgagee deems necessary in its reasonable discretion to perfect, protect, and continue Mortgagee's lien and security interest on the Property.

29. **REIMBURSEMENT, EXCULPATION, INDEMNIFICATION.**

(a) Mortgagor agrees to pay reasonable fees for any services that Mortgagee may render in connection with this Mortgage, including providing a statement of the Indebtedness or providing the release of this Mortgage. Mortgagor further agrees to pay or reimburse Mortgagee for all reasonable costs, expenses and other advances which may be incurred or made by Mortgagee in any efforts to enforce any terms of this Mortgage, the Loan Agreement or any of the other Loan Documents, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Mortgage, the Loan Agreement or any of the other Loan Documents, including reasonable attorneys' fees and other legal costs, costs of any foreclosure sale and any cost of evidence of title, unless a court of competent jurisdiction ultimately rules against Mortgagee in the subject actions or dispute. In any suit to foreclose the lien hereof or enforce any other remedy of Mortgagee under this Mortgage or the Loan Agreement or any of the other Loan Documents, there shall be allowed and included as additional indebtedness in the decree for sale or other judgment or decree all reasonable expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' costs and fees (including the reasonable costs and fees of paralegals), survey charges, appraiser's fees, inspecting engineer's and/or architect's fees, fees for environmental studies and assessments and all additional expenses incurred by Mortgagee with respect to environmental matters. All reasonable expenditures and expenses of this Section 27; and such reasonable expenses and fees as may be incurred in the protection of the Property and maintenance of the lien of this Mortgage, shall be due and payable by Mortgagor, within twenty (20) days following notice from Mortgagee, with interest thereon at the Default Rate and shall be secured by this Mortgage.

(b) Mortgagee shall not be directly or indirectly liable to Mortgagor or any other person as a consequence of any of the following, unless the loss arises from or is the result of the gross negligence or willful misconduct of Mortgagee, its agents or contractors:

(i) Mortgagee's exercise of or failure to exercise any rights, remedies or powers granted to Mortgagee in this Mortgage;

(ii) Mortgagee's failure or refusal to perform or discharge any obligation of Mortgagor under this Mortgage; or

(iii) Any loss sustained by Mortgagor resulting from Mortgagee's failure to lease the Property, or from any other act or omission of Mortgagee in managing the Property, after an Event of Default.

Mortgagor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Mortgagee.

(c) **Mortgagor agrees to indemnify Mortgagee against and hold it harmless from all losses, damages, liabilities, claims, causes of action, judgments, court costs, reasonable attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses which Mortgagee may suffer or incur,**

unless such failure arises from or is the result of the gross negligence or willful misconduct of Mortgagee, its agents or contractors:

- (i) **In performing any act required or permitted by this Mortgage or any of the other Loan Documents or by law; or**
- (ii) **Because of any failure of Mortgagor to perform any of its obligations.**

This agreement by Mortgagor to indemnify Mortgagee shall survive the release and cancellation of any or all of the Indebtedness and the full or partial release of this Mortgage.

30. **FIXTURE FILING.** This Mortgage constitutes a financing statement filed as a fixture filing under Article 9 of the Code in the State, covering any Property which now is or later may become fixtures attached to the Property. For this purpose, the respective addresses of Mortgagor and Agency, as debtor, and Mortgagee, as secured party from which information concerning the security interest may be obtained, are as set forth in the preambles of this Mortgage. Mortgagor's place of business, or its chief executive office if it has more than one place of business, is located at the address specified in this Mortgage as Mortgagor's notice address.

31. **RESERVED.**

32. **COMPANY LEASE AND AGENCY LEASE**

(a) Mortgagor has delivered to Mortgagee a true and complete copy of each of the Company Lease and the Agency Lease (as hereinafter defined), together with all amendments thereto and modifications thereof. There are no agreements between Mortgagor and the Agency not set forth in the Company Lease or the Agency Lease;

(b) Mortgagor represents and warrants to Mortgagee that each of the Company Lease and the Agency Lease is valid and subsisting lease of the Land for the term therein set forth, is in full force and effect in accordance with the terms thereof, has not been modified, there are no existing defaults by any party thereunder, and, to the best of the Mortgagor's and/or Agency's knowledge, there are no circumstances which, with the passage of time or the giving of notice or both, would constitute an event of default thereunder;

(c) A Memorandum of Lease has been duly recorded in the official records of Onondaga County, New York with respect to each of the Company Lease and the Agency Lease. Each of the Company Lease and the Agency Lease are subordinate by their respective terms to the lien of this Mortgage and permits the respective interest of the Mortgagor and Agency thereunder to be encumbered by this Mortgage;

(d) Mortgagor will promptly notify the Mortgagee in writing of any default by Mortgagor in the performance or observance of any of the terms, covenants or conditions on the part of the Mortgagor to be performed or observed under any of the Company Lease or the Agency Lease or of the occurrence of any event which, through lapse of time, would give rise to such default;

(e) Mortgagor will advise the Mortgagee in writing of the giving of any notice by the Agency (or its successor in interest, under the Company Lease or the Agency Lease) to Mortgagor of any default by Mortgagor under any of the Company Lease or the Agency Lease, and pursuant to the provisions of Section 33.4 hereof shall deliver to the Mortgagee a true copy of each such notice;

(f) Notwithstanding anything to the contrary contained herein, this Mortgage shall not constitute an absolute assignment of the either the Company Lease or the Agency Lease and Mortgagee shall have no liability or obligation thereunder by reason of its acceptance of this Mortgage; and

(g) Mortgagor will not surrender its leasehold or subleasehold estate and interest under any of the Company Lease or the Agency Lease nor terminate or cancel any of the Company Lease or the Agency Lease whether pursuant to the terms thereof or otherwise, and will not without the express written consent of Mortgagee, modify, change, supplement, alter or amend any of the Company Lease or the Agency Lease, either orally or in writing. Any such termination, cancellation, modification, change, supplement, alteration or amendment of the Company Lease or the Agency Lease without Mortgagee's prior written consent shall constitute an Event of Default under this Mortgage and under the Loan Documents.

33. AGENCY PROVISIONS.

33.1 Agency Representations. In order to induce the Mortgagee to enter into the Loan Agreement, Agency represents that:

(a) Agency has been duly established under the provisions of Title 1 of Article 18-A of the New York General Municipal Law, Chapter 55 of the Laws of 1972 of the State of New York (the "Act") and has duly adopted resolutions dated January 24, 2017, that authorize all transactions contemplated by the Company Lease and the Agency Lease with respect to the Property. All consents required by the Agency with respect to this Mortgage, the Company Lease and the Agency Lease and the transaction contemplated thereby and the execution and delivery of each of this Mortgage, the Company Lease and the Agency Lease by the Agency have been obtained.

(b) Agency has the right, power and authority to convey its interest in the Property pursuant to applicable law.

(c) The Agency has all requisite corporate power and authority under the Act and has taken all proper corporate action on the part of its members (i) to mortgage its interest (except its Unassigned Rights) in the Agency Lease and any interest acquired pursuant to the Bill of Sale, (ii) to execute and deliver each of the Company Lease, the Agency Lease and this Mortgage and (iii) in all other respects to consummate the transactions contemplated thereby.

(d) Each of the Company Lease, the Agency Lease and this Mortgage (i) has been duly authorized by all necessary action on the part of Agency, (ii) has been duly executed and delivered by Agency and (iii) assuming due execution by all parties, constitute a legal, valid and binding obligation of Agency, enforceable against the Agency in accordance with its respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization,

moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principle relating to enforceability. All conditions to the effectiveness or continuing effectiveness of each of the Company Lease and the Agency Lease on the part of the Agency that are required to be satisfied on or by the date of this Mortgage have been satisfied.

(e) The execution and delivery of, and the performance and compliance by the Agency with the Company Lease, the Agency Lease and this Mortgage will not (i) conflict with, or constitute on the part of the Agency a violation or breach of, or a default under any mortgage, deed of trust, loan agreement or other agreement or instrument to which the Agency is subject or (ii) require any authorization, consent, approval or other action by, or any notice to, or any filing with, any court or administrative body (other than the filings and recording contemplated by this Mortgage).

(f) To the best of the Agency's knowledge, each of the Company Lease and the Agency Lease are in full force and effect, amounts due and payable thereunder have been paid to the date hereof, and no event of default has occurred under the Company Lease and/or the Agency Lease and no event has occurred which, with the giving of notice, the passage of time or both, would constitute a default under the Company Lease and/or the Agency Lease.

(g) Agency, at the sole cost and expense of the Mortgagor, and subject to its policies, resolution and the New York State General Municipal Law, agrees to execute all instruments and documents which Mortgagee may reasonably require to ratify, confirm and further evidence Mortgagee's lien on the estate, title or interest so acquired.

33.2 Real Estate Taxes and Liens.

(a) The Mortgagor, from time to time when the same shall become due and payable, will pay and discharge all tax payments, all general and special assessments, levies, permits, inspection and license fees, all water and sewer rents and charges, and all other public charges whether of a like or different nature, imposed upon or assessed against the Property, or any part thereof, or upon the revenues, rents, issues, income and profits of the Property or arising in respect of the occupancy, use or possession thereof. Mortgagor will, within thirty (30) days following the Mortgagee's request therefor, deliver to the Mortgagee receipts evidencing the payment of all such taxes, assessments, levies, fees, rents and other public charges imposed upon or assessed against the Property, or any part thereof, or the revenues, rents, issues, incomes or profits thereof.

(b) Mortgagor will pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others which, if unpaid, might result in, or permit the creation of, a lien on the Property or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom and in general will do or cause to be done everything necessary so that the lien of this Mortgage shall be fully preserved, at the cost of the Mortgagor, without expense to the Mortgagee or Agency.

(c) Nothing in this Section 33.2 shall require the payment or discharge of any obligation imposed upon Mortgagor by this Section so long as the Mortgagor shall in good faith and at its own expense contest the same or the validity thereof by appropriate legal proceedings

which shall operate to prevent the collection thereof or other realization thereon, the termination of the PILOT Agreement and/or the sale or forfeiture of the Property or any part thereof to satisfy the same; provided that Agency and Mortgagee would not, by reason thereof be subject to civil or criminal liability, and provided further that during such contest Mortgageor shall, at the option of the Mortgagee, provide security satisfactory to the Mortgagee, assuring the discharge of the Mortgageor's obligation hereunder and of any additional charge, penalty or expense arising from or incurred as a result of such contest; and provided further, that if at any time payment of any obligation imposed upon Mortgageor by subsection (a) of this Section shall become necessary to prevent the delivery of a tax deed or its equivalent conveying the Property, or any part thereof, because of nonpayment, then the Mortgageor shall pay the same in sufficient time to prevent the delivery of such tax deed or its equivalent.

(d) Upon the occurrence and during the continuance of an Event of Default, the Mortgagee shall have the right, at its election, but shall not be obligated, to prepare and file with any appropriate governmental authority having jurisdiction, on the Mortgagee's own behalf and/or on behalf of the Mortgageor, an application to correct or reduce the assessed valuation of the Property. Upon the occurrence and during the continuance of an Event of Default, the Mortgagee shall also have the right, at its election, but shall not be obligated, to commence and maintain any action or proceeding for the judicial review of the assessed valuation of the Property. Such right may be exercised by notice given to Mortgageor and the Agency at any time until the entire Indebtedness shall be paid. Upon the giving of such notice, the Mortgageor at Mortgageor's sole cost shall cooperate fully with the Mortgagee in the preparation, filing and prosecution of such application and/or commencing and maintaining such action or proceeding, including, but not limited to, the preparation, execution and delivery of a written power of attorney from Mortgageor and any other document, record or statement reasonably requested by the Mortgagee and the attendance of such duly authorized Mortgagees or employees of Mortgageor as the Mortgagee may reasonably request at any hearing, trial or other proceeding in connection with the prosecution thereof, and Mortgageor shall relinquish full control over any pending application, action or proceeding to the Mortgagee and shall not thereafter commence, file or maintain any other application, action or proceeding for the tax year referred to in the Mortgagee's notice. If the Mortgagee shall exercise the foregoing right and shall be successful in reducing the assessed valuation of the Property, Mortgageor shall pay the Mortgagee its attorneys' fees and other expenses in connection therewith, in default of which the amount of such attorneys' fees and other expenses shall be added to the Indebtedness secured by this Mortgage. The failure of Mortgageor to keep, observe or perform any of the covenants contained in this Section shall be deemed to be an Event of Default under this Mortgage.

33.3 Representations and Warranties of Mortgageor Regarding Agency Lease and Company Lease. Mortgageor warrants and represents to Mortgagee and the Agency that, as of the date of this Mortgage: (i) each of the Agency Lease and the Company Lease, and any amendments thereto, is in full force and effect in accordance with its terms; (ii) Mortgageor has not waived, canceled or surrendered any of its rights under the Agency Lease or the Company Lease; (iii) the Property is free and clear of all liens, encumbrances and other matters affecting title, other than the lien of this Mortgage and the easements and restrictions listed in a schedule of exceptions to coverage in the title insurance policy issued to Mortgagee contemporaneously with the execution and recordation of this Mortgage and insuring Mortgagee's **interest in the Property**; (v) there is no existing default by Mortgageor under the Company Lease or the Agency

Lease, and no event has occurred which, with the passage of time or the giving of notice, or both, would constitute a lessor default under the Company Lease or a lessee default under the Agency Lease; and (vi) to the best of Mortgagor's knowledge, there is no existing default by Agency under the Company Lease or the Agency Lease, and no event has occurred which, with the passage of time or the giving of notice, or both, would constitute a lessee default under the Company Lease or a lessor default under the Agency Lease.

33.4 Notices Under Company Lease or Agency Lease.

Mortgagor shall deliver to Mortgagee within ten (10) days after Mortgagor's receipt, a true and correct copy of each notice, demand, complaint or request from the Agency under, or with respect to, the Agency Lease or the Company Lease.

33.5 Mortgagor's Obligations to Comply with Agency Lease or the Company Lease.

Mortgagor shall (i) pay all other sums of money due and payable at any time and from time to time under the Agency Lease and the Company Lease as and when such sums become due and payable, but in any event before the expiration of any grace period provided in the Agency Lease or the Company Lease for the payment of any such sum, and (ii) at all times fully perform, observe and comply with all other terms, covenants and conditions of the Agency Lease or the Company Lease to be performed, observed or complied with by Mortgagor as lessor under the Agency Lease and lessee under the Company Lease. If the Agency Lease and/or the Company Lease do not provide for a grace period for the payment of a sum of money, Mortgagor shall make the payment on or before the date on which the payment becomes due and payable.

33.6 Mortgagee's Right to Cure Default under Agency Lease or Company Lease.

At any time after Mortgagee receives notice of a default by the Mortgagor herein under either or all of the Agency Lease or the Company Lease (i) Mortgagee may (but shall not be obligated to do so), make any payment, perform any obligation and take any other action Mortgagor would have the right to pay, perform or take under the Agency Lease or the Company Lease, subject to the terms thereof, which Mortgagee deems necessary or desirable in its reasonable judgment to cure such default provided however that the Mortgagee shall not take any steps which would cause the Property not to constitute a "Project" as that term is defined by Section 854 of the N.Y. General Municipal Law, and (ii) Mortgagee and its authorized representatives shall have the right at any time or from time to time to enter the Premises and Improvements, or any part thereof, to such extent and as often as Mortgagee, in its discretion, deems necessary or desirable in order to cure such default by lessee under the Agency Lease and/or the Company Lease, subject to the rights of the tenants and occupants of the Property and in accordance with Section 854 of the N.Y. General Municipal Law. Mortgagee may exercise its rights under this Section immediately after receipt of notice of a default by Mortgagor under the Agency Lease or the Company Lease and without regard to any grace period provided to the Mortgagor in the Agency Lease or the Company Lease to cure such default. For purposes of exercising its rights under this Section, Mortgagee shall be fully protected for any action taken or omitted to be taken by Mortgagee, in good faith, in reliance on any written notice from the Mortgagor herein under the Agency Lease or the Company Lease stating that a default by Mortgagor herein has occurred and is continuing even though the Mortgagor may question or

deny the existence or nature of such default. All expenditures made by Mortgagee pursuant to this Section to cure a default under any of the Agency Lease or the Company Lease shall become an additional part of the Indebtedness.

33.7 No Recourse Against Agency.

(a) The obligations and agreements of the Agency contained herein and in any other instrument or document executed in connection herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent or employee of the Agency in his/her individual capacity, and the members, officers, agents and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The Mortgagee will not look to the Agency or any principal, member, director, officer or employee of the Agency with respect to the Indebtedness evidenced by this Mortgage or any covenant, stipulation, promise, agreement or obligation contained herein. In enforcing its rights and remedies under this Mortgage, the Mortgagee will look solely to the Property and/or the Mortgagor for the payment of the Indebtedness secured by this Mortgage and for the performance of the provisions hereof.

(b) The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or the City of Syracuse, New York, and neither the State of New York nor the City of Syracuse, New York shall be liable hereon or thereon, and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived and to be derived from the sale or other disposition of the Facility (as defined in the Company Lease) (except for revenues derived by the Agency with respect to the Unassigned Rights, as defined in the Company Lease).

(c) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless (i) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (ii) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall place, in an account with the Agency, an amount or undertaking sufficient to cover such reasonable fees and expenses, and (iii) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall agree to indemnify and hold harmless the Agency and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request.

(d) **Definitions:**

“Agency Lease” means the Agency Lease Agreement dated as of March 10, 2017 between the Agency and the Mortgagor, as the same may be amended or supplemented from time to time.

“Company Lease” means the Company Lease Agreement dated as of March 10, 2017 between the Mortgagor and the Agency, as the same may be amended or supplemented from time to time.

“Unassigned Rights” means the unassigned rights of the Agency under the Agency Lease.

(c) **Mortgagor’s Obligations To Comply With Company Lease and the Agency Lease:** Mortgagor shall: (i) pay the all other sums of money due and payable at any time and from time to time under the Company Lease and the Agency Lease as and when such sums become due and payable, but in any event before the expiration of any grace period provided in the Company Lease and the Agency Lease for the payment of any such sum; and (ii) at all times fully perform, observe and comply with all other terms, covenants and conditions of the Company Lease and the Agency Lease to be performed, observed or complied with by Mortgagor as lessor under the Company Lease and lessee under the Agency Lease, as applicable. If the Company Lease and/or the Agency Lease does not provide for a grace period for the payment of a sum of money, Mortgagor shall make the payment on or before the date on which the payment becomes due and payable. Mortgagor shall deliver evidence of the payment to Mortgagee within ten (10) days after receipt of a written request from Lender for evidence of the payment.

(f) **Agency Executing at the Direction of Mortgagor.** The Mortgagor directs the Agency to execute and deliver this Instrument to the Mortgagee, and further agrees to indemnify the Agency (and its members, officers, directors, agents, servants and employees) for all fees and costs incurred in connection with the execution, delivery, recording, performing and enforcing of this Instrument, including but not limited to reasonable attorney’s fees.

(g) **Hold Harmless.** The Mortgagor acknowledges and reiterates the provisions and obligations of the Mortgagor pursuant to Sections 8.2 and 11.11 of the Agency Lease as if fully set forth herein and hereby agrees that such provisions shall be applicable to this Instrument.

(h) **Miscellaneous Provision.** The Mortgagor and the Mortgagee hereto, by accepting this Mortgage, acknowledge that the Agency is executing this Mortgage solely to subject its interest in the Premises, if any, to this Mortgage. Notwithstanding anything herein to the contrary, the Lender acknowledges and agrees that their sole recourse against the Agency for any default hereunder shall be with respect to the Agency’s interest in the Premises.

33.8 **Hold Harmless Provisions.**

(a) The Mortgagor agrees that the Agency, its directors, members, officers, agents and employees shall not be liable for and agrees to defend, indemnify, release and hold the Agency, its directors, members, officers, agents and employees harmless from and against

any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the use thereof or under this Mortgage or (ii) liability arising from or expense incurred by the Agency's acquiring, constructing, equipping, owning and leasing of the Facility, including without limiting the generality of the foregoing, all claims arising from the breach by the Mortgagor of any of its covenants contained herein and all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any claims, suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Agency are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Agency or any of its directors, members, officers, agents or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law.

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

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

33.9 "Unassigned Rights". Notwithstanding anything else contained herein to the contrary, it is agreed and understood that the Agency has not assigned its interest in the Unassigned Rights as defined in the Company Lease and, specifically, the Unassigned Rights of Section 10.11 thereof.

33.10 Recordation of Mortgage. The Agency will record or cause this Mortgage to be recorded by the Company as its agent in the office of the Onondaga County Clerk and the Agency will cause the Company as its agent to pay, all mortgage recording taxes, if any, which may be imposed by the United States of America or any agency thereof or by the State of New York or other governmental authority upon this Mortgage.

34. **NO MERGER.**

(a) If Mortgagee or any other person or entity owning or holding this Mortgage shall acquire or shall become vested with the fee title to the Property, or any other estate or interest in the Property, such estates shall not merge as a result of such acquisition and

shall remain separate and distinct from all other estates and interests in the Property for all purposes after such acquisition. The lien and security interest created hereby shall not be destroyed or terminated by the application of the doctrine of merger and, in such event, Mortgagee or such other person or entity, as the case may be, shall continue to have and enjoy all of the rights and privileges of Mortgagee hereunder as to each separate estate unless and until Mortgagee or such other person or entity, as the case may be, shall affirmatively elect in writing to merge such estates. Notwithstanding the fact that Mortgagor has fee title and a subleasehold interest in the Property (or may in the future have other interests in the Property), such estates shall not merge and shall remain separate and distinct for all purposes.

(b) Upon the foreclosure of the lien created hereby on the Property, as herein provided, any Leases then existing shall not be destroyed or terminated by application of the doctrine of merger or by operation of law or as a result of such foreclosure unless Mortgagee or any purchaser at a foreclosure sale shall so elect by written notice to the lessee in question.

(c) The obligations of Mortgagor and the rights and remedies of Mortgagee hereunder and under any of the Loan Documents or the secured obligations shall continue after and survive the entry of judgment hereunder or thereunder; it being the intention of the parties hereto that such rights, remedies and obligations shall not merge into or be extinguished by any such judgment but shall continue until the Indebtedness has been irrevocably paid in full.

35. **EXCULPATION.** The provisions of Article 24 of the Loan Agreement are hereby incorporated by reference into this Mortgage to the same extent and with the same force as if fully set forth herein.

36. **BUILDING LOAN AGREEMENT.** This is a building loan and "construction loan" mortgage, the proceeds of which are loaned for the purpose of financing the construction of the Improvements at the Premises. This Mortgage is subject to all of the terms and conditions of the Building Loan Agreement, which Building Loan Agreement and all of the terms, provisions, covenants, representations and warranties contained therein are by this reference hereby incorporated herein and made a part hereof with the same force and effect as if set forth at length herein. The proceeds of the building loan secured hereby are to be advanced by Mortgagee from time to time in accordance with the provisions of the Building Loan Agreement, and all advances made and all indebtedness arising and accruing under the Building Loan Agreement shall be secured hereby. Mortgagor shall observe and perform all of the terms and conditions of the Building Loan Agreement on Mortgagor's part to be observed and performed. In the event of any conflict between the terms and conditions of this Mortgage and those of the Building Loan Agreement, the terms and conditions which shall enlarge the rights and remedies of Mortgagee and the interest of Mortgagee in the Premises, afford Mortgagee greater financial security in the Premises and better assure payment of the Loan in full shall control.

[SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

IN WITNESS WHEREOF, Mortgagor has executed this Fee, Leasehold and Subleasehold Project Loan Mortgage, Security Agreement Assignment of Leases and Rents and Fixture Filing under seal as of the day and year first above written.

BORROWER:

SOUTHSIDE GENESEE ASSOCIATES, LLC,
a New York limited liability company


By: CG USL Ventures I, LLC,
a New York limited liability company
Its: Managing Member

By: Syracuse-Michaels, LLC,
a New York limited liability company
Its: Managing Member

By: 
Name: James A. Malesich, Jr.
Title: Vice President

STATE OF *New Jersey*,
COUNTY OF *Burlington* ss:

On the *27* day of June in the year 2017 before me, the undersigned a notary public in and for the State of New York, personally appeared JAMES A. MALESICH, JR., 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.


Notary Public



[Signature Page to Project Loan Mortgage]

AGENCY:

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a body corporate and politic and a public instrumentality of the State of New York

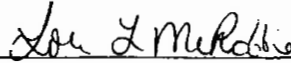
By: 

Name: William M. Ryan

Title: Chairman

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On the 30th day of June in the year 2017 before me, the undersigned a notary public in and for the State of New York, personally appeared **WILLIAM M. RYAN**, 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.



Notary Public

Lori McRobbie

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC505559
Commission Expires on Feb. 12, 2018

New York

2-12-18

Onond
Co.

[Signature Page to Project Loan Mortgage]

EXHIBIT A

LEGAL DESCRIPTION

Property Addresses: 1200-24 Genesee Street East & Walnut Avenue
511 Walnut Avenue
City of Syracuse, New York

Tax Account Nos.: 048.-10-01.0 & 048.-10-15.0

Lot 1

All that tract or parcel of land containing 0.942 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017 and filed in the Onondaga County Clerk's Office on June 28, 2017 as Map No. 12399 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 206.84 feet to a point; thence,
2. S 03° 20' 30" E, a distance of 250.90 feet to a point of intersection with northerly line of lands now or formerly of Rita E. Gokey; thence,
3. S 86° 05' 16" W, along said lands of Gokey, a distance of 49.48 feet to a point of intersection with the easterly line of lands now or formerly of 513 Walnut LLC; thence,
4. N 03° 20' 30" W, partially along said easterly line, a distance of 74.28 feet to a point; thence,
5. N 89° 31' 30" W, a distance of 169.10 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence,
6. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 171.74 feet to the Point of Beginning.

Lot 2

B-2

All that tract or parcel of land containing 0.304 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017, and filed in the Onondaga County Clerk's Office on June 28, 2017 as Map No. 12399 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the westerly line of Comstock Avenue (80' wide); thence,

1. S 04° 20' 10" E, along said westerly line of Comstock Avenue, a distance of 143.80 feet to a point of intersection with northerly line of lands now or formerly of the City of Syracuse; thence,
2. S 88° 11' 00" W, along said northerly line, a distance of 40.00 feet to a point; thence,
3. S 04° 20' 10" E, along the westerly line of said lands of the City of Syracuse, a distance of 40.00 feet to a point intersection with the northerly line of lands now or formerly of Rita E. Gokey; thence,
4. S 88° 11' 00" W, along said northerly line of lands of Gokey, a distance of 42.44 feet to a point; thence,
5. N 03° 20' 30" W, a distance of 183.69 feet to a point of intersection with the aforementioned southerly line of East Genesee Street; thence,
6. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 79.25 feet to the Point of Beginning.

Lot 3

All that tract or parcel of land containing 0.240 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017 and filed in the Onondaga County Clerks on June 28, 2017 as Map No. 12399

Commencing at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. S 00° 28' 30" W, along said easterly line of Walnut Avenue, a distance of 171.74 feet to the Point of Beginning of the hereinafter described parcel; thence,
2. S 89° 31' 30" E, a distance of 169.10 feet to a point; thence,

3. S 03° 20' 30" E, a distance of 50.46 feet to a point; thence the following three (3) courses along the northerly line of lands now or formerly of 513 Walnut L.I.C.
4. N 88° 24' 19" W, a distance of 49.67 feet to a point; thence,
5. S 03° 20' 30" E, a distance of 16.02 feet to a point; thence,
6. N 89° 49' 00" W, a distance of 123.86 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence,
7. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 66.00 feet to the Point of Beginning.

Lots 1, 2 & 3 Combined

SE All that tract or parcel of land containing 1.486 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017 and filed in the Onondaga County Clerk's Office on June 18, 2017 as Map No. 12399 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 286.09 feet to a point of intersection with the westerly line of Comstock Avenue (80' wide); thence,
2. S 04° 20' 10" E, along said westerly line of Comstock Avenue, a distance of 143.80 feet to a point of intersection with northerly line of lands now or formerly of the City of Syracuse; thence,
3. S 88° 11' 00" W, along said northerly line, a distance of 40.00 feet to a point; thence,
4. S 04° 20' 10" E, along the westerly line of said lands of the City of Syracuse, a distance of 40.00 feet to a point intersection with the northerly line of lands now or formerly of Rita E. Gokey; thence,
5. S 88° 11' 00" W, along said northerly line of lands of Gokey, a distance of 42.44 feet to a point; thence,
6. S 03° 20' 30" E, along the westerly line of lands of Gokey, a distance of 67.21 feet to a point of intersection with other lands of Gokey; thence,

7. S 86° 05' 16" W, along said lands of Gokey, a distance of 49.48 feet to a point of intersection with the easterly line of lands now or formerly of 513 Walnut I.L.C; thence.
8. N 03° 20' 30" W, along said easterly line, a distance of 23.82 feet to a point; thence the following three (3) courses along the northerly line of said lands of 513 Walnut LLC
9. N 88° 24' 19" W, a distance of 49.67 feet to a point; thence,
10. S 03° 20' 30" E, a distance of 16.02 feet to a point; thence.
11. N 89° 49' 00" W, a distance of 123.86 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence,
12. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 237.74 feet to the Point of Beginning

SCHEDULE B

PERMITTED EXCEPTIONS

1. No title is insured to lands lying within the bounds of any street or highway.
2. Subject to Easements, Covenants and Restrictions of record:
 - a. Stormwater Control Facility Maintenance Agreement between the City of Syracuse and Brewster Medical Properties recorded November 6, 2013 in Book 5259 of Deeds at page 271.
 - b. Stormwater Control Facility Maintenance Agreement between the City of Syracuse and Southside Genesee Associates, LLC recorded March 31, 2017 in Book 5418 of Deeds at page 521.
 - c. Access Easement Agreement between Southside Genesee Associates, LLC and the City of Syracuse dated February 15, 2017 and recorded March 31, 2017 in Book 5418 of Deeds at page 531.
3. Survey by Robert A. Vento dated June 21, 2017 shows the following:
 - a. Underground utility lines in the southwesterly corner of New Lot 3.
 - b. New Lots 1, 2 & 3 under construction.
 - c. No violations or encroachments.
4. Company Lease Agreement between Southside Genesee Associates, LLC and the City of Syracuse Industrial Development Agency dated March 10, 2017.
5. Agency Lease Agreement between the City of Syracuse Industrial Development Agency and Southside Genesee Associates, LLC dated March 10, 2017.
6. Memorandum of Lease Agreement by and between Southside Genesee Associates, LLC and City of Syracuse Industrial Development Agency, dated March 10, 2017 and recorded April 7, 2017 in the Onondaga County Clerk's Office in Book 5419 of Deeds, page 667.
7. Memorandum of Lease Agreement by and between City of Syracuse Industrial Development Agency and Southside Genesee Associates, LLC, dated March 10, 2017 and recorded April 7, 2017 in the Onondaga County Clerk's Office in Book 5419 of Deeds, page 672.

AFFIDAVIT RE: MORTGAGE TAX EXEMPTION

STATE OF NEW YORK)
) SS.
COUNTY OF ONONDAGA)

WILLIAM M. RYAN, being duly sworn, deposes and says:

He is Chairman of the City of Syracuse Industrial Development Agency (the "*Agency*").

The Agency is an industrial development agency duly established under Title I of Article 18-A of the General Municipal Law of the State of New York (the "*State*"), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the "*Act*"), and it is a corporate governmental agency constituting a public benefit corporation of the State.

By resolutions adopted on January 24, 2017 and June 20, 2017, the Agency, at the request of Southside Genesee Associates, LLC (the "*Applicant*" and/or "*Company*") agreed to undertake a project (the "*Project*") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "*Existing Buildings*") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (collectively, the "*Land*"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "*Facility*"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "*Equipment*" and together with the Land and the Facility, the "*Project Facility*"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the "*Financial Assistance*"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company and the Agency are mortgaging their respective interests in the improved real property described on Exhibit "A" to: Citizens Bank of Pennsylvania (the "*Mortgagee*"), pursuant to a certain Building Loan Mortgage dated June 30, 2017 in the amount of \$33,000,000 (the "*Building Loan Mortgage*"), an Assignment of Leases and Rents (Building Loan) dated June 30, 2017 ("*Assignment of Leases and Rents (Building Loan)*"), a certain Project Loan Mortgage dated June 30, 2017 in the amount of \$3,760,000 (the "*Project Loan Mortgage*" and together with the Building Loan Mortgage, collectively, the "*Mortgages*") and an Assignment of Leases and Rents (Project Loan) dated June 30, 2017 ("*Assignment of Leases and Rents (Project Loan)*"), and together with the Assignment of Leases and Rents (Building Loan),

collectively, the "*Assignments of Leases and Rents*". The Mortgages are pledged to secure notes given by the Company to the Mortgagee.

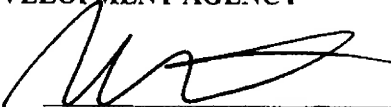
Pursuant to Article 18-A of the New York General Municipal Law, the Agency is regarded as performing a governmental function and is generally not required to pay taxes or assessments upon any property acquired by it or under its jurisdiction, control or supervision or upon its activities.

Deponent submits that no mortgage tax, other than as may be required in Section 874(1) of the Act and Section 252(2) of the Tax Law of the State of New York (if any), should be imposed upon the Mortgages and the Assignments of Leases and Rents, insomuch as the Mortgages and the Assignments of Leases and Rents are being executed and delivered under the State authority creating the Agency, insomuch as the use by the Agency of its powers to secure the payment of principal and interest on the loan is deemed by Article 18-A public purpose essential to the public interest, and insomuch as both the New York State Department of Taxation and Finance and Counsel to the New York State Department of Taxation and Finance have expressed their opinion that the recording of similar documents by similar agencies organized under Article 18-A of the New York General Municipal Law are operations of said agencies entitled to exemption from the mortgage recording tax.

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CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By:



William M. Ryan, Chairman

Subscribed and sworn to before me
this 29th day of June, 2017.

Lori L. McRobbie
Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 2018

Lori McRobbie

2-12-18

GNOW
CO.

[Signature page to Mortgage Recording Tax Affidavit]

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ONONDAGA COUNTY CLERK'S OFFICE
 LISA DELL - COUNTY CLERK
 401 Montgomery St - Room 200
 Syracuse, NY 13202

Phone: 315-435-2226
 Fax: 315-435-3455

Doc Type: A/L&R
 Mortgagor: SOUTHSIDE GENESEE ASSOCIATES
 CITY OF SYRACUSE INDUSTRIAL
 Mortgagee: CITIZENS BANK OF PENNSYLVANIA

Receipt: 1360058 RS
 Book/Page: 18324/0297 Inst: 22257
 Date Filed: 06/30/2017 at 2:13PM
 Updated: 07/03/2017 MO
 Record and Return To:

Legal Desc: SYR L1-3 WALNUT AVENUE
 APARTMENTS S E

HARRIS BEACH LLP
 99 GARNSEY RD
 PITTSFORD NY 14534

Prop Address: 1200-24 GENESEE ST E & WALNUT AVE Submitted by: FITCH

Recording Fees			Miscellaneous Fees	
Addl pages:	18 x 5.00 =	\$ 90.00	RMI:	\$ 20.00
Addl Names:	0 x 0.50 =	\$ 0.00	TP 584:	\$ 0.00
Addl Refs:	1 x 0.50 =	\$ 0.50	RP5217:	\$ 0.00
Misc:		0.00	AFFTS:	\$ 5.00
Basic		\$25.50		
		=====	=====	
TOTAL:		\$116.00	TOTAL:	\$ 25.00

MORTGAGE TAX		DEED TRANSFER TAX	
Mortgage:	\$3760000.00	Consideration	
Basic:	\$0.00	Transfer Tax:	\$0.00
Ins Fund:	\$0.00	SWIS:	
Net Add:	\$0.00	Map #:	
Misc:	\$0.00		=====
		=====	Total Paid
TOTAL	\$0.00	Control no	\$ 141.00
			DI3638

WARNING - This sheet constitutes the Clerk's endorsement, required by Section 319 of the Real Property Law of the State of New York. Do not detach. Taxes imposed on this instrument at time of recording were paid. Certain information contained in this document is not verified by this office.

LISA DELL
 Onondaga County Clerk

Book/Page 18324 / 0297 Instrument no.: 22257



M183240297

18

ONONDAGA COUNTY	
BASIC TAX	\$
MTG. INS. FUND TAX	\$
NET ADDITIONAL TAX	\$
TOTAL MTG. TAX PAID	\$

DL 00363072

UPON RECORDATION RETURN TO:

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

ASSIGNMENT OF LEASES AND RENTS (BUILDING LOAN)

SOUTHSIDE GENESEE ASSOCIATES, LLC.
 a New York limited liability company,
 as Assignor,

AND

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a body corporate and
 politic and a public instrumentality of the State of New York,
 as Agency,

TO

CITIZENS BANK OF PENNSYLVANIA, a Pennsylvania state chartered savings bank
 as Assignee

Dated: as of June 30, 2017

Location: As set forth on *Exhibit A* attached hereto.

no lease recorded
07735

MB18324 P9261

ASSIGNMENT OF LEASES AND RENTS (BUILDING LOAN)

This ASSIGNMENT OF LEASES AND RENTS (BUILDING LOAN) ("**Assignment**"), is made as of the date set forth on the cover page hereof, by **SOUTHSIDE GENESEE ASSOCIATES, LLC**, a New York limited liability company, having a business address at c/o The Michaels Organization, 3 East Stow Road, Suite 260, Marlton, New Jersey 08053 ("**Assignor**") and the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a body corporate and politic and a public instrumentality of the State of New York, having its principal office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202 (the "**Agency**") to **CITIZENS BANK OF PENNSYLVANIA**, a Pennsylvania state chartered savings bank, having a business address at One Logan Square, 130 N. 18th Street, Suite 1310, Philadelphia, PA 19103 (together with its successors and assigns, the "**Assignee**").

WITNESSETH:

FOR VALUE RECEIVED, Assignor hereby grants, transfers and assigns to Assignee all of the right, title and interest of Assignor and Agency in and to all leases (specifically excluding the Agency Lease), subleases (specifically excluding the Company Lease), licenses or other occupancy agreements now or hereafter entered into whether oral or written which demise any portion of the real estate described in **Exhibit "A"** attached hereto ("**Premises**"), together with any and all amendments, modifications, extensions and renewals thereof (all such leases being hereinafter collectively referred to as the "**Leases**"), together with any guarantees of the tenants' obligations thereunder, together with the immediate and continuing right to collect and receive all rents, revenues, income, payments, issues and profits arising from the Leases or out of the Premises or any part thereof, together with the right to all proceeds payable to Assignor pursuant to any purchase options on the part of the tenants under the Leases, together with all payments derived therefrom including but not limited to claims for the recovery of damages done to the Premises or for the abatement of any nuisance existing thereon, claims for damages resulting from default under said Leases whether resulting from acts of insolvency or acts of bankruptcy or otherwise, and lump sum payments for the cancellation of said Leases or the waiver of any obligation or term thereof prior to the expiration date and the return of any insurance premiums or ad valorem tax payments made in advance and subsequently refunded but excepting the Agency's Unassigned Rights (hereinafter referred to as the "**Rents**"), all for the purpose of securing the following (hereinafter collectively referred to as the "**Indebtedness**"):

ONE. Payment of the indebtedness evidenced by that certain Building Loan Promissory Note in the aggregate maximum principal sum of Thirty-Three Million and no/100 Dollars (\$33,000,000.00) (as amended or modified from time to time, the "**Note**"), which is secured by that certain Fee, Leaschold and Subleasehold Building Loan Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated of even date herewith, from Assignor to Assignee (as amended or modified from time to time, the "**Security Instrument**") upon the Premises and filed among the land records of Onondaga County, New York;

TWO. Payment of all other sums with interest thereon becoming due and payable by Assignor to Assignee pursuant to the terms of this Assignment, the Note, the Security Instrument and that certain Building Loan Agreement by and between Assignor and Assignee dated of even date herewith (as amended or modified from time to time, the "**Loan Agreement**"). All

capitalized terms not otherwise defined herein shall have the respective meanings ascribed thereto in the Loan Agreement; and

THREE. Performance and discharge of each and every obligation, covenant and agreement of Assignor pursuant to the terms of this Assignment, the Loan Agreement, the Note, the Security Instrument and the other Loan Documents.

AND ASSIGNOR FURTHER AGREES, ASSIGNS AND COVENANTS:

1. **Leases.** To faithfully abide by, perform and discharge each and every material obligation, covenant and agreement of the Leases by lessor to be performed, the failure of which could reasonably be expected to result in a Material Adverse Change, result in an Event of Default or materially impair Assignee's security for the Loan; to use commercially reasonable efforts to enforce or secure the performance of each and every material obligation, covenant, condition and agreement of the Leases by the tenants to be performed, the failure of which could reasonably be expected to result in a Material Adverse Change, result in an Event of Default or materially impair Assignee's security for the Loan; not to borrow against, pledge, or assign any of Assignor's rights under the Leases or any Rents due thereunder; not to consent to a subordination or assignment of the interest of the tenants under the Leases to any party other than Assignee; not to collect the Rents under the non-residential Leases for more than one (1) month in advance (excluding security deposits) without the prior written consent of Assignee (unless otherwise contemplated by the Loan Agreement) and not to incur any indebtedness to the tenants without the prior written consent of Assignee. In addition, Assignor covenants and agrees, with respect to all Leases, that it shall comply with the Loan Agreement.

2. **Protect Security.** At Assignor's sole cost and expense, to appear in and defend any action or proceeding arising under, growing out of or in any manner connected with the Leases or the obligations, duties or liabilities of the lessor thereunder.

3. **Representations.** Assignor represents and warrants that: (a) it has good title to the Leases with full right to assign the same and the Rents due thereunder; (b) the Leases are valid, enforceable against Assignor (subject to the effect of bankruptcy, insolvency and other laws affecting the rights of creditors and principles of equity), are in full force and effect and have not been modified or amended except as permitted in the Loan Agreement; (c) there are no outstanding assignments or pledges of the Leases or Rents due thereunder; (d) except as previously disclosed to Assignee, there are no existing material defaults under the provisions of the non-residential Leases on the part of any party thereto; (e) no Rents have been waived, anticipated, discounted, setoff, compromised, discharged or released under the non-residential leases, other than in the ordinary course of business; and (f) to Assignor's actual knowledge, the tenants under the Leases have no defenses, setoffs, or counterclaims against Assignor.

4. **Present Assignment.** This Assignment shall constitute a perfected, absolute and present assignment of the Leases and Rents, provided Assignee hereby grants a license to Assignor to collect all of the Rents, but not prior to accrual, and to retain, use, enjoy and distribute (subject to any applicable restrictions on distributions set forth in the Loan Agreement) the same unless and until an Event of Default, as defined in the Loan Agreement, shall occur and for so long as the same shall be continuing. Except as otherwise provided for herein, and in the

ordinary course of its business at the Premises, so long as no Event of Default shall have occurred and be continuing, Assignor shall have the right to amend, modify or in any way alter, and enforce the terms of, the Leases without the prior written consent of Assignee.

5. **Event of Default and Remedies.** (a) The occurrence of an Event of Default (as defined in the Loan Agreement) shall constitute an Event of Default under the terms of this Assignment (hereinafter referred to as the "**Event of Default**"). Upon the occurrence of an Event of Default and the provision of written notice of such Event of Default to Assignor, the license granted to Assignor hereunder to collect the Rents shall be revoked for so long as such Event of Default is continuing; and Assignee, at its option upon written notice to Assignor, without regard to the adequacy of the security or the insolvency of Assignor, may either:

(i) in person or by agent, with or without taking possession of or entering the Premises, with or without bringing any action or proceeding, give, or require Assignor to give, notice to the tenants under the Leases authorizing and directing the tenants to pay all Rents directly to Assignee; collect all of the Rents; enforce the payment thereof and exercise all of the rights of Assignor under the Leases and all of the rights of Assignee hereunder; and may enter upon, take possession of, manage and operate the Premises, or any part thereof; may cancel, enforce or modify the Leases, and fix or modify Rents, and do any acts which Assignee reasonably deems proper to protect the security hereof; or

(ii) apply for appointment of a receiver as a matter of right in accordance with the statutes and law made and provided for, which receivership Assignor hereby consents to, who shall collect the Rents; manage the Premises so as to prevent waste; execute Leases within or beyond the period of receivership; perform the terms of this Assignment and apply the Rents as hereinafter provided.

(b) The entering upon and taking possession of such Premises, the appointment of a receiver, the collection of such Rents and the application thereof as aforesaid shall not cure or waive any default or waive, modify or affect notice of default under the Security Instrument or invalidate any act done pursuant to said notice, nor in any way operate to prevent Assignee from pursuing any remedy which now or hereafter it may have under the terms and conditions of the Security Instrument or the Note secured thereby or any other instruments securing the same. The rights and powers of Assignee hereunder shall remain in full force and effect both prior to and after any foreclosure of the Security Instrument and any sale pursuant thereto and until expiration of the period of redemption from said sale, regardless of whether a deficiency remains from said sale. The purchaser at any foreclosure sale, including Assignee, shall have the right, at any time and without limitation, to advance money to any receiver appointed hereunder to pay any part or all of the items which the receiver would otherwise be authorized to pay if cash were available from the Premises and the sum so advanced, with interest at the Default Rate, as defined in the Loan Agreement, shall be a part of the sum required to be paid to redeem from any foreclosure sale.

6. **Application of Rents.** After an Event of Default and while such Event of Default is continuing any Rents collected by Assignee shall be applied to the following items in such

order as Assignee shall deem proper in its sole discretion: (a) to payment of all reasonable fees of any receiver appointed hereunder, (b) to payment of reasonable attorneys' fees and all other costs and expenses incurred incident to taking and retaining possession of the Premises, (c) to payment when due of prior or current real estate taxes or special assessments with respect to the Premises or, if the Security Instrument so requires, to the periodic escrow for payment of the taxes or special assessments then due, (d) to payment when due of premiums for insurance of the type required by the Loan Agreement or, if the Security Instrument so requires, to the periodic escrow for the payment of premiums then due, (e) to payment of all reasonable expenses necessary for managing and securing the Premises, including without being limited thereto, the salaries, fees and wages of a managing agent and such other employees or agents as may be reasonably necessary and all expenses of operating and maintaining the Premises, (f) to payment of all reasonable costs of any alterations, renovations, repairs or replacements of any improvements on the Premises, including the completion of any construction on the Premises in accordance with the Plans and Specifications, and (g) to payment of all or any portion of the Indebtedness which has become due and payable in such order as Assignee may determine.

7. **No Liability for Assignee.** Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge any obligation, duty or liability under said Leases, nor shall this Assignment operate to place responsibility for the control, care, management or repair of the Premises upon Assignee, nor for the carrying out of any of the terms and conditions of said Leases; nor shall it operate to make Assignee responsible or liable for any waste committed on the Premises, or for any dangerous or defective condition of the Premises unless caused by Assignee's or its agents', contractors', employees' or receivers' gross negligence or willful misconduct, or for any negligence in the management, upkeep, repair or control of said Premises resulting in loss or injury or death to any tenant, licensee, employee or stranger, unless caused by Assignee's or its agents', contractors', employees' or receivers' gross negligence or willful misconduct, nor liable for laches or failure to collect the Rents, and Assignee shall be required to account only for such moneys as are actually received by it. All actions taken by Assignee pursuant to this Assignment shall be taken for the purposes of protecting Assignee's security, and Assignor hereby agrees that nothing herein contained and no actions taken by Assignee pursuant to this Assignment, including, but not limited to, Assignee's approval or rejection of any Lease for any portion of the Premises, shall in any way alter or impact the obligation of Assignor to pay the Indebtedness. Assignor hereby waives any defense or claim that may now exist or hereinafter arise by reason of any action taken by Assignee pursuant to this Assignment.

8. **Assignor to Hold Assignee Harmless.** Assignor shall and does hereby agree to indemnify and to hold Assignee harmless of and from any and all liability, loss or damage which it may or might incur under the Leases or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said Leases. Should Assignee incur any such liability, or any costs or expenses in the defense of any such claims or demands, the amount thereof, including costs, expenses, and reasonable attorneys' fees, shall be secured hereby, shall be added to the Indebtedness and Assignor shall reimburse Assignee therefor within twenty (20) days following demand, and the continuing failure of Assignor so to do shall constitute a default hereunder and an Event of Default under the Loan Agreement. Assignee shall not be entitled to

indemnification with respect to matters arising from its or its agents', contractors', employees' or receivers' gross negligence or willful misconduct.

9. **Security Deposits.** Assignor agrees on demand after and during the continuance of an Event of Default to transfer to Assignee any security deposits held by Assignor under the terms of the Leases. Assignor agrees that such security deposits may be held by Assignee without any allowance of interest thereon, except statutory interest accruing to the benefit of the tenants, and shall become the absolute property of Assignee upon and during the continuance of a default hereunder or an Event of Default to be applied in accordance with the provisions of the Leases. Until Assignee makes such demand and the deposits are paid over to Assignee, Assignee assumes no responsibility to the tenants for any such security deposit.

10. **Authorization to Tenants.** The tenants under the Leases are hereby irrevocably authorized and directed to recognize the claims of Assignee or any receiver appointed hereunder without investigating the reason for any action taken by Assignee or such receiver, or the validity or the amount of indebtedness owing to Assignee, or the existence of any default under the Note, the Loan Agreement, or under or by reason of this Assignment, or the application to be made by Assignee or receiver. Assignee shall not, however, request payment from the tenants under the Leases, unless an Event of Default is continuing. Assignor hereby irrevocably directs and authorizes the tenants to pay to Assignee or such receiver all sums due under the Leases and consents and directs that said sums shall be paid to Assignee or any such receiver in accordance with the terms of its receivership without the necessity for a judicial determination that a default has occurred hereunder or under the Loan Agreement or that Assignee is entitled to exercise its rights hereunder, and to the extent such sums are paid to Assignee or such receiver, Assignor agrees that the tenants shall have no further liability to Assignor for the same. The sole signature of Assignee or such receiver shall be sufficient for the exercise of any rights under this Assignment and the sole receipt of Assignee or such receiver for any sums received shall be a full discharge and release therefor to any such tenants or occupants of the Premises. Checks for all or any part of the Rents collected under this Assignment shall upon notice from Assignee or such receiver be drawn to the exclusive order of Assignee or such receiver.

11. **Satisfaction.** Upon the payment in full of all Indebtedness as evidenced by a recorded satisfaction of the Security Instrument executed by Assignee, or its subsequent assign, this Assignment shall without the need for any further satisfaction or release become null and void and be of no further effect.

12. **Assignee Creditor of the Tenants Upon Bankruptcy.** Upon or at any time during the continuance of an Event of Default, Assignor agrees that Assignee, and not Assignor, shall be and be deemed to be the creditor of the tenants in respect of assignments for the benefit of creditors and bankruptcy, reorganization, insolvency, dissolution, or receivership proceedings affecting such tenants (without obligation on the part of Assignee, however, to file or make timely filings of claims in such proceedings or otherwise to pursue creditors' rights therein, and reserving the right to Assignor to make such filing in such event) including without limitation, the right to file and prosecute, to the exclusion of Assignor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the tenant under a Lease under the U.S. Bankruptcy Code. Assignee shall have the option to apply any money received by Assignee as such creditor in reduction of the Indebtedness.

13. **Assignor Bankruptcy.** If there shall be filed by or against Assignor a petition under the U.S. Bankruptcy Code, and Assignor, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the U.S. Bankruptcy Code, then Assignor shall give Assignee not less than ten (10) Business Days' prior notice of the date on which Assignor shall apply to the bankruptcy court for authority to reject the Lease. Assignee shall have the right, but not the obligation, to serve upon Assignor within such ten-day period a notice stating that (i) Assignee demands that Assignor assume and assign the Lease to Assignee pursuant to Section 365 of the U.S. Bankruptcy Code and (ii) Assignee covenants to cure or provide adequate assurance of future performance under the Lease. If Assignee serves upon Assignor the notice described in the preceding sentence, Assignor shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Assignee of the covenant provided for in clause (ii) of the preceding sentence.

14. **Assignee Attorney-In-Fact.** Upon the occurrence of and during the continuance of an Event of Default, Assignor hereby irrevocably appoints Assignee and its successors and assigns as its agent and attorney-in-fact, which appointment is coupled with an interest, to exercise any rights or remedies hereunder and to execute and deliver during the term of this Assignment such instruments as Assignee may deem necessary to make this Assignment and any further assignment effective.

15. **Subsequent Leases.** Until the Indebtedness shall have been paid in full, Assignor will deliver unto Assignee, without charge or expense to Assignor, upon demand and at any time or times, any and all assignments and other instruments sufficient to assign the Leases and the Rents thereunder to Assignee or that Assignee may deem to be advisable for carrying out the true purposes and intent of this Assignment; provided that such documents do not materially expand the liability or obligations of Assignor in any manner or reduce Assignee's obligations.

16. **General Assignment of Leases and Rents.** The rights contained in this Assignment are in addition to and shall be cumulative with the rights given and created in the Security Instrument and that, assigning generally all leases, rents and profits of the Premises, excluding therefrom the Agency Lease and the Company Lease, and shall in no way limit the rights created thereunder. The granting of this Assignment is a condition precedent to Assignee's making of the Loan secured hereby. To the extent that the terms of the Security Instrument are inconsistent with the terms of this Assignment, the terms of this Assignment shall control.

17. **No Mortgagee in Possession.** Nothing herein contained and no actions taken pursuant to this Assignment shall be construed as constituting Assignee a "Mortgagee in Possession".

18. **Continuing Rights.** The rights and powers of Assignee or any receiver hereunder shall continue and remain in full force and effect until all Indebtedness, including any deficiency remaining from a foreclosure sale, are paid in full, and shall continue after commencement of a foreclosure action and, if Assignee be the purchaser at the foreclosure sale, after foreclosure sale and until expiration of the equity of redemption.

19. **Time of the Essence.** Time is of the essence with regard to the performance of the obligations of Assignor in this Assignment and each and every term, covenant and condition herein by or applicable to Assignor.

20. **Governing Law.** This Assignment has been negotiated, executed and delivered and shall be construed and enforced in accordance with the Laws of the State of New York, except to the extent pre-empted by Federal laws without reference to the choice of law or conflicts of law principles of the State of New York.

21. **Jurisdiction.** The parties hereto irrevocably (a) agree that any suit, action or other legal proceeding arising out of or relating to this Assignment may be brought in a court of record in the County of Onondaga and the State of New York, (b) consent to the non-exclusive jurisdiction of each such court in any suit, action or proceeding, and (c) waive any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Nothing contained herein shall prevent Assignee from bringing any action or exercising any rights against any security given to Assignee by Assignor, or against Assignor personally, or against any property of Assignor, within any other state. Commencement of any such action or proceeding in any other state shall not constitute a waiver of the agreement as to the laws of the State of New York, which shall govern the rights and obligations of Assignor and Assignee hereunder.

22. **Captions.** The captions to the sections of this Assignment are for convenience only and shall not be deemed part of the text of the respective sections and shall not vary, by implication or otherwise, any of the provisions of this Assignment.

23. **Notices.** Any notice which any party hereto may desire or may be required to give to any other party shall be given in the manner prescribed in the Loan Agreement.

24. **Severability.** The parties hereto intend and believe that each provision of this Assignment comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or any portion of any provision contained in this Assignment is held by a court of law to be invalid, illegal, unlawful, void or unenforceable as written in any respect, then it is the intent of all parties hereto that such portion or provision shall be given force to the fullest possible extent that it is legal, valid and enforceable, that the remainder of this Assignment shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion or provision was not contained therein, and the rights, obligations and interests of Assignor and Assignee under the remainder of this Assignment shall continue in full force and effect.

25. **Successors and Assigns.** This Assignment and each and every covenant, agreement and other provision hereof shall be binding upon Assignor and its successors and assigns, including, without limitation each and every person or entity that may, from time to time, be record owner of the Premises or any other person having an interest therein, shall run with the land and shall inure to the benefit of Assignee and its successors and assigns. As used herein the words "successors and assigns" shall also be deemed to include the heirs, representatives, administrators and executors of any natural person who is a party to this

Assignment. Nothing in this section shall be construed to constitute consent by Assignee to assignment of this Assignment by Assignor.

26. **No Oral Modification.** This Assignment may not be modified or discharged orally, but only by an agreement in writing signed by Assignor and Assignee.

27. **Costs of Enforcement.** Assignor agrees to pay the reasonable costs and expenses, including but not limited to reasonable attorneys' fees and legal expenses incurred by Assignee in the exercise of any right or remedy available to it under this Assignment. If Assignee retains attorneys to enforce any of the terms of this Assignment, the Loan Agreement, the Security Instrument, the Note or any other Loan Document (as defined in the Loan Agreement) or because of the breach by Assignor of any of the terms thereof or for the recovery of any Indebtedness, Assignor shall pay to Assignee reasonable attorneys' fees and all costs and expenses, whether or not an action is actually commenced and the right to such reasonable attorneys' fees and all costs and expenses shall be deemed to have accrued on the date such attorneys are retained, shall include reasonable fees and costs in connection with litigation, arbitration, mediation, bankruptcy and/or administrative proceedings, and shall be enforceable whether or not such action is prosecuted to judgment and shall include all appeals, unless a court of competent jurisdiction ultimately rules against Assignee in the subject actions or dispute. Attorneys' fees and expenses shall for purposes of this Assignment include all reasonable paralegal, electronic research, legal specialists and all other costs in connection with that performance of Assignee's attorneys. If Assignee is made a party defendant of any litigation concerning this Assignment or the Premises or any part thereof or therein, or the construction, maintenance, operation or the occupancy or use thereof by Assignor, then Assignor shall indemnify, defend and hold Assignee harmless from and against all liability by reason of said litigation, including reasonable attorneys' fees and all costs and expenses incurred by Assignee in any such litigation or other proceedings, whether or not any such litigation or other proceedings is prosecuted to judgment or other determination. If Assignee is made a party defendant of any litigation concerning this Assignment or the Premises or any part thereof or therein, or the construction, maintenance, operation or the occupancy or use thereof by Assignor, then Assignor shall indemnify, defend and hold Assignee harmless from and against all liability by reason of said litigation, including reasonable attorneys' fees and all out-of-pocket costs and expenses incurred by Assignee in any such litigation or other proceedings, whether or not any such litigation or other proceedings are prosecuted to judgment or other determination. Assignee shall not be entitled to indemnification with respect to matters arising from its or its agents', contractors', employees' or receivers' gross negligence or willful misconduct.

28. **Waiver of Jury Trial.** ASSIGNEE BY ITS ACCEPTANCE HEREOF AND ASSIGNOR HEREBY VOLUNTARILY, KNOWINGLY AND INTENTIONALLY WAIVE ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING UNDER THIS SECURITY INSTRUMENT OR CONCERNING THE INDEBTEDNESS AND/OR ANY COLLATERAL SECURING SUCH INDEBTEDNESS, REGARDLESS OF WHETHER SUCH ACTION OR PROCEEDING CONCERNS ANY CONTRACTUAL OR TORTIOUS OR OTHER CLAIM. ASSIGNOR ACKNOWLEDGES THAT THIS WAIVER OF JURY TRIAL IS A MATERIAL INDUCEMENT TO ASSIGNEE IN EXTENDING CREDIT TO ASSIGNOR, THAT ASSIGNEE WOULD NOT HAVE EXTENDED SUCH CREDIT WITHOUT THIS

JURY TRIAL WAIVER, AND THAT ASSIGNOR HAS BEEN REPRESENTED BY AN ATTORNEY OR HAS HAD AN OPPORTUNITY TO CONSULT WITH AN ATTORNEY IN CONNECTION WITH THIS JURY TRIAL WAIVER AND UNDERSTANDS THE LEGAL EFFECT OF THIS WAIVER.

29. **Exculpation.** The provisions of Article 24 of the Loan Agreement are hereby incorporated by reference into this Assignment to the same extent and with the same force as if fully set forth herein.

30. **Real Property Law of New York.** Notwithstanding anything to the contrary contained herein or the Security Instrument, Assignee shall have all of the rights against lessees of the Property (as defined in the Security Instrument) as set forth in Section 291-f of the Real Property law of New York.

31. Joinder by Agency.

Notwithstanding any other terms or conditions contained in this Assignment, this Assignment is executed by the Agency solely for the purpose of subjecting its rights under the Agency Lease, dated as of March 10, 2017 between the Assignor and the Agency (the "**Agency Lease**") and the Company Lease, dated as of March 10, 2017 between the Agency and the Assignor (the "**Company Lease**") to the rights of Assignee and for no other purpose. All representations, covenants, and warranties of the "Assignor" herein are hereby deemed to have been made by Assignor and not by the Agency.

The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State of New York or the City of Syracuse, New York, and neither the State of New York nor the City of Syracuse, New York shall be liable hereon. All obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Premises by means of this Assignment or any other loan documents. Neither the members of the Agency, nor any person executing this Assignment on its behalf shall be liable personally under this Assignment. No recourse shall be had for the payment of the principal or interest on the Security Instrument or the Note or for any claim based on the Security Instrument, or otherwise in respect hereof, or based upon or in respect of this Assignment, or any modification of or supplemental hereto, against any past, present, or future member, officer, agent, servant, or employee, as such, of the Agency or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officers, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Assignment. Any judgment or decree shall be enforceable against the Agency only to the extent of its interest in the Premises and any such judgment shall not be subject to execution on or by a lien on assets of the Agency other than its interest in the Premises.

No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of

receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period. If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree may, at its option, place, in an account with the Agency, an amount or undertaking sufficient to cover such reasonable fees and expenses whereupon the Agency shall agree to comply with such request. If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, directors, servants, agents or employees shall be subject to potential liability, the party seeking such order or decree may, at its option, (1) agree to protect, defend, indemnify and hold harmless the Agency and its members, officers, directors, servants, agents and employees against any liability incurred as a result of its compliance with such demand, and (2) if requested by the Agency, furnish to the Agency reasonably satisfactory security to protect the Agency and its members, officers, directors, servants, agents and employees against all liability reasonably expected to be incurred as a result of compliance with such request whereupon the Agency shall agree to comply with such request. This agreement on the part of Assignee shall not be construed in any way so as to effect or impair the lien of this Assignment or Assignee's right to foreclose under the Security Interest as provided by law or construed in any way so as to limit or restrict any of the rights or remedies of Assignee in any foreclosure proceedings.

The Agency will record or cause the Company as its agent to record this Assignment to be recorded in the office of the Onondaga County Clerk and will cause the Company as its agent to pay all mortgage recording taxes, if any, which may be imposed by the United States of America or any agency thereof or by the State of New York or other governmental authority upon this Assignment.

32. **Definitions:**

"Agency Lease" means the Agency Lease Agreement dated as of March 10, 2017 between the Agency and the Assignor, as the same may be amended or supplemented from time to time.

"Company Lease" means the Company Lease Agreement dated as of March 10, 2017 between the Assignor and the Agency, as the same may be amended or supplemented from time to time.

"Unassigned Rights" means the unassigned rights of the Agency under the Agency Lease.

33. **Assignor's Obligations To Comply With Company Lease and the Agency Lease:** Assignor shall: (i) pay the all other sums of money due and payable at any time and from time to time under the Company Lease and the Agency Lease as and when such sums become due and payable, but in any event before the expiration of any grace period provided in the Company Lease and the Agency Lease for the payment of any such sum; and (ii) at all times fully perform, observe and comply with all other terms, covenants and conditions of the Company Lease and the Agency Lease to be performed, observed or complied with by Assignor as lessor under the Company Lease and lessee under the Agency Lease, as applicable. If the Company Lease and/or the Agency Lease does not provide for a grace period for the payment of

a sum of money, Assignor shall make the payment on or before the date on which the payment becomes due and payable. Assignor shall deliver evidence of the payment to Assignee within ten (10) days after receipt of a written request from Assignee for evidence of the payment.

34. **Agency Executing at the Direction of Assignor.** The Assignor directs the Agency to execute and deliver this Instrument to the Assignee, and further agrees to indemnify the Agency (and its members, officers, directors, agents, servants and employees) for all fees and costs incurred in connection with the execution, delivery, recording, performing and enforcing of this Instrument, including but not limited to reasonable attorney's fees.

35. **Hold Harmless.** The Assignor acknowledges and reiterates the provisions and obligations of the Assignee pursuant to Sections 8.2 and 11.11 of the Agency Lease as if fully set forth herein and hereby agrees that such provisions shall be applicable to this Instrument.

36. **Miscellaneous Provision.** The Assignor and the Assignee hereto, by accepting this Mortgage, acknowledge that the Agency is executing this Mortgage solely to subject its interest in the Premises, if any, to this Mortgage. Notwithstanding anything herein to the contrary, the Assignee acknowledges and agrees that its sole recourse against the Agency for any default hereunder shall be with respect to the Agency's interest in the Premises.


[No further text on this page; Signature Page Follows]

IN WITNESS WHEREOF, Assignor has caused this Assignment of Leases and Rents (Building Loan) to be executed under seal as of the date first above written.

SOUTHSIDE GENESEE ASSOCIATES, LLC,
a New York limited liability company

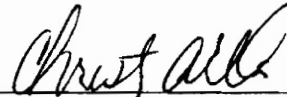
By: CG USL Ventures I, LLC,
a New York limited liability company
Its: Managing Member

By: Syracuse-Michaels, LLC,
a New York limited liability company
Its: Managing Member

By: 
Name: James A. Malesich, Jr.
Title: Vice President

STATE OF New Jersey
COUNTY OF Burlington ss:

On the 27 day of June in the year 2017 before me, the undersigned a notary public in and for the State of New York, personally appeared **JAMES A. MALESICH, JR.**, 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.


Notary Public

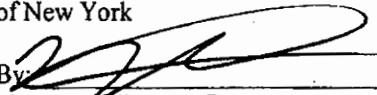
CHRISTY A ELLER
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 18, 2021

[Signature Page to Building Loan Assignment of Leases and Rents]

IN WITNESS WHEREOF, Agency has caused this Assignment of Leases and Rents (Building Loan) to be executed under seal as of the date first above written.

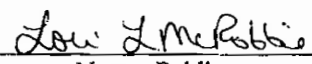
AGENCY:

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a body corporate and politic and a public instrumentality of the State of New York

By: 
Name: William M. Ryan
Title: Chairman

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On the 30th day of June in the year 2017 before me, the undersigned a notary public in and for the State of New York, personally appeared **WILLIAM M. RYAN**, 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.



Notary Public
LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 014003355591
Commission Expires on Feb. 12, 20 18
Lori McRobbie
New York
2-12-18
ONON
C.O.

[Signature Page to Building Loan Assignment of Leases and Rents]

EXHIBIT A

LEGAL DESCRIPTION

Property Addresses: 1200-24 Genesee Street East & Walnut Avenue
511 Walnut Avenue
City of Syracuse, New York

Tax Account Nos.: 048.-10-01.0 & 048.-10-15.0

Lot 1

All that tract or parcel of land containing 0.942 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017 and filed in the Onondaga County Clerk's Office on June 28, 2017 as Map No. 12399 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 206.84 feet to a point; thence,
2. S 03° 20' 30" E, a distance of 250.90 feet to a point of intersection with northerly line of lands now or formerly of Rita E. Gokey; thence,
3. S 86° 05' 16" W, along said lands of Gokey, a distance of 49.48 feet to a point of intersection with the easterly line of lands now or formerly of 513 Walnut LLC; thence,
4. N 03° 20' 30" W, partially along said easterly line, a distance of 74.28 feet to a point; thence,
5. N 89° 31' 30" W, a distance of 169.10 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence,
6. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 171.74 feet to the Point of Beginning.

Lot 2

A-1

All that tract or parcel of land containing 0.304 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017, and filed in the Onondaga County Clerk's Office on June 28, 2017 as Map No. 12399 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the westerly line of Comstock Avenue (80' wide); thence,

1. S 04° 20' 10" E, along said westerly line of Comstock Avenue, a distance of 143.80 feet to a point of intersection with northerly line of lands now or formerly of the City of Syracuse; thence,
2. S 88° 11' 00" W, along said northerly line, a distance of 40.00 feet to a point; thence,
3. S 04° 20' 10" E, along the westerly line of said lands of the City of Syracuse, a distance of 40.00 feet to a point intersection with the northerly line of lands now or formerly of Rita E. Gokey; thence,
4. S 88° 11' 00" W, along said northerly line of lands of Gokey, a distance of 42.44 feet to a point; thence,
5. N 03° 20' 30" W, a distance of 183.69 feet to a point of intersection with the aforementioned southerly line of East Genesee Street; thence,
6. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 79.25 feet to the Point of Beginning.

Lot 3

All that tract or parcel of land containing 0.240 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017 and filed in the Onondaga County Clerks on June 28, 2017 as Map No. 12399

Commencing at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. S 00° 28' 30" W, along said easterly line of Walnut Avenue, a distance of 171.74 feet to the Point of Beginning of the hereinafter described parcel; thence,
2. S 89° 31' 30" E, a distance of 169.10 feet to a point; thence,

3. S 03° 20' 30" E, a distance of 50.46 feet to a point; thence the following three (3) courses along the northerly line of lands now or formerly of 513 Walnut LLC.
4. N 88° 24' 19" W, a distance of 49.67 feet to a point; thence,
5. S 03° 20' 30" E, a distance of 16.02 feet to a point; thence,
6. N 89° 49' 00" W, a distance of 123.86 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence,
7. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 66.00 feet to the Point of Beginning.

Lots 1, 2 & 3 Combined

SE
 All that tract or parcel of land containing 1.486 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017 and filed in the Onondaga County Clerk's Office on June 18, 2017 as Map No. 12399 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 286.09 feet to a point of intersection with the westerly line of Comstock Avenue (80' wide); thence,
2. S 04° 20' 10" E, along said westerly line of Comstock Avenue, a distance of 143.80 feet to a point of intersection with northerly line of lands now or formerly of the City of Syracuse; thence,
3. S 88° 11' 00" W, along said northerly line, a distance of 40.00 feet to a point; thence,
4. S 04° 20' 10" E, along the westerly line of said lands of the City of Syracuse, a distance of 40.00 feet to a point intersection with the northerly line of lands now or formerly of Rita E. Gokey; thence,
5. S 88° 11' 00" W, along said northerly line of lands of Gokey, a distance of 42.44 feet to a point; thence,
6. S 03° 20' 30" E, along the westerly line of lands of Gokey, a distance of 67.21 feet to a point of intersection with other lands of Gokey; thence,

7. S 86° 05' 16" W, along said lands of Gokey, a distance of 49.48 feet to a point of intersection with the easterly line of lands now or formerly of 513 Walnut LLC; thence,
8. N 03° 20' 30" W, along said easterly line, a distance of 23.82 feet to a point; thence the following three (3) courses along the northerly line of said lands of 513 Walnut LLC
9. N 88° 24' 19" W, a distance of 49.67 feet to a point; thence,
10. S 03° 20' 30" E, a distance of 16.02 feet to a point; thence,
11. N 89° 49' 00" W, a distance of 123.86 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence,
12. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 237.74 feet to the Point of Beginning

AFFIDAVIT RE: MORTGAGE TAX EXEMPTION

STATE OF NEW YORK)
) SS.
COUNTY OF ONONDAGA)

WILLIAM M. RYAN, being duly sworn, deposes and says:

He is Chairman of the City of Syracuse Industrial Development Agency (the "Agency").

The Agency is an industrial development agency duly established under Title I of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the "Act"), and it is a corporate governmental agency constituting a public benefit corporation of the State.

By resolutions adopted on January 24, 2017 and June 20, 2017, the Agency, at the request of Southside Genesee Associates, LLC (the "Applicant" and/or "Company") agreed to undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "Existing Buildings") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (collectively, the "Land"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "Facility"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company and the Agency are mortgaging their respective interests in the improved real property described on Exhibit "A" to: Citizens Bank of Pennsylvania (the "Mortgagee"), pursuant to a certain Building Loan Mortgage dated June 30, 2017 in the amount of \$33,000,000 (the "Building Loan Mortgage"), an Assignment of Leases and Rents (Building Loan) dated June 30, 2017 ("Assignment of Leases and Rents (Building Loan)"), a certain Project Loan Mortgage dated June 30, 2017 in the amount of \$3,760,000 (the "Project Loan Mortgage" and together with the Building Loan Mortgage, collectively, the "Mortgages") and an Assignment of Leases and Rents (Project Loan) dated June 30, 2017 ("Assignment of Leases and Rents (Project Loan)"), and together with the Assignment of Leases and Rents (Building Loan),

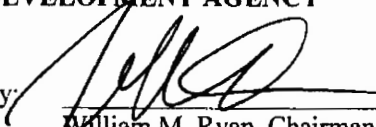
collectively, the "*Assignments of Leases and Rents*". The Mortgages are pledged to secure notes given by the Company to the Mortgagee.

Pursuant to Article 18-A of the New York General Municipal Law, the Agency is regarded as performing a governmental function and is generally not required to pay taxes or assessments upon any property acquired by it or under its jurisdiction, control or supervision or upon its activities.

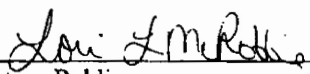
Deponent submits that no mortgage tax, other than as may be required in Section 874(1) of the Act and Section 252(2) of the Tax Law of the State of New York (if any), should be imposed upon the Mortgages and the Assignments of Leases and Rents, inasmuch as the Mortgages and the Assignments of Leases and Rents are being executed and delivered under the State authority creating the Agency, inasmuch as the use by the Agency of its powers to secure the payment of principal and interest on the loan is deemed by Article 18-A public purpose essential to the public interest, and inasmuch as both the New York State Department of Taxation and Finance and Counsel to the New York State Department of Taxation and Finance have expressed their opinion that the recording of similar documents by similar agencies organized under Article 18-A of the New York General Municipal Law are operations of said agencies entitled to exemption from the mortgage recording tax.

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CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By: 
William M. Ryan, Chairman

Subscribed and sworn to before me
this 29th day of June, 2017.


Notary Public

Lori L. McRobbie
LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

2-12-18

ONOND
CO.

[Signature page to Mortgage Recording Tax Affidavit]

20

ONONDAGA COUNTY CLERK'S OFFICE
 LISA DELL - COUNTY CLERK
 401 Montgomery St - Room 200
 Syracuse, NY 13202

Phone: 315-435-2226
 Fax: 315-435-3455

Doc Type: MTG
 Mortgagor: SOUTHSIDE GENESEE ASSOCIATES
 CITY OF SYRACUSE INDUSTRIAL
 Mortgagee: CITIZENS BANK OF PENNSYLVANIA

Receipt: 1360058 RS
 Book/Page: 18324/0316 Inst: 22258
 Date Filed: 06/30/2017 at 2:15PM
 Updated: 07/03/2017 MO
 Record and Return To:

Legal Desc: SYR L1-3 WALNUT AVENUE
 APARTMENTS S E

HARRIS BEACH LLP
 99 GARNSEY RD
 PITTSFORD NY 14534

Prop Address: 1200-24 GENESEE ST & WALNUT AVE

Submitted by: FITCH

Recording Fees		Miscellaneous Fees	
Addl pages:	36 x 5.00 = \$ 180.00	RMI:	\$ 20.00
Addl Names:	0 x 0.50 = \$ 0.00	TP 584:	\$ 0.00
Addl Refs:	0 x 0.50 = \$ 0.00	RP5217:	\$ 0.00
Misc:	0.00	AFFTS:	\$ 5.00
Basic	\$25.50		
	=====		=====
TOTAL:	\$205.50	TOTAL:	\$ 25.00

MORTGAGE TAX		DEED TRANSFER TAX	
Mortgage:	\$3760000.00	Consideration	
Basic:	\$0.00	Transfer Tax:	\$0.00
Ins Fund:	\$0.00	SWIS:	
Net Add:	\$0.00	Map #:	
Misc:	\$0.00		=====
	=====	Total Paid	\$ 230.50
TOTAL	\$0.00	Control no	DI3639

WARNING - This sheet constitutes the Clerk's endorsement, required by Section 319 of the Real Property Law of the State of New York. Do not detach. Taxes imposed on this instrument at time of recording were paid. Certain information contained in this document is not verified by this office.

LISA DELL
 Onondaga County Clerk

Book/Page 18324 / 0316 Instrument no.: 22258



M183240316

36

CHONDAGA COUNTY	
BASIC TAX	\$ _____
MTG. INS. FUND TAX	\$ _____
NET ADDITIONAL TAX	\$ _____
TOTAL MTG. TAX PAID	\$ _____

DL 003639 R

UPON RECORDATION RETURN TO:

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

**FEE, LEASEHOLD AND SUBLEASEHOLD PROJECT LOAN MORTGAGE,
 SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE
 FILING**

SOUTHSIDE GENESEE ASSOCIATES, LLC,
 a New York limited liability company.
 ("Mortgagor")

and

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a body corporate and
 politic and a public instrumentality of the State of New York ("Agency")

in favor of

CITIZENS BANK OF PENNSYLVANIA, a Pennsylvania state chartered savings bank
 ("Mortgagee")

Made as of the 30th day of June, 2017

Location: As set forth on *Exhibit A* attached hereto.

THE MAXIMUM PRINCIPAL AMOUNT SECURED BY THIS MORTGAGE IS
 \$3,760,000.00 (SEE DEFINITION OF "MAXIMUM PRINCIPAL AMOUNT" HEREIN FOR
 THE MAXIMUM TOTAL AMOUNT THAT THIS MORTGAGE SECURES).

**THIS FEE, LEASEHOLD AND SUBLEASEHOLD PROJECT LOAN MORTGAGE, SECURITY
 AGREEMENT AND FIXTURE FILING DOES NOT COVER REAL PROPERTY PRINCIPALLY
 IMPROVED OR TO BE IMPROVED BY ONE OR MORE STRUCTURES CONTAINING IN THE
 AGGREGATE NOT MORE THAN SIX RESIDENTIAL DWELLING UNITS, EACH HAVING THEIR
 OWN SEPARATE COOKING FACILITIES.**

07795

**FEE, LEASEHOLD AND SUBLEASEHOLD PROJECT LOAN MORTGAGE,
SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE
FILING**

This FEE, LEASEHOLD AND SUBLEASEHOLD PROJECT LOAN MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (this "Mortgage") is made as of the date set forth on the cover page, by **SOUTHSIDE GENESEE ASSOCIATES, LLC**, a New York limited liability company, having a business address at c/o The Michaels Organization, 3 East Stow Rd., Suite 100, Marlton, NJ 08053 (herein "Mortgagor") and the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a body corporate and politic instrumentality of the State of New York, having its principal office at 201 East Washington Street, 7th Floor, Syracuse, NY 13202 (the "Agency") for the benefit of **CITIZENS BANK OF PENNSYLVANIA**, a Pennsylvania state chartered savings bank, having a business address at One Logan Square, 130 N. 18th Street, Suite 1310, Philadelphia, PA 19103 (the "Mortgagee").

RECITALS:

WHEREAS, pursuant to that certain Project Loan Agreement dated as of even date herewith by and between Mortgagor and Mortgagee (the "Loan Agreement"), Mortgagor has agreed to borrow from the Mortgagee the principal sum of Three Million Seven Hundred Sixty Thousand and No/100 Dollars (\$3,760,000.00) (the "Loan"), which Loan is also evidenced by that certain Project Loan Promissory Note by Mortgagor to the order of the Mortgagee in the aggregate principal sum of Three Million Seven Hundred Sixty Thousand and No/100 Dollars (\$3,760,000.00) (the "Note"). The Loan Agreement, the terms of which are binding solely upon the Mortgagor, is incorporated by reference herein and made a part hereof. Terms not otherwise defined herein shall have the respective meanings ascribed thereto in the Loan Agreement;

WHEREAS, Mortgagee is desirous of securing the prompt performance of Mortgagor's obligations under the Note together with interest, costs and any other amounts due thereunder and any additional indebtedness accruing to Mortgagee on account of any payments, advances or expenditures made by Mortgagee pursuant to the Note, this Mortgage, the Loan Agreement or any of the other Loan Documents (as hereinafter defined);

WHEREAS, Mortgagor has conveyed title to certain fixtures, equipment and improvements to the Agency pursuant to that certain Bill of Sale to the Agency dated March 10, 2017, (the "Bill of Sale");

WHEREAS, Mortgagor, as lessor, and Agency, as lessee, have entered into that certain Lease Agreement, dated as of March 10, 2017, a memorandum of which has been recorded in the Monroe County Clerk's Office (as the same may be amended, modified, supplemented, replaced and/or restated with the prior written consent of Lender in the exercise of its sole reasonable discretion, the "Agency Lease") specifying the terms and conditions under which Mortgagor has leased to Agency Mortgagor's interest in the Premises (as hereinafter defined) and the Facility (as defined in the Company Lease (hereinafter defined)); and

WHEREAS, Agency, as sub-lessor, and Mortgagor, as sub-lessee, have entered into that certain Leaseback Agreement, dated as of March 10, 2017, a memorandum of which has been recorded in the Monroe County Clerk's Office, (as the same may be amended, modified, supplemented, replaced and/or restated with the prior written consent of Lender in the exercise of its sole reasonable discretion, the "Company Lease" and together with the Agency Lease, the "Agency Leases") specifying the terms and conditions under which Agency has leased to Mortgagor the fixtures, equipment and improvements conveyed to Agency pursuant to the Bill of Sale and has subleased Agency's leasehold interest in the Premises and Facility back to Mortgagor.

TO SECURE THE PAYMENT AND PERFORMANCE TO and in favor of Mortgagee the following obligations (the "Indebtedness"):

(a) the repayment of the indebtedness evidenced by the Note and the Loan Agreement, with interest thereon, in the principal amount not to exceed Three Million Seven Hundred Sixty Thousand and No/100 Dollars (\$3,760,000.00) ("Maximum Principal Amount"), (b) any sums advanced by Mortgagee or which may otherwise become due pursuant to the provisions of this Mortgage, the Loan Agreement or the Note (the provisions of the Note and Loan Agreement being incorporated herein by reference) or pursuant to any other document or instrument executed by Mortgagor or Guarantors and at any time delivered to Mortgagee to evidence or secure any of the Indebtedness or which otherwise relates to any of the Indebtedness under the Loan Agreement (all such documents and instruments, including the Note, the Loan Agreement, this Mortgage, and any other agreements, documents or instruments herein above referenced, as the same may be amended, modified, supplemented, replaced or restated from time to time, being individually and collectively referred to herein as the "Loan Documents"), (c) any and all sums that shall become due and payable by Mortgagor with respect to any interest rate swap agreements, interest rate cap agreements and interest rate collar agreements, and all other agreements or arrangements with Mortgagee designed to protect Mortgagor against fluctuations in interest rates or currency exchange rates to the extent such agreement or arrangement relates to the Note (such contracts being "Hedging Contracts" and any obligations arising thereunder being "Additional Interest"), and (d) for any and all costs and expenses herein provided for or which may arise in respect of this Mortgage or the indebtedness hereby secured or the property herein described:

provided, however, that notwithstanding anything to the contrary contained in this Mortgage, the maximum amount of the principal indebtedness secured by this Mortgage at execution or which under any contingency may become secured by this Mortgage is Maximum Principal Amount, plus interest, Additional Interest and late payment and prepayment charges in respect thereof, plus all amounts expended by Mortgagee after default by Mortgagor hereunder in respect of insurance premiums and real estate taxes, and all legal costs or expenses of collection of the debt secured hereby or of the defense or prosecution of the rights and lien created hereby. Nothing in this paragraph limits the extent to which this Mortgage secures (x) interest and (y) any other sums that may be secured without incurring additional mortgage recording tax or making this Mortgage an infinite mortgage;

Mortgagor and Agency do hereby mortgage, grant, assign, release, transfer, pledge, and set over unto the Mortgagee, its successors and assigns, with power of sale, their respective

interests (except the Agency's Unassigned Rights, as defined in the Agency Lease) in the Property (as hereinafter defined), subject to matters of record in the relevant real property records, and confirms this Mortgage constitutes a valid first lien upon the following described property (herein referred to collectively as the "Property"), subject to the Permitted Encumbrances:

(a) All of Mortgagor's and Agency's, right title and interest in the land located in the County of Monroe, State of New York and more particularly described on *Exhibit A* attached hereto and made a part hereof (the "Premises");

(b) All right, title and interest of Agency in and to the leasehold estate created by the Agency Lease and all rights, options and other benefits inuring to Agency under the Agency Lease with respect to the Premises and Facility;

(c) All right, title and interest of Mortgagor in and to the leasehold and/or subleasehold estate created by the Company Lease and all rights, options and other benefits inuring to Mortgagor under the Company Lease with respect to the Premises, Facility and the fixtures, equipment and improvements leased thereunder;

(d) All the improvements now or hereafter erected on the Premises (the "Improvements"), and all of Mortgagor's and/or Agency's right, title and interest in and to all easements, rights of way, appurtenances, uses, servitudes, licenses, tenements, hereditaments, rents, proceeds, royalties, mineral, oil and gas rights and profits, waters, water rights, and water stock, and any and all fixtures, goods, chattels, equipment and articles of personal property of every kind and character, including any replacements, additions, substitutions therefor, any sale, exchange, transfer, loss or damage thereto, now or at any time in the future owned by Mortgagor and/or Agency and affixed to or placed upon or used in connection with the occupancy, enjoyment and operation of the Premises all of which are hereby declared and shall be deemed to be a portion of the security for the Indebtedness herein described and to be subject to the lien of this Mortgage, including but not limiting the generality of the foregoing, all heating, lighting, incinerating, power and total energy equipment, engines, pipes, pumps, tanks, motors, conduits, switchboards, plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigeration, ventilating, and communications apparatus, air cooling and air-conditioning apparatus, elevators, escalators, wall-to-wall carpeting, shades, awnings, screens, storm doors and windows, attached cabinets, partitions, ducts and compressors, and such other goods, chattels, and equipment as are adapted to the complete and comfortable use, enjoyment and occupancy of the Property, excluding any of the aforesaid which is owned by any tenant of any individual space leased to such tenant and which according to the terms of any applicable lease may be removed by such tenants at the expiration or termination of said lease;

(e) All of Mortgagor's and/or Agency's rights, title and interest in and to all existing and future appurtenances, privileges, easements, franchises and tenements of the Premises, including all minerals, oil, gas, other hydrocarbons and associated substances, sulphur, nitrogen, carbon dioxide, helium and other commercially valuable substances which may be in, under or produced from any part of the Premises, all development rights and credits, air rights, water, water rights (whether riparian, appropriative or otherwise, and whether or not appurtenant) and

water stock, and any Premises lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Premises and Improvements;

(f) All of Mortgagor's and/or Agency's, rights, title and interest in and to all existing and future leases (excluding the Agency Leases), subleases, subtenancies, license agreements, occupancy agreements and concessions ("Leases") relating to the use and enjoyment of all or any part of the Premises and Improvements, and any and all guaranties and other agreements relating to or made in connection with any of such Leases;

(g) All of Mortgagor's and/or Agency's, rights, title and interest in and to all goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Premises and Improvements, whether stored on the Premises or elsewhere, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Mortgage; and any assignable manufacturer's warranties or guaranties with respect thereto;

(h) All of Mortgagor's and/or Agency's, rights, title and interest in and to all building materials, equipment, work in process or other personal property of any kind, whether stored on the Premises or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Premises or Improvements;

(i) All of Mortgagor's rights, title and interest, to the extent assignable, in and to all agreements, contracts, rights, licenses or other interests of any type (whether exclusive or non-exclusive) granted or given to any person to provide any products or services to or for or with respect to the Property or any occupants of the Property;

(j) All of Mortgagor's rights, title and interest in and to all options to purchase, ~~sell~~ and rights of first refusal to purchase, sell or acquire a fee and/or leasehold estate, easement interest or other real property right to land, both vacant and improved, adjoining the Premises now or hereafter in effect;

(k) All of Mortgagor's rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, rebates, tax refunds, credits, cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by Mortgagor with third parties (including all utility deposits), to the extent assignable, all contract rights, development and use rights, governmental permits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, drafts and letters of credit, which arise from or relate to construction on the Premises or to any business now or later to be conducted on it, or to the Premises and Improvements generally; and any builder's or manufacturer's warranties with respect thereto;

(l) All of Mortgagor's, rights, title and interest in and to all insurance policies pertaining to the ~~Premises or~~ Property and all proceeds, including all claims to and demands for

them, of the voluntary or involuntary conversion of any of the Premises, Improvements or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Premises, Property, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud or concealment of a material fact;

(m) All of Mortgagor's rights, title and interest in and to all books and records pertaining to any and all of the property described above, including computer-readable memory and any computer hardware or software necessary to access and process such memory;

(n) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above;

(o) All of Mortgagor's and/or Agency's rights in "Equipment" as that term is defined in the Uniform Commercial Code;

(p) All of Mortgagor's and/or Agency's, rights in "Goods" as that term is defined in the Uniform Commercial Code; and

(q) All of Mortgagor's rights in "Accounts" as that term is defined in the Uniform Commercial Code.

PROVIDED, HOWEVER, THAT THE Agency's Unassigned Rights are not mortgaged hereunder by the Agency.

TO HAVE AND TO HOLD all and the singular Property hereby conveyed unto Mortgagee.

This Mortgage secures the payment of and includes all future or further advances as hereinafter set forth as allowed by law, to the same extent as if such were made on the date of execution of this Mortgage, and to the extent provided herein any disbursements made for the payment of tax, levies or insurance on the Property shall, on demand, be due and payable with interest thereon in accordance with the terms of this Mortgage.

Mortgagor and Agency, each for itself, covenant with Mortgagee that Mortgagor and Agency are lawfully seized of the above described Property hereby conveyed and have the right to mortgage, grant and convey the Property, that the Property is free and clear of all defects, liens and encumbrances, except the Agency Leases and those items set forth in Schedule B of the final ALTA Loan Policy of Title Insurance (File No. FTA-17-160EC) issued by Barclay Damon, LLP through the office of Fitch Title Agency, Inc. as agent for Old Republic National Title Insurance Company with respect to this Mortgage, encumbrances consented to by Mortgagee in writing and the lien of this Mortgage (the "Permitted Encumbrances"), and that Mortgagor will warrant and defend the title to the Property unto the Mortgagee **against** all claims and demands whatsoever other than the Permitted Encumbrances.

The Mortgagor and Agency covenant, agree and stipulate to and with the Mortgagee as follows:

1. **PAYMENT OF PRINCIPAL AND INTEREST.** Mortgagor shall promptly pay when due the principal of and interest on the Indebtedness at a rate or rates which may vary from time to time as specified in the Loan Documents, prepayment and late charges as provided in the Loan Documents, and the principal of and interest on any advances, including Future Advances provided by this Mortgage.

2. **TAXES AND INSURANCE.** Mortgagor will pay or cause to be paid all real estate taxes and assessments on the Property and all insurance premiums for hazard and liability insurance covering the Property as the same shall become due as required by the Loan Agreement, subject to Mortgagor's rights to contest taxes and assessments pursuant to the Loan Agreement. Upon the occurrence and during the continuance of an Event of Default under this Mortgage or any of the Loan Documents, Mortgagee shall have the right (but not the obligation) to place and maintain insurance required to be placed and maintained by Mortgagor pursuant to the Loan Agreement (to the extent Mortgagor has not done so) and to treat the amounts expended therefor as additional disbursements of Loan proceeds (even if the total amount of disbursements would exceed the face amount of the Note). In the event of a default in the payment of such taxes or insurance then Mortgagee shall be permitted to pay the taxes and/or insurance to protect the Property and charge the same to the Mortgagor as additional indebtedness secured by this Mortgage.

3. **APPLICATION OF PAYMENTS.** Unless an Event of Default has occurred and is continuing, unless applicable law provides otherwise, all payments received by Mortgagee under the Note and Sections 1 and 2 hereof shall be applied by Mortgagee first in payment of amounts payable to Mortgagee by Mortgagor under Section 2 hereof, then to interest payable on the Note and on any protective advances, if any, and then to the principal of the Note and to the principal of any protective advances, if any.

4. **LIENS.** Mortgagor and the Agency shall not, without Mortgagee's prior written approval, create or permit or suffer to be created or to remain, and Mortgagor will, discharge or bond over to Mortgagee's satisfaction, or promptly cause to be discharged or bonded over to Mortgagee's satisfaction or otherwise contest, in a manner permitted by the Loan Agreement, any lien, encumbrance or charge or pledge of, or conditional sale, or other title encumbrance with respect to the Property or any part thereof, other than (i) Permitted Encumbrances, and (ii) encumbrances for real estate taxes not yet due and payable; provided, however, that Mortgagor may contest or otherwise appeal in good faith the validity and amount of any lien in accordance with the Loan Agreement without being deemed in default of the provisions of this Section 4.

5. **INSURANCE.** Mortgagor shall keep the Improvements now existing or hereafter erected on the Property insured in accordance with the requirements set forth in *Exhibit E* of the Loan Agreement.

6. **PRESERVATION AND MAINTENANCE OF PROPERTY.** Mortgagor shall keep the Property in good repair and shall not permit or commit waste, impairment, or deterioration of the Property (ordinary wear and tear, casualty and condemnation excepted).

including those acts or omissions characterized under the Loan Agreement as waste which arises out of Hazardous Materials. Furthermore, Mortgagor shall restore or repair promptly and in good and workmanlike manner, free of mechanics, materialman's, laborer's and like liens and claims therefor (subject to the right of Mortgagor to contest or otherwise appeal in good faith the validity and amount of any such lien in accordance with Section 4 above), all or any part of the Property to the equivalent of its immediately pre-existing condition, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of restoration or repair.

7. **PROTECTION OF MORTGAGEE'S SECURITY.** If Mortgagor fails to perform the covenants and agreements contained in this Mortgage within any applicable notice and cure period set forth in the Loan Agreement or herein, or if any action or proceeding is commenced including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, which could reasonably be expected to materially and adversely affect Mortgagee's interest in the Property, as reasonably determined by Mortgagee, then Mortgagee at Mortgagee's option, upon reasonable prior written notice to Mortgagor, may make such appearances, disburse such sums and take such action as is reasonably necessary to protect Mortgagee's interest, including, but not limited to, disbursement of reasonable attorneys' fees and entry upon the Property upon reasonable prior notice from Mortgagee, during regular business hours to make repairs. Any amounts disbursed by Mortgagee pursuant to this Section 7, with interest thereon, shall become additional indebtedness of Mortgagor secured by this Mortgage. Unless Mortgagor and Mortgagee agree to other terms of payment, such amount shall be immediately due and payable within twenty (20) days following notice from Mortgagee to Mortgagor requesting payment thereof, and shall bear interest from the date of disbursement at the rate applicable in the Note. Nothing contained in this Section 7 shall require Mortgagee to incur any expense or do any act hereunder.

8. **INSPECTION.** Mortgagee, for the protection of its interest in the Property, may make or cause to be made reasonable entries upon and inspections of the Property, upon reasonable prior notice from Mortgagee, during regular business hours, subject to the rights of any applicable Tenants and the terms of the Loan Agreement.

9. **CONDEMNATION.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby collaterally assigned and shall be paid to Mortgagee, and any such proceeds shall be paid to and applied in the manner set forth in Article 14 of the Loan Agreement.

10. **MORTGAGOR NOT RELEASED.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Mortgagee to any successor in interest of Mortgagor shall not operate to release, in any manner, the liability of the original Mortgagor and Mortgagor's successors in interest absent an express written agreement from Mortgagee to the contrary. Mortgagee shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Mortgagor and Mortgagor's successors in interest.

11. **FORBEARANCE BY MORTGAGEE NOT A WAIVER.** Any forbearance by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy hereunder absent an express written agreement from Mortgagee to the contrary. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate the maturity of the Indebtedness secured by this Mortgage so long as any Event of Default is continuing.

12. **REMEDIES CUMULATIVE.** All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

13. **SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CAPTIONS.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Mortgagee, Mortgagor and Agency, subject to the provisions of Section 18 hereof. The captions and headings of the Sections of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

14. **COMPLIANCE WITH LAWS.** Mortgagor hereby covenants and agrees to materially comply with, and to use commercially reasonable efforts to cause all occupants of all or any portion of the Property to materially comply with, all applicable zoning, building, use and environmental restrictions, all permits, approvals, licenses and other governmental impositions (collectively "Permits"), and all laws, rules, statutes, ordinances, regulations, codes, orders and requirements, including, without limitation, environmental matters and notices of violation of all governmental authorities having jurisdiction over the Property or the maintenance, use and operation thereof, and all restrictions and requirements of record (collectively, the "Laws"). Mortgagor will deliver to Mortgagee within twenty (20) Business Days after Mortgagee's request therefor any additional permits or renewals, issued and approved or disapproved in writing with respect to the Property after the date hereof. **Mortgagor hereby indemnifies and agrees to defend and hold harmless Mortgagee from and against any and all claims, demands, loss, cost, damage, liability or expense incurred or suffered by Mortgagee arising from any failure of the Property to comply in all material respects with all Laws (except to the extent that such failure arises at a time when Mortgagor no longer controls the Property or is caused by the gross negligence or willful misconduct of Mortgagee or Mortgagee's agents, contractors or employees), or from any failure of Mortgagor to obtain, maintain or renew, or to have obtained, maintained or renewed, any Permit required with respect to the Property.** Mortgagor hereby warrants and represents that, on the date hereof, to its knowledge, the Property complies in all material respects with all Laws.

15. **NOTICE.** Except for any notice required under applicable law to be given in another manner, any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be in writing and shall be deemed to have been properly given if delivered in accordance with the Loan Agreement; addressed in each case as follows:

If to Mortgagor:

Southside Genesee Associates, LLC
c/o The Michaels Organization
3 East Stow Rd., Suite 100,
Marlton, NJ. 08053
Tel: (856) 355-2546
Attn: James A. Malesich, Jr.
Email: jmalesich@themichaelsorg.com

With copies to:

Barclay Damon LLP
125 East Jefferson Road
Syracuse, NY 13202
Attention: Kevin R. McAuliffe, Esq.
Tel: (315) 425-2875
Email: kmcauliffe@barclaydamon.com

E. Allan Mack, Esq.
3 East Stow Road
Suite 270
Marlton, NJ 08053
Tel: (856) 355-4973
Email: amack@eam-law.com

If to Mortgagee:

Citizens Bank of Pennsylvania
One Logan Square
130 N. 18th Street, Suite 1310
Philadelphia, PA 19103
Attention: David Ross, Senior Vice President
Email: davidros@citizensbank.com

With a copy to:

Harris Beach P.L.L.C.
99 Garnsey Road
Pittsford, NY 14534
Attn: Charles W. Russell, Esq.
Email: crussell@harrisbeach.com

If to Agency:

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, NY 13202
Attn: William M. Ryan, Chairman

With a copy to:

Barclay Damon LLP
Barclay Damon Tower
125 East Jefferson Road
Syracuse, NY 13202
Attn: Susan R. Katzoff, Esq.
Email: skatzoff@barclaydamon.com

or at such other address or to such other addressee as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice.

16. **GOVERNING LAW; SEVERABILITY.** This Mortgage shall be governed by the law of the State of New York, except to the extent pre-empted by Federal laws without reference to the choice of law or conflicts of law principles of that State. The Mortgagee is authorized and empowered to do all things provided to be done by a Mortgagee under the laws of the State of New York. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note, which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable.

17. **MORTGAGOR'S COPY.** Mortgagor shall be furnished a photocopy of this Mortgage at the time of execution or after recordation hereof.

18. **TRANSFER OF THE PROPERTY; ASSUMPTION.** Until such time as the Indebtedness is paid in full, and except as otherwise permitted by the Loan Agreement, no portion of the Property, nor any direct or indirect interest in Mortgagor shall be sold, assigned, transferred, leased, conveyed, contracted to be sold, mortgaged or in any way encumbered or disposed of directly or indirectly, without the prior written consent of Mortgagee in each such event. Mortgagee shall be under no obligation to consent to such transfer or conveyances, except to the extent set forth in the Loan Agreement. However, no payment of or tender of any consideration to Mortgagee in connection with any proposed transfer or conveyance shall obligate Mortgagee to consent to such transfer or conveyance. Notwithstanding the foregoing, Mortgagor shall have the right to dispose of personal property in the ordinary course of business without Mortgagee's consent, free of the lien of this Mortgage, so long as it is either (a) replaced with personal property of equivalent value and utility, and is subject to the lien of this Mortgage or the other Loan Documents, or (b) no longer necessary in connection with the operation of the Property (provided, however, that to the extent occurring during the existence of an Event of Default, any cash proceeds arising from the disposition thereof shall be immediately remitted to

Mortgagee to be applied to the Loan). In the case of a transfer of Mortgagor's entire interest in the Property, Mortgagee may also require the transferee to sign an assumption agreement that is acceptable to Mortgagee and that obligates the transferee to keep all the promises and agreements made in the Note, in this Mortgage or any other Loan Documents. To the extent Mortgagee's consent is required under the Loan Agreement, any sale, assignment, transfer, lease, conveyance or mortgage of the Property without Mortgagee's consent shall be null and void.

19. **EVENT OF DEFAULT; ACCELERATION.** If any one of the following events (herein referred to as "Events of Default") shall occur:

(a) Mortgagor shall fail to pay any principal of or interest or any other amounts due on the Note when the same becomes due and payable after giving effect to any applicable grace, notice or cure period described in the Note or the Loan Agreement; or

(b) Mortgagor shall fail to comply in any material respect with any of the provisions, conditions, or covenants contained in this Mortgage and such failure continues for more than thirty (30) days (unless a shorter grace period is described herein) after written notice of such failure from Mortgagee to Mortgagor; provided, that such thirty (30)-day period shall be extended to permit the cure of any default which by its nature is not reasonably susceptible to cure within such thirty (30)-day period, so long as Mortgagor promptly within such thirty (30)-day period commences its efforts to cure and thereafter diligently pursues the same to completion within ninety (90) days after the lapse of the initial thirty (30) days;

(c) (i) A default by Mortgagor beyond any applicable notice or cure period occurs under the Agency Lease and/or the Company Lease, (ii) the occurrence of an Event of Default (as defined in the PILOT Agreement); and/or (iii) the occurrence of any other event which results in the termination of the Agency Lease, the Company Lease and/or the PILOT Agreement;

(d) An Event of Default occurs under any Hedging Contract or any of the Loan Documents; or

(e) The occurrence of an Event of Default under the Loan Agreement, Note or any of the other Loan Documents.

19.1 Remedies. Upon the occurrence and during the continuation of any Event of Default, Mortgagor and Agency agree that Mortgagee may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Mortgagor in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Mortgagee may determine, in its sole, but commercially reasonable discretion, without impairing or otherwise affecting the other rights and remedies of Mortgagee:

(a) declare the entire unpaid principal balance of the Note together with all other indebtedness to be immediately due and payable, which unpaid sums shall bear interest at the Default Rate from the due date until paid; and/or

(b) with or without entry, institute proceedings, by judicial action, advertisement or such other statutory procedures as are then available in the state where the Premises is located, for the complete or partial foreclosure of this Mortgage under any applicable provision of law in which case the Premises or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner, any partial foreclosure to be subject to the continuing lien and security interest of this Mortgage for the balance of the Indebtedness not then due, unimpaired and without loss of priority; and/or

(c) sell for cash or upon credit the Premises or any part thereof and all estate, claim, demand, right, title and interest of Mortgagor and/or Agency therein and rights of redemption thereof, pursuant to power of sale (to the extent then available in the state where the Premises is located), judicial decree or otherwise, at one or more sales, as an entirety or in one or more parcels; and/or

(d) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note or in the other Loan Documents; and/or

(e) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Mortgage or the other Loan Documents, to the extent permitted by the laws of the state where the Premises is located; and/or

(f) apply for the appointment of a receiver, liquidator or conservator of the Premises, without notice and without regard for the adequacy of the security for the Indebtedness and without regard for the solvency of Mortgagor or Guarantor or of any other person, firm or other entity liable for the payment of the Indebtedness in accordance with and in the manner prescribed by applicable law in the State of New York and in accordance with the terms hereof; and/or

(g) enter into or upon the Premises, either personally or by its agents, nominees or attorneys and dispossess Mortgagor and their agents and servants therefrom without liability for trespass, and exclude Mortgagor and their agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Mortgagor and/or Agency agrees to surrender possession of the Premises and of such books, records and accounts in connection therewith to Mortgagee upon demand, and thereupon Mortgagee may exercise all rights and powers of Mortgagor with respect to the Premises including, without limitation:

(1) the right to use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Premises and conduct the business thereat; and/or

(2) the right to make or complete any construction, alterations, additions, renewals, replacements and improvements to or on the Premises as Mortgagee deems advisable; and/or

(3) the right to make, cancel, enforce or modify leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents (defined below) of the Premises and every part thereof;

(h) require Mortgagor to pay monthly in advance to Mortgagee, or any receiver appointed to collect the Rents (defined below), the fair and reasonable rental value for the use and occupation of such part of the Premises as may be occupied by Mortgagor; and/or

(i) require Mortgagor to vacate and surrender possession of the Premises to Mortgagee or to such receiver and, in default thereof, Mortgagor may be evicted by summary proceedings or otherwise; and/or

(j) apply the receipts from the Premises, and/or any unearned insurance premiums paid to Mortgagee upon the surrender of any insurance policies maintained pursuant to the Loan Agreement (it being agreed that Mortgagee shall have the right to surrender such insurance policies upon the occurrence of an Event of Default), to the payment of the Indebtedness, in such order, priority and proportions as Mortgagee shall deem appropriate in its sole, but commercially reasonable discretion; and/or

(k) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing:

(1) the right to take possession of the personal property pledged hereunder (the "Collateral") or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Collateral, and

(2) request Mortgagor at its expense to assemble the Collateral and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Collateral sent to Mortgagor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Mortgagor. Upon any foreclosure or other sale of the Premises pursuant to the terms hereof, Mortgagee may bid for and purchase the Premises and shall be entitled to apply all or any part of the Indebtedness as a credit against the purchase price.

Without limiting any other provisions of this Mortgage, Mortgagee shall have the right to conduct any such sale on the Property, and Mortgagee shall have such right of possession of the Property as shall be necessary or convenient for such purpose or any other purpose under this Section 19.1. Mortgagee may sell the Property without giving any warranties relating to title, possession, quiet enjoyment, merchantability, fitness or the like as to the Property and may specifically disclaim any warranties, which shall not be considered to adversely

affect the commercial reasonableness of any sale of the Property. Mortgagee has no obligation to clean up or otherwise prepare the Property for sale.

In the event of a sale, by foreclosure, power of sale, or otherwise, of less than all of the Premises, this Mortgage shall continue as a lien and security interest on the remaining portion of the Premises unimpaired and without loss of priority.

19.2 Application of Proceeds. The proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Mortgagee pursuant to the Note, this Mortgage or the other Loan Documents, shall be applied as follows:

(a) First, to pay the portion of the Indebtedness attributable to the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to reimburse Mortgagee under the Loan Documents and under this Mortgage;

(b) Second, to pay the portion of the Indebtedness attributable to any sums expended or advanced by Mortgagee under the terms of this Mortgage which then remain unpaid;

(c) Third, to pay all other Indebtedness in any order and proportions as Mortgagee in its sole discretion may choose;

(d) Fourth, to pay any obligations under a Hedging Contract; and

(e) Fifth, to remit the remainder, if any, to the person or persons entitled to it.

19.3 Right to Cure Defaults. Upon the occurrence and during the continuation of any Event of Default, Mortgagee may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder or curing or being deemed to have cured any default hereunder, make or do the same in such manner and to such extent as Mortgagee may reasonably deem necessary to protect the security hereof. Mortgagee is authorized to enter upon the Premises for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Premises or to foreclose this Mortgage or collect the Indebtedness, and the cost and expense thereof (including actual reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 19.3, shall constitute a portion of the Indebtedness and shall be due and payable to Mortgagee upon demand. All such costs and expenses incurred by Mortgagee in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period after notice from Mortgagee that such cost or expense was incurred to the date of payment to Mortgagee. All such costs and expenses incurred by Mortgagee together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Indebtedness and be secured by this Mortgage and the other Loan Documents and shall be immediately due and payable upon demand by Mortgagee therefor.

19.4 Receiver. Upon the occurrence and during the continuation of an Event of Default, Mortgagee shall be entitled as a matter of right without notice and without regard to the solvency or insolvency of Mortgagor, or the existence of waste on the Premises or adequacy of

the security of the Premises, and without giving bond to apply for the appointment of a receiver in accordance with the statutes and law made and provided for who shall collect the Rents, and all other income of any kind; manage the Premises so to prevent waste; execute Leases within or beyond the period of receivership, pay all expenses for normal maintenance of the Premises and perform the terms of this Mortgage and apply the Rents, issues, income and profits to the costs and expenses of the receivership, including actual reasonable attorneys' fees, to the repayment of the Indebtedness and to the operation, maintenance and upkeep and repair of the Premises, including payment of taxes on the Premises and payments of premiums of insurance on the Premises and any other rights permitted by law. Mortgagor and Agency do hereby irrevocably consent to such appointment. The receiver may, to the extent permitted under applicable law, without notice, enter upon and take possession of the Premises, or any part thereof, by force, summary proceedings, ejectment or otherwise, and remove Mortgagor or any other person or entity and any personal property therefrom, and may hold, operate and manage the same, receive all rents, earnings, incomes, issues and proceeds and do the things the receiver finds necessary to preserve and protect the Premises, whether during pendency of foreclosure, during a redemption period, if any, or otherwise.

19.5 Rights Under Uniform Commercial Code. In addition to the rights available to a Mortgagee of real property, Mortgagee shall also have all the rights, remedies (while any Event of Default is continuing) and recourse available to a secured party under the Uniform Commercial Code in the State where the Premises are located (the "Code") including the right to proceed under the provisions of the Code governing default as to any Collateral as defined in this Mortgage which may be included on the Premises or which may be deemed nonrealty in a foreclosure of this Mortgage or to proceed as to such Collateral in accordance with the procedures and remedies available pursuant to a foreclosure of real estate.

19.6 Mortgagor Not Released. No delay or omission by Mortgagee in the exercise of any rights or remedies arising under this Mortgage, the Note or any other Loan Document at any time following the happening of an Event of Default shall constitute a waiver of the right of Mortgagee to exercise such rights and remedies at a later time by reason of such Event of Default or by reason of any subsequently occurring Event of Default.

20. **ASSIGNMENT OF LEASES AND RENTS; SECURITY AGREEMENT.** As additional security for the Indebtedness, Mortgagor hereby irrevocably, absolutely, presently and unconditionally assigns to Mortgagee all rents, royalties, issues, profits, revenue, income, accounts, proceeds and other benefits of the Property, whether now due, past due or to become due, including all prepaid rents and security deposits (some or all collectively, as the context may require, "Rents"). This is an absolute assignment, not an assignment for security only. The Mortgagee shall have all of the rights against lessees of the Property as set forth in Section 291-f of the Real Property law of New York.

Mortgagee hereby confers upon Mortgagor a license ("License") to collect, retain, use, enjoy, and distribute (subject to any applicable restrictions on distributions set forth in the Loan Agreement) the Rents as they become due and payable, so long as no Event of Default, as defined in Section 19, has occurred and is continuing. If an Event of Default occurs this License shall automatically be revoked for so long as such Event of Default exists without notice to or

demand upon Mortgagor, and without regard to the adequacy of Mortgagee's security under this Mortgage.

The parties intend for this Mortgage to create a lien on the Property, and an absolute assignment of the Rents, all in favor of Mortgagee. The parties acknowledge that some of the Property and some or all of the Rents may be determined under applicable law to be personal property or fixtures. To the extent that any Property or Rents may be or be determined to be personal property, Mortgagor, as debtor hereby grants Mortgagee as secured party a security interest in all such Property and Rents, to secure payment and performance of the Indebtedness. This Mortgage constitutes a security agreement under the Code covering all such Property and Rents.

21. **FUTURE ADVANCES.** This Mortgage secures all present and future loan disbursements, obligations and/or advances (including protective advances) made by Mortgagee under the Loan Agreement and the other Loan Documents, and all other sums from time to time owing to Mortgagee by Mortgagor under the Loan Agreement and the Loan Documents.

22. **RIGHT TO PERFORM MORTGAGOR'S COVENANTS, PROTECTIVE ADVANCES, ETC.** If Mortgagor shall fail to make any payment or perform any act required to be made or performed hereunder within the time specified, subject to applicable notice and cure periods, if any, Mortgagee, after such notice to Mortgagor as may be reasonable under the circumstances, without waiving or releasing any obligation or default, shall have the right, but shall not be obligated, to make such payment or perform such act at any time thereafter for the account and at the expense of Mortgagor, and shall have the right to enter upon the Property or any part thereof, upon reasonable prior notice from Mortgagee, during regular business hours, for such purpose and take all such action thereon as, in the opinion of Mortgagee, may be necessary or appropriate therefor. All sums so paid by Mortgagee and all costs and expenses (including, without limitation, reasonable attorneys' costs and expenses actually incurred to the fullest extent permitted by law) so incurred, together with any other sums expended by Mortgagee for the payment of real estate taxes and assessments, insurance premiums, utilities, charges, costs of maintenance and repair and other expenditures for the protection of the Property and/or Mortgagee's interest therein, also together with interest thereon at the Default Rate, from the date of payment or incurring, shall constitute indebtedness secured by this Mortgage with the highest priority allowed by law, and shall be payable by Mortgagor to Mortgagee within twenty (20) days following written notice thereof.

23. **INTENTIONALLY OMITTED.**

24. **BENEFIT OF SECTION 254 OF THE REAL PROPERTY LAW.** Nothing herein contained shall be construed as depriving Mortgagee of any right or advantage available under Section 254 of the Real Property Law of the State of New York, but all covenants herein differing therefrom shall be construed as conferring additional and not substitute rights and advantages.

25. **RELEASE.** Upon payment of all sums secured by the Note and this Mortgage, and the performance of all the terms, conditions and covenants contained therein, this Mortgage shall be void. Upon request thereafter, Mortgagee will, at Mortgagor's cost, execute a release of

this Mortgage. Mortgagor shall pay all costs of recordation of any cancellation or satisfaction hereof.

26. WAIVER OF TRIAL BY JURY. EACH OF MORTGAGOR AND MORTGAGEE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION ARISING IN ANY WAY IN CONNECTION WITH THIS MORTGAGE, THE NOTE, OR ANY OF THE OTHER LOAN DOCUMENTS, THE LOAN OR ANY OTHER STATEMENTS OR ACTIONS OF MORTGAGOR OR MORTGAGEE. MORTGAGOR ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS MORTGAGE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS DISCUSSED THIS WAIVER WITH SUCH LEGAL COUNSEL. MORTGAGOR FURTHER ACKNOWLEDGES THAT (i) IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER, (ii) THIS WAIVER IS A MATERIAL INDUCEMENT FOR MORTGAGEE TO MAKE THE LOAN, ENTER INTO THIS MORTGAGE AND EACH OF THE OTHER LOAN DOCUMENTS, AND (iii) THIS WAIVER SHALL BE EFFECTIVE AS TO EACH OF SUCH OTHER LOAN DOCUMENTS AS IF FULLY INCORPORATED THEREIN. FURTHER, MORTGAGOR HEREBY CONSENTS AND SUBJECTS ITSELF TO THE JURISDICTION OF THE STATE AND FEDERAL COURTS HAVING JURISDICTION IN THE COUNTY OF MONROE AND THE STATE OF NEW YORK; AND, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TO THE VENUE OF SUCH COURTS.

27. INCONSISTENCIES. In the event of any inconsistency between this Mortgage and the Loan Agreement, the terms hereof shall be controlling as necessary to create, preserve and/or maintain a valid mortgage lien and security interest upon the Property, otherwise the provisions of the Loan Agreement shall be controlling.

28. UCC FINANCING STATEMENTS. Each of the Mortgagor and the Agency hereby authorizes Mortgagee to file UCC financing statements to perfect Mortgagee's security interest in any part of the Property. In addition, Mortgagor agrees to sign any and all other documents that Mortgagee deems necessary in its reasonable discretion to perfect, protect, and continue Mortgagee's lien and security interest on the Property.

29. REIMBURSEMENT, EXCULPATION, INDEMNIFICATION.

(a) Mortgagor agrees to pay reasonable fees for any services that Mortgagee may render in connection with this Mortgage, including providing a statement of the Indebtedness or providing the release of this Mortgage. Mortgagor further agrees to pay or reimburse Mortgagee for all reasonable costs, expenses and other advances which may be incurred or made by Mortgagee in any efforts to enforce any terms of this Mortgage, the Loan Agreement or any of the other Loan Documents, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Mortgage, the Loan Agreement or any of the other Loan Documents, including reasonable attorneys' fees and other legal costs, costs of any foreclosure sale and any cost of evidence of title, unless a court of competent jurisdiction ultimately rules against Mortgagee in the subject actions or dispute. In

any suit to foreclose the lien hereof or enforce any other remedy of Mortgagee under this Mortgage or the Loan Agreement or any of the other Loan Documents, there shall be allowed and included as additional indebtedness in the decree for sale or other judgment or decree all reasonable expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' costs and fees (including the reasonable costs and fees of paralegals), survey charges, appraiser's fees, inspecting engineer's and/or architect's fees, fees for environmental studies and assessments and all additional expenses incurred by Mortgagee with respect to environmental matters. All reasonable expenditures and expenses of this Section 27; and such reasonable expenses and fees as may be incurred in the protection of the Property and maintenance of the lien of this Mortgage, shall be due and payable by Mortgagor, within twenty (20) days following notice from Mortgagee, with interest thereon at the Default Rate and shall be secured by this Mortgage.

(b) Mortgagee shall not be directly or indirectly liable to Mortgagor or any other person as a consequence of any of the following, unless the loss arises from or is the result of the gross negligence or willful misconduct of Mortgagee, its agents or contractors:

(i) Mortgagee's exercise of or failure to exercise any rights, remedies or powers granted to Mortgagee in this Mortgage;

(ii) Mortgagee's failure or refusal to perform or discharge any obligation of Mortgagor under this Mortgage; or

(iii) Any loss sustained by Mortgagor resulting from Mortgagee's failure to lease the Property, or from any other act or omission of Mortgagee in managing the Property, after an Event of Default.

Mortgagor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Mortgagee.

(c) **Mortgagor agrees to indemnify Mortgagee against and hold it harmless from all losses, damages, liabilities, claims, causes of action, judgments, court costs, reasonable attorneys' fees and other legal expenses, cost of evidence of title, cost of evidence of value, and other costs and expenses which Mortgagee may suffer or incur, unless such failure arises from or is the result of the gross negligence or willful misconduct of Mortgagee, its agents or contractors:**

(i) **In performing any act required or permitted by this Mortgage or any of the other Loan Documents or by law; or**

(ii) **Because of any failure of Mortgagor to perform any of its obligations.**

This agreement by Mortgagor to indemnify Mortgagee shall survive the release and cancellation of any or all of the Indebtedness and the full or partial release of this Mortgage.

30. **FIXTURE FILING.** This Mortgage constitutes a financing statement filed as a fixture filing under Article 9 of the Code in the State, covering any Property which now is or later may become fixtures attached to the Property. For this purpose, the respective addresses of

Mortgagor and Agency, as debtor, and Mortgagee, as secured party from which information concerning the security interest may be obtained, are as set forth in the preambles of this Mortgage. Mortgagor's place of business, or its chief executive office if it has more than one place of business, is located at the address specified in this Mortgage as Mortgagor's notice address.

31. **RESERVED.**

32. **COMPANY LEASE AND AGENCY LEASE**

(a) Mortgagor has delivered to Mortgagee a true and complete copy of each of the Company Lease and the Agency Lease (as hereinafter defined), together with all amendments thereto and modifications thereof. There are no agreements between Mortgagor and the Agency not set forth in the Company Lease or the Agency Lease:

(b) Mortgagor represents and warrants to Mortgagee that each of the Company Lease and the Agency Lease is valid and subsisting lease of the Land for the term therein set forth, is in full force and effect in accordance with the terms thereof, has not been modified, there are no existing defaults by any party thereunder, and, to the best of the Mortgagor's and/or the Agency's knowledge, there are no circumstances which, with the passage of time or the giving of notice or both, would constitute an event of default thereunder:

(c) A Memorandum of Lease has been duly recorded in the official records of Onondaga County, New York with respect to each of the Company Lease and the Agency Lease. Each of the Company Lease and the Agency Lease are subordinate by their respective terms to the lien of this Mortgage and permits the respective interest of the Mortgagor and Agency thereunder to be encumbered by this Mortgage:

(d) Mortgagor will promptly notify the Mortgagee in writing of any default by Mortgagor in the performance or observance of any of the terms, covenants or conditions on the part of the Mortgagor to be performed or observed under any of the Company Lease or the Agency Lease or of the occurrence of any event which, through lapse of time, would give rise to such default:

(e) Mortgagor will advise the Mortgagee in writing of the giving of any notice by the Agency (or its successor in interest, under the Company Lease or the Agency Lease) to Mortgagor of any default by Mortgagor under any of the Company Lease or the Agency Lease, and pursuant to the provisions of Section 33.4 hereof shall deliver to the Mortgagee a true copy of each such notice:

(f) Notwithstanding anything to the contrary contained herein, this Mortgage shall not constitute an absolute assignment of either the Company Lease or the Agency Lease and Mortgagee shall have no liability or obligation thereunder by reason of its acceptance of this Mortgage; and

(g) Mortgagor will not surrender its leasehold or subleasehold estate and interest under any of the Company Lease or the Agency Lease nor terminate or cancel any of the Company Lease or the Agency Lease whether pursuant to the terms thereof or otherwise, and

will not without the express written consent of Mortgagee, modify, change, supplement, alter or amend any of the Company Lease or the Agency Lease, either orally or in writing. Any such termination, cancellation, modification, change, supplement, alteration or amendment of the Company Lease or the Agency Lease without Mortgagee's prior written consent shall constitute an Event of Default under this Mortgage and under the Loan Documents.

33. AGENCY PROVISIONS.

33.1 Agency Representations. In order to induce the Mortgagee to enter into the Loan Agreement, Agency represents that:

(a) Agency has been duly established under the provisions of Title 1 of Article 18-A of the New York General Municipal Law, Chapter 55 of the Laws of 1972 of the State of New York (the "Act") and has duly adopted resolutions dated January 24, 2017, that authorize all transactions contemplated by the Company Lease and the Agency Lease with respect to the Property. All consents required by the Agency with respect to this Mortgage, the Company Lease and the Agency Lease and the transaction contemplated thereby and the execution and delivery of each of this Mortgage, the Company Lease and the Agency Lease by the Agency have been obtained.

(b) Agency has the right, power and authority to convey its interest in the Property pursuant to applicable law.

(c) The Agency has all requisite corporate power and authority under the Act and has taken all proper corporate action on the part of its members (i) to mortgage its interest (except its Unassigned Rights) in the Agency Lease and any interest acquired pursuant to the Bill of Sale, (ii) to execute and deliver each of the Company Lease, the Agency Lease and this Mortgage and (iii) in all other respects to consummate the transactions contemplated thereby.

(d) Each of the Company Lease, the Agency Lease and this Mortgage (i) has been duly authorized by all necessary action on the part of Agency, (ii) has been duly executed and delivered by Agency and (iii) assuming due execution by all parties, constitute a legal, valid and binding obligation of Agency, enforceable against the Agency in accordance with its respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principle relating to enforceability. All conditions to the effectiveness or continuing effectiveness of each of the Company Lease and the Agency Lease on the part of the Agency that are required to be satisfied on or by the date of this Mortgage have been satisfied.

(e) The execution and delivery of, and the performance and compliance by the Agency with the Company Lease, the Agency Lease and this Mortgage will not (i) conflict with, or constitute on the part of the Agency a violation or breach of, or a default under any mortgage, deed of trust, loan agreement or other agreement or instrument to which the Agency is subject or (ii) require any authorization, consent, approval or other action by, or any notice to, or any filing with, any court or administrative body (other than the filings and recording contemplated by this Mortgage).

(f) To the best of the Agency's knowledge, each of the Company Lease and the Agency Lease are in full force and effect, amounts due and payable thereunder have been paid to the date hereof, and no event of default has occurred under the Company Lease and/or the Agency Lease and no event has occurred which, with the giving of notice, the passage of time or both, would constitute a default under the Company Lease and/or the Agency Lease.

(g) Agency, at the sole cost and expense of the Mortgagor, and subject to its policies, resolution and the New York State General Municipal Law, agrees to execute all instruments and documents which Mortgagee may reasonably require to ratify, confirm and further evidence Mortgagee's lien on the estate, title or interest so acquired.

33.2 Real Estate Taxes and Liens.

(a) The Mortgagor, from time to time when the same shall become due and payable, will pay and discharge all tax payments, all general and special assessments, levies, permits, inspection and license fees, all water and sewer rents and charges, and all other public charges whether of a like or different nature, imposed upon or assessed against the Property, or any part thereof, or upon the revenues, rents, issues, income and profits of the Property or arising in respect of the occupancy, use or possession thereof. Mortgagor will, within thirty (30) days following the Mortgagee's request therefor, deliver to the Mortgagee receipts evidencing the payment of all such taxes, assessments, levies, fees, rents and other public charges imposed upon or assessed against the Property, or any part thereof, or the revenues, rents, issues, incomes or profits thereof.

(b) Mortgagor will pay, from time to time when the same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others which, if unpaid, might result in, or permit the creation of, a lien on the Property or any part thereof, or on the revenues, rents, issues, income and profits arising therefrom and in general will do or cause to be done everything necessary so that the lien of this Mortgage shall be fully preserved, at the cost of the Mortgagor, without expense to the Mortgagee or Agency.

(c) Nothing in this Section 33.2 shall require the payment or discharge of any obligation imposed upon Mortgagor by this Section so long as the Mortgagor shall in good faith and at its own expense contest the same or the validity thereof by appropriate legal proceedings which shall operate to prevent the collection thereof or other realization thereon, the termination of the PILOT Agreement and/or the sale or forfeiture of the Property or any part thereof to satisfy the same; provided that Agency and Mortgagee would not, by reason thereof be subject to civil or criminal liability, and provided further that during such contest Mortgagor shall, at the option of the Mortgagee, provide security satisfactory to the Mortgagee, assuring the discharge of the Mortgagor's obligation hereunder and of any additional charge, penalty or expense arising from or incurred as a result of such contest; and provided further, that if at any time payment of any obligation imposed upon Mortgagor by subsection (a) of this Section shall become necessary to prevent the delivery of a tax deed or its equivalent conveying the Property, or any part thereof, because of nonpayment, then the Mortgagor shall pay the same in sufficient time to prevent the delivery of such tax deed or its equivalent.

(d) Upon the occurrence and during the continuance of an Event of Default, the Mortgagee shall have the right, at its election, but shall not be obligated, to prepare and file with any appropriate governmental authority having jurisdiction, on the Mortgagee's own behalf and/or on behalf of the Mortgagor, an application to correct or reduce the assessed valuation of the Property. Upon the occurrence and during the continuance of an Event of Default, the Mortgagee shall also have the right, at its election, but shall not be obligated, to commence and maintain any action or proceeding for the judicial review of the assessed valuation of the Property. Such right may be exercised by notice given to Mortgagor and the Agency at any time until the entire Indebtedness shall be paid. Upon the giving of such notice, the Mortgagor at Mortgagor's sole cost shall cooperate fully with the Mortgagee in the preparation, filing and prosecution of such application and/or commencing and maintaining such action or proceeding, including, but not limited to, the preparation, execution and delivery of a written power of attorney from Mortgagor and any other document, record or statement reasonably requested by the Mortgagee and the attendance of such duly authorized Mortgagees or employees of Mortgagor as the Mortgagee may reasonably request at any hearing, trial or other proceeding in connection with the prosecution thereof, and Mortgagor shall relinquish full control over any pending application, action or proceeding to the Mortgagee and shall not thereafter commence, file or maintain any other application, action or proceeding for the tax year referred to in the Mortgagee's notice. If the Mortgagee shall exercise the foregoing right and shall be successful in reducing the assessed valuation of the Property, Mortgagor shall pay the Mortgagee its attorneys' fees and other expenses in connection therewith, in default of which the amount of such attorneys' fees and other expenses shall be added to the Indebtedness secured by this Mortgage. The failure of Mortgagor to keep, observe or perform any of the covenants contained in this Section shall be deemed to be an Event of Default under this Mortgage.

33.3 Representations and Warranties of Mortgagor Regarding Agency Lease and Company Lease. Mortgagor warrants and represents to Mortgagee and the Agency that, as of the date of this Mortgage: (i) each of the Agency Lease and the Company Lease, and any amendments thereto, is in full force and effect in accordance with its terms; (ii) Mortgagor has not waived, canceled or surrendered any of its rights under the Agency Lease or the Company Lease; (iii) the Property is free and clear of all liens, encumbrances and other matters affecting title, other than the lien of this Mortgage and the easements and restrictions listed in a schedule of exceptions to coverage in the title insurance policy issued to Mortgagee contemporaneously with the execution and recordation of this Mortgage and insuring Mortgagee's interest in the Property; (v) there is no existing default by Mortgagor under the Company Lease or the Agency Lease, and no event has occurred which, with the passage of time or the giving of notice, or both, would constitute a lessor default under the Company Lease or a lessee default under the Agency Lease; and (vi) to the best of Mortgagor's knowledge, there is no existing default by Agency under the Company Lease or the Agency Lease, and no event has occurred which, with the passage of time or the giving of notice, or both, would constitute a lessee default under the Company Lease or a lessor default under the Agency Lease.

33.4 Notices Under Company Lease or Agency Lease.

Mortgagor shall deliver to Mortgagee within ten (10) days after Mortgagor's receipt, a true and correct copy of each notice, demand, complaint or request from the Agency under, or with respect to, the Agency Lease or the Company Lease.

33.5 Mortgagor's Obligations to Comply with Agency Lease or the Company Lease.

Mortgagor shall (i) pay all other sums of money due and payable at any time and from time to time under the Agency Lease and the Company Lease as and when such sums become due and payable, but in any event before the expiration of any grace period provided in the Agency Lease or the Company Lease for the payment of any such sum, and (ii) at all times fully perform, observe and comply with all other terms, covenants and conditions of the Agency Lease or the Company Lease to be performed, observed or complied with by Mortgagor as lessor under the Agency Lease and lessee under the Company Lease. If the Agency Lease and/or the Company Lease do not provide for a grace period for the payment of a sum of money, Mortgagor shall make the payment on or before the date on which the payment becomes due and payable.

33.6 Mortgagee's Right to Cure Default under Agency Lease or Company Lease.

At any time after Mortgagee receives notice of a default by the Mortgagor herein under either or all of the Agency Lease or the Company Lease (i) Mortgagee may (but shall not be obligated to do so), make any payment, perform any obligation and take any other action Mortgagor would have the right to pay, perform or take under the Agency Lease or the Company Lease, subject to the terms thereof, which Mortgagee deems necessary or desirable in its reasonable judgment to cure such default provided however that the Mortgagee shall not take any steps which would cause the Property not to constitute a "Project" as that term is defined by Section 854 of the N.Y. General Municipal Law, and (ii) Mortgagee and its authorized representatives shall have the right at any time or from time to time to enter the Premises and Improvements, or any part thereof, to such extent and as often as Mortgagee, in its discretion, deems necessary or desirable in order to cure such default by lessee under the Agency Lease and/or the Company Lease, subject to the rights of the tenants and occupants of the Property and in accordance with Section 854 of the N.Y. General Municipal Law. Mortgagee may exercise its rights under this Section immediately after receipt of notice of a default by Mortgagor under the Agency Lease or the Company Lease and without regard to any grace period provided to the Mortgagor in the Agency Lease or the Company Lease to cure such default. For purposes of exercising its rights under this Section, Mortgagee shall be fully protected for any action taken or omitted to be taken by Mortgagee, in good faith, in reliance on any written notice from the Mortgagor herein under the Agency Lease or the Company Lease stating that a default by Mortgagor herein has occurred and is continuing even though the Mortgagor may question or deny the existence or nature of such default. All expenditures made by Mortgagee pursuant to this Section to cure a default under any of the Agency Lease or the Company Lease shall become an additional part of the Indebtedness.

33.7 No Recourse Against Agency.

(a) The obligations and agreements of the Agency contained herein and in any other instrument or document executed in connection herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, officer, agent or employee of the Agency in his/her individual capacity, and the members, officers, agents and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby. The

Mortgagee will not look to the Agency or any principal, member, director, officer or employee of the Agency with respect to the Indebtedness evidenced by this Mortgage or any covenant, stipulation, promise, agreement or obligation contained herein. In enforcing its rights and remedies under this Mortgage, the Mortgagee will look solely to the Property and/or the Mortgagor for the payment of the Indebtedness secured by this Mortgage and for the performance of the provisions hereof.

(b) The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State of New York or the City of Syracuse, New York, and neither the State of New York nor the City of Syracuse, New York shall be liable hereon or thereon, and further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from the revenues of the Agency derived and to be derived from the sale or other disposition of the Facility (as defined in the Company Lease) (except for revenues derived by the Agency with respect to the Unassigned Rights, as defined in the Company Lease).

(c) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless (i) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (ii) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall place, in an account with the Agency, an amount or undertaking sufficient to cover such reasonable fees and expenses, and (iii) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents or employees shall be subject to potential liability, the party seeking such order or decree shall agree to indemnify and hold harmless the Agency and its members, officers, agents and employees against all liability expected to be incurred as a result of compliance with such request.

(d) **Definitions:**

"Agency Lease" means the Agency Lease Agreement dated as of March 10, 2017 between the Agency and the Mortgagor, as the same may be amended or supplemented from time to time.

"Company Lease" means the Company Lease Agreement dated as of March 10, 2017 between the Mortgagor and the Agency, as the same may be amended or supplemented from time to time.

"Unassigned Rights" means the unassigned rights of the Agency under the Agency Lease.

(e) **Mortgagor's Obligations To Comply With Company Lease and the Agency Lease:** Mortgagor shall: (i) pay the all other sums of money due and payable at any time and from time to time under the Company Lease and the Agency Lease as and when such sums become due and payable, but in any event before the expiration of any grace period provided in the Company Lease and the Agency Lease for the payment of any such sum; and (ii) at all times fully perform, observe and comply with all other terms, covenants and conditions of the Company Lease and the Agency Lease to be performed, observed or complied with by Mortgagor as lessor under the Company Lease and lessee under the Agency Lease, as applicable. If the Company Lease and/or the Agency Lease does not provide for a grace period for the payment of a sum of money, Mortgagor shall make the payment on or before the date on which the payment becomes due and payable. Mortgagor shall deliver evidence of the payment to Mortgagee within ten (10) days after receipt of a written request from Lender for evidence of the payment.

(f) **Agency Executing at the Direction of Mortgagor.** The Mortgagor directs the Agency to execute and deliver this Instrument to the Mortgagee, and further agrees to indemnify the Agency (and its members, officers, directors, agents, servants and employees) for all fees and costs incurred in connection with the execution, delivery, recording, performing and enforcing of this Instrument, including but not limited to reasonable attorney's fees.

(g) **Hold Harmless.** The Mortgagor acknowledges and reiterates the provisions and obligations of the Mortgagor pursuant to Sections 8.2 and 11.11 of the Agency Lease as if fully set forth herein and hereby agrees that such provisions shall be applicable to this Instrument.

(h) **Miscellaneous Provision.** The Mortgagor and the Mortgagee hereto, by accepting this Mortgage, acknowledge that the Agency is executing this Mortgage solely to subject its interest in the Premises, if any, to this Mortgage. Notwithstanding anything herein to the contrary, the Lender acknowledges and agrees that their sole recourse against the Agency for any default hereunder shall be with respect to the Agency's interest in the Premises.

33.8 **Hold Harmless Provisions.**

(a) The Mortgagor agrees that the Agency, its directors, members, officers, agents and employees shall not be liable for and agrees to defend, indemnify, release and hold the Agency, its directors, members, officers, agents and employees harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the use thereof or under this Mortgage or (ii) liability arising from or expense incurred by the Agency's acquiring, constructing, equipping, owning and leasing of the Facility, including without limiting the generality of the foregoing, all claims arising from the breach by the Mortgagor of any of its covenants contained herein and all causes of action and reasonable attorneys' fees and any other expenses incurred in defending any claims, suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Agency are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Agency or any of its directors, members, officers, agents or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its members, directors, officers,

agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability. The foregoing indemnities are limited only to the extent of any prohibitions imposed by law.

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

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

33.9 "Unassigned Rights". Notwithstanding anything else contained herein to the contrary, it is agreed and understood that the Agency has not assigned its interest in the Unassigned Rights as defined in the Company Lease and, specifically, the Unassigned Rights of Section 10.11 thereof.

33.10 Recordation of Mortgage. The Agency will record or cause this Mortgage to be recorded by the Company as its agent in the office of the Onondaga County Clerk and the Agency will cause the Company as its agent to pay, all mortgage recording taxes, if any, which may be imposed by the United States of America or any agency thereof or by the State of New York or other governmental authority upon this Mortgage.

34. **NO MERGER.**

(a) If Mortgagee or any other person or entity owning or holding this Mortgage shall acquire or shall become vested with the fee title to the Property, or any other estate or interest in the Property, such estates shall not merge as a result of such acquisition and shall remain separate and distinct from all other estates and interests in the Property for all purposes after such acquisition. The lien and security interest created hereby shall not be destroyed or terminated by the application of the doctrine of merger and, in such event, Mortgagee or such other person or entity, as the case may be, shall continue to have and enjoy all of the rights and privileges of Mortgagee hereunder as to each separate estate unless and until Mortgagee or such other person or entity, as the case may be, shall affirmatively elect in writing to merge such estates. Notwithstanding the fact that Mortgagor has fee title and a subleasehold interest in the Property (or may in the future have other interests in the Property), such estates shall not merge and shall remain separate and distinct for all purposes.

(b) Upon the foreclosure of the lien created hereby on the Property, as herein provided, any Leases then existing shall not be destroyed or terminated by application of the

doctrine of merger or by operation of law or as a result of such foreclosure unless Mortgagee or any purchaser at a foreclosure sale shall so elect by written notice to the lessee in question.

(c) The obligations of Mortgagor and the rights and remedies of Mortgagee hereunder and under any of the Loan Documents or the secured obligations shall continue after and survive the entry of judgment hereunder or thereunder; it being the intention of the parties hereto that such rights, remedies and obligations shall not merge into or be extinguished by any such judgment but shall continue until the Indebtedness has been irrevocably paid in full.

35. **EXCULPATION.** The provisions of Article 24 of the Loan Agreement are hereby incorporated by reference into this Mortgage to the same extent and with the same force as if fully set forth herein.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK –
SIGNATURE PAGE TO IMMEDIATELY FOLLOW]


IN WITNESS WHEREOF, Mortgagor has executed this Fee, Leasehold and Subleasehold Building Loan Mortgage, Security Agreement Assignment of Leases and Rents and Fixture Filing under seal as of the day and year first above written.

BORROWER:

SOUTHSIDE GENESEE ASSOCIATES, LLC,
a New York limited liability company

By: CG USL Ventures I, LLC,
a New York limited liability company
Its: Managing Member

By: Syracuse-Michaels, LLC,
a New York limited liability company
Its: Managing Member

By: 
Name: James A. Malesich, Jr.
Title: Vice President

STATE OF New Jersey
COUNTY OF Burlington ss:

On the 27 day of June in the year 2017 before me, the undersigned a notary public in and for the State of New York, personally appeared **JAMES A. MALESICH, JR.**, 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.


Notary Public

CHRISTY A ELLER
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES OCT. 19, 2021

[Signature Page to Building Loan Mortgage]

AGENCY:

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a body corporate and political and a public instrumentality of the State of New York

By: 

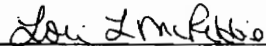
Name: William M. Ryan

Title: Chairman

STATE OF NEW YORK)

COUNTY OF ONONDAGA) ss:

On the 30th day of June in the year 2017 before me, the undersigned a notary public in and for the State of New York, personally appeared WILLIAM M. RYAN, 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.



Notary Public

Lori

LORI L. McROBBIE

McRobbie

Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

2-12-18

ONON

Co.

[Signature Page to Building Loan Mortgage]

EXHIBIT A

LEGAL DESCRIPTION

Property Addresses: 1200-24 Genesee Street East & Walnut Avenue
511 Walnut Avenue
City of Syracuse, New York

Tax Account Nos.: 048.-10-01.0 & 048.-10-15.0

Lot 1

All that tract or parcel of land containing 0.942 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017 and filed in the Onondaga County Clerk's Office on June 28, 2017 as Map No. 12399 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 206.84 feet to a point; thence,
2. S 03° 20' 30" E, a distance of 250.90 feet to a point of intersection with northerly line of lands now or formerly of Rita E. Gokey; thence,
3. S 86° 05' 16" W, along said lands of Gokey, a distance of 49.48 feet to a point of intersection with the easterly line of lands now or formerly of 513 Walnut LLC; thence,
4. N 03° 20' 30" W, partially along said easterly line, a distance of 74.28 feet to a point; thence,
5. N 89° 31' 30" W, a distance of 169.10 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence,
6. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 171.74 feet to the Point of Beginning.

Lot 2

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All that tract or parcel of land containing 0.304 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017, and filed in the Onondaga County Clerk's Office on June 28, 2017 as Map No. 12399 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the westerly line of Comstock Avenue (80' wide); thence,

1. S 04° 20' 10" E, along said westerly line of Comstock Avenue, a distance of 143.80 feet to a point of intersection with northerly line of lands now or formerly of the City of Syracuse; thence,
2. S 88° 11' 00" W, along said northerly line, a distance of 40.00 feet to a point; thence,
3. S 04° 20' 10" E, along the westerly line of said lands of the City of Syracuse, a distance of 40.00 feet to a point intersection with the northerly line of lands now or formerly of Rita E. Gokey; thence,
4. S 88° 11' 00" W, along said northerly line of lands of Gokey, a distance of 42.44 feet to a point; thence,
5. N 03° 20' 30" W, a distance of 183.69 feet to a point of intersection with the aforementioned southerly line of East Genesee Street; thence.
6. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 79.25 feet to the Point of Beginning.

Lot 3

All that tract or parcel of land containing 0.240 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017 and filed in the Onondaga County Clerks on June 28, 2017 as Map No. 12399

Commencing at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. S 00° 28' 30" W, along said easterly line of Walnut Avenue, a distance of 171.74 feet to the Point of Beginning of the hereinafter described parcel; thence,
2. S 89° 31' 30" E, a distance of 169.10 feet to a point; thence,

B-3

3. S 03° 20' 30" E, a distance of 50.46 feet to a point; thence the following three (3) courses along the northerly line of lands now or formerly of 513 Walnut L.I.C.
4. N 88° 24' 19" W, a distance of 49.67 feet to a point; thence,
5. S 03° 20' 30" E, a distance of 16.02 feet to a point; thence,
6. N 89° 49' 00" W, a distance of 123.86 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence.
7. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 66.00 feet to the Point of Beginning.

Lots 1, 2 & 3 Combined

SE

All that tract or parcel of land containing 1.486 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017 and filed in the Onondaga County Clerk's Office on June 18, 2017 as Map No. 12399 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 286.09 feet to a point of intersection with the westerly line of Comstock Avenue (80' wide); thence,
2. S 04° 20' 10" E, along said westerly line of Comstock Avenue, a distance of 143.80 feet to a point of intersection with northerly line of lands now or formerly of the City of Syracuse; thence,
3. S 88° 11' 00" W, along said northerly line, a distance of 40.00 feet to a point; thence,
4. S 04° 20' 10" E, along the westerly line of said lands of the City of Syracuse, a distance of 40.00 feet to a point intersection with the northerly line of lands now or formerly of Rita E. Gokey; thence,
5. S 88° 11' 00" W, along said northerly line of lands of Gokey, a distance of 42.44 feet to a point; thence,

6. S 03° 20' 30" E, along the westerly line of lands of Gokey, a distance of 67.21 feet to a point of intersection with other lands of Gokey; thence,
7. S 86° 05' 16" W, along said lands of Gokey, a distance of 49.48 feet to a point of intersection with the easterly line of lands now or formerly of 513 Walnut LLC; thence,
8. N 03° 20' 30" W, along said easterly line, a distance of 23.82 feet to a point; thence the following three (3) courses along the northerly line of said lands of 513 Walnut LLC
9. N 88° 24' 19" W, a distance of 49.67 feet to a point; thence,
10. S 03° 20' 30" E, a distance of 16.02 feet to a point; thence,
11. N 89° 49' 00" W, a distance of 123.86 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence,
12. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 237.74 feet to the Point of Beginning

SCHEDULE B
PERMITTED EXCEPTIONS

- I. No title is insured to lands lying within the bounds of any street or highway.
2. Subject to Easements, Covenants and Restrictions of record:
 - a. Stormwater Control Facility Maintenance Agreement between the City of Syracuse and Brewster Medical Properties recorded November 6, 2013 in Book 5259 of Deeds at page 271.
 - b. Stormwater Control Facility Maintenance Agreement between the City of Syracuse and Southside Genesee Associates, L.L.C recorded March 31, 2017 in Book 5418 of Deeds at page 521.
 - c. Access Easement Agreement between Southside Genesee Associates, LLC and the City of Syracuse dated February 15, 2017 and recorded March 31, 2017 in Book 5418 of Deeds at page 531.
3. Survey by Robert A. Vento dated June 21, 2017 shows the following:
 - a. Underground utility lines in the southwesterly corner of New Lot 3.
 - b. New Lots 1, 2 & 3 under construction.
 - c. No violations or encroachments.
4. Company Lease Agreement between Southside Genesee Associates, LLC and the City of Syracuse Industrial Development Agency dated March 10, 2017.
5. Agency Lease Agreement between the City of Syracuse Industrial Development Agency and Southside Genesee Associates, LLC dated March 10, 2017.
6. Memorandum of Lease Agreement by and between Southside Genesee Associates, LLC and City of Syracuse Industrial Development Agency, dated March 10, 2017 and recorded April 7, 2017 in the Onondaga County Clerk's Office in Book 5419 of Deeds, page 667.
7. Memorandum of Lease Agreement by and between City of Syracuse Industrial Development Agency and Southside Genesee Associates, L.L.C, dated March 10, 2017 and recorded April 7, 2017 in the Onondaga County Clerk's Office in Book 5419 of Deeds, page 672.

8. Building Loan Agreement by and between Southside Genesee Associates, LLC and City of Syracuse Industrial Development Agency to Citizens Bank of Pennsylvania, dated June 30, 2017 and filed June 30, 2017 in the Onondaga County Clerk's Office.
9. Notice of Lending, dated: June 27, 2017
Filed: June 30, 2017, # 2017-_____
Lender: Citizens Bank of Pennsylvania
Owner: Southside Genesee Associates, LLC
10. Leasehold and Subleasehold Building Loan Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing in the amount of \$33,000,000.00 by Southside Genesee Associates, LLC and City of Syracuse Industrial Development Agency to Citizens Bank of Pennsylvania, dated June 30, 2017 and recorded June 30, 2017 in the Onondaga County Clerk's Office.
11. Assignment of Leases and Rents (Building Loan) from Southside Genesee Associates, LLC and City of Syracuse Industrial Development Agency to Citizens Bank of Pennsylvania, dated June 30, 2017 and recorded June 30, 2017 in the Onondaga County Clerk's Office.
12. Building Loan UCC-1 Financing Statement # 2017-_____
Filed: June 30, 2017
Secured Party: Citizens Bank of Pennsylvania
Debtor: Southside Genesee Associates, LLC
13. Leasehold and Subleasehold Project Loan Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing in the amount of \$3,760,000.00 by Southside Genesee Associates, LLC and City of Syracuse Industrial Development Agency to Citizens Bank of Pennsylvania, dated June 30, 2017 and recorded June 30, 2017 in the Onondaga County Clerk's Office.
14. Assignment of Leases and Rents (Project Loan) by Southside Genesee Associates, LLC and City of Syracuse Industrial Development Agency to Citizens Bank of Pennsylvania, dated June 30, 2017 and recorded June 30, 2017 in the Onondaga County Clerk's Office.
15. Project Loan UCC-1 Financing Statement # 2017-_____
Filed: June 30, 2017
Secured Party: Citizens Bank of Pennsylvania
Debtor: Southside Genesee Associates, LLC

AFFIDAVIT RE: MORTGAGE TAX EXEMPTION

STATE OF NEW YORK)
) SS.
COUNTY OF ONONDAGA)

WILLIAM M. RYAN, being duly sworn, deposes and says:

He is Chairman of the City of Syracuse Industrial Development Agency (the "**Agency**").

The Agency is an industrial development agency duly established under Title I of Article 18-A of the General Municipal Law of the State of New York (the "**State**"), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the "**Act**"), and it is a corporate governmental agency constituting a public benefit corporation of the State.

By resolutions adopted on January 24, 2017 and June 20, 2017, the Agency, at the request of Southside Genesee Associates, LLC (the "**Applicant**" and/or "**Company**") agreed to undertake a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "**Existing Buildings**") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (collectively, the "**Land**"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company and the Agency are mortgaging their respective interests in the improved real property described on Exhibit "A" to: Citizens Bank of Pennsylvania (the "**Mortgagee**"), pursuant to a certain Building Loan Mortgage dated June 30, 2017 in the amount of \$33,000,000 (the "**Building Loan Mortgage**"), an Assignment of Leases and Rents (Building Loan) dated June 30, 2017 ("**Assignment of Leases and Rents (Building Loan)**"), a certain Project Loan Mortgage dated June 30, 2017 in the amount of \$3,760,000 (the "**Project Loan Mortgage**" and together with the Building Loan Mortgage, collectively, the "**Mortgages**") and an Assignment of Leases and Rents (Project Loan) dated June 30, 2017 ("**Assignment of Leases and Rents (Project Loan)**"), and together with the Assignment of Leases and Rents (Building Loan),

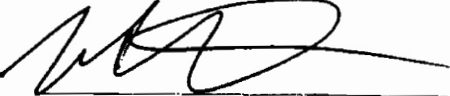
collectively, the "*Assignments of Leases and Rents*". The Mortgages are pledged to secure notes given by the Company to the Mortgagee.

Pursuant to Article 18-A of the New York General Municipal Law, the Agency is regarded as performing a governmental function and is generally not required to pay taxes or assessments upon any property acquired by it or under its jurisdiction, control or supervision or upon its activities.

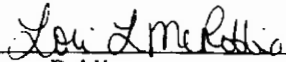
Deponent submits that no mortgage tax, other than as may be required in Section 874(1) of the Act and Section 252(2) of the Tax Law of the State of New York (if any), should be imposed upon the Mortgages and the Assignments of Leases and Rents, inasmuch as the Mortgages and the Assignments of Leases and Rents are being executed and delivered under the State authority creating the Agency, inasmuch as the use by the Agency of its powers to secure the payment of principal and interest on the loan is deemed by Article 18-A public purpose essential to the public interest, and inasmuch as both the New York State Department of Taxation and Finance and Counsel to the New York State Department of Taxation and Finance have expressed their opinion that the recording of similar documents by similar agencies organized under Article 18-A of the New York General Municipal Law are operations of said agencies entitled to exemption from the mortgage recording tax.

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CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY

By: 
William M. Ryan, Chairman

Subscribed and sworn to before me
this 29th day of June, 2017.


Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

Lori McRobbie

2-12-18

New
York

ONON
Co.

[Signature page to Mortgage Recording Tax Affidavit]

21

ONONDAGA COUNTY CLERK'S OFFICE
 LISA DELL - COUNTY CLERK
 401 Montgomery St - Room 200
 Syracuse, NY 13202

Phone: 315-435-2226
 Fax: 315-435-3455

Doc Type: AL&R
 Mortgagor: SOUTHSIDE GENESEE ASSOCIATES
 CITY OF SYRACUSE INDUSTRIAL
 Mortgagee: CITIZENS BANK OF PENNSYLVANI

Receipt: 1360058 RS
 Book/Page: 18324/0353 Inst: 22260
 Date Filed: 06/30/2017 at 2:16PM
 Updated: 07/03/2017 MO
 Record and Return To:

Legal Desc: SYR L1-3 WALNUT AVENUE
 APARTMENTS S E

HARRIS BEACH LLP
 99 GARNSEY RD
 PITTSFORD NY 14534

Prop Address: 1200-24 GENESEE ST E & WALNUT AVE Submitted by: FITCH

Recording Fees			Miscellaneous Fees	
Addl pages:	18 x 5.00 =	\$ 90.00	RMI:	\$ 20.00
Addl Names:	0 x 0.50 =	\$ 0.00	TP 584:	\$ 0.00
Addl Refs:	1 x 0.50 =	\$ 0.50	RP5217:	\$ 0.00
Misc:		0.00	AFFTS:	\$ 5.00
Basic		\$25.50		
		=====	=====	
TOTAL:		\$116.00	TOTAL:	\$ 25.00

MORTGAGE TAX		DEED TRANSFER TAX	
Mortgage:	\$3760000.00	Consideration	
Basic:	\$0.00	Transfer Tax:	\$0.00
Ins Fund:	\$0.00	SWIS:	
Net Add:	\$0.00	Map #:	
Misc:	\$0.00		=====
		=====	Total Paid
TOTAL	\$0.00	Control no	\$ 141.00
			DI3640

WARNING - This sheet constitutes the Clerk's endorsement, required by Section 319 of the Real Property Law of the State of New York. Do not detach. Taxes imposed on this instrument at time of recording were paid. Certain information contained in this document is not verified by this office.

LISA DELL
 Onondaga County Clerk

Book/Page 18324 / 0353 Instrument no.: 22260



M183240353

18

CHONDACA COUNTY
 RATIO TAX \$ /
 MFG. INCL. FUND TAX \$ /
 NET ADDITIONAL TAX \$ /
 TOTAL MTG. TAX PAID \$ /

DL 003640 e

UPON RECORDATION RETURN TO:

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

ASSIGNMENT OF LEASES AND RENTS (PROJECT LOAN)

SOUTHSIDE GENESEE ASSOCIATES, LLC,
 a New York limited liability company,
 as Assignor,

AND

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a body corporate and
 politic and a public instrumentality of the State of New York,
 as Agency,

TO

CITIZENS BANK OF PENNSYLVANIA, a Pennsylvania state chartered savings bank
 as Assignee

Dated: as of June 30, 2017

Location: As set forth on *Exhibit A* attached hereto.

18824/316

No lease recorded 07735

MB 18324 pg 316

ASSIGNMENT OF LEASES AND RENTS (PROJECT LOAN)

This ASSIGNMENT OF LEASES AND RENTS (PROJECT LOAN) ("Assignment"), is made as of the date set forth on the cover page hereof, by **SOUTHSIDE GENESEE ASSOCIATES, LLC**, a New York limited liability company, having a business address at c/o The Michaels Organization, 3 East Stow Road, Suite 260, Marlton, New Jersey 08053 ("Assignor") and the **CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY**, a body corporate and politic and a public instrumentality of the State of New York, having its principal office at 201 East Washington Street, 7th Floor, Syracuse, New York 13202 (the "Agency") to **CITIZENS BANK OF PENNSYLVANIA**, a Pennsylvania state chartered savings bank, having a business address at One Logan Square, 130 N. 18th Street, Suite 1310, Philadelphia, PA 19103 (together with its successors and assigns, the "Assignee").

WITNESSETH:

FOR VALUE RECEIVED, Assignor hereby grants, transfers and assigns to Assignee all of the right, title and interest of Assignor and Agency in and to all leases (specifically excluding the Agency Lease), subleases (specifically excluding the Company Lease), licenses or other occupancy agreements now or hereafter entered into whether oral or written which demise any portion of the real estate described in Exhibit "A" attached hereto ("Premises"), together with any and all amendments, modifications, extensions and renewals thereof (all such leases being hereinafter collectively referred to as the "Leases"), together with any guarantecs of the tenants' obligations thereunder, together with the immediate and continuing right to collect and receive all rents, revenues, income, payments, issues and profits arising from the Leases or out of the Premises or any part thereof, together with the right to all proceeds payable to Assignor pursuant to any purchase options on the part of the tenants under the Leases, together with all payments derived therefrom including but not limited to claims for the recovery of damages done to the Premises or for the abatement of any nuisance existing thereon, claims for damages resulting from default under said Leases whether resulting from acts of insolvency or acts of bankruptcy or otherwise, and lump sum payments for the cancellation of said Leases or the waiver of any obligation or term thereof prior to the expiration date and the return of any insurance premiums or ad valorem tax payments made in advance and subsequently refunded but excepting the Agency's Unassigned Rights (hereinafter referred to as the "Rents"), all for the purpose of securing the following (hereinafter collectively referred to as the "Indebtedness"):

ONE. Payment of the indebtedness evidenced by that certain Project Loan Promissory Note in the aggregate maximum principal sum of Three Million Seven Hundred Sixty Thousand and no/100 Dollars (\$3,760,000.00) (as amended or modified from time to time, the "Note"), which is secured by that certain Fee, Leasehold and Subleasehold Project Loan Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated of even date herewith, from Assignor to Assignee (as amended or modified from time to time, the "Security Instrument") upon the Premises and filed among the land records of Onondaga County, New York;

TWO. Payment of all other sums with interest thereon becoming due and payable by Assignor to Assignee pursuant to the terms of this Assignment, the Note, the Security Instrument and that certain Project Loan Agreement by and between Assignor and Assignee dated of even

date herewith (as amended or modified from time to time, the "Loan Agreement"). All capitalized terms not otherwise defined herein shall have the respective meanings ascribed thereto in the Loan Agreement; and

THREE. Performance and discharge of each and every obligation, covenant and agreement of Assignor pursuant to the terms of this Assignment, the Loan Agreement, the Note, the Security Instrument and the other Loan Documents.

AND ASSIGNOR FURTHER AGREES, ASSIGNS AND COVENANTS:

1. Leases. To faithfully abide by, perform and discharge each and every material obligation, covenant and agreement of the Leases by lessor to be performed, the failure of which could reasonably be expected to result in a Material Adverse Change, result in an Event of Default or materially impair Assignee's security for the Loan; to use commercially reasonable efforts to enforce or secure the performance of each and every material obligation, covenant, condition and agreement of the Leases by the tenants to be performed, the failure of which could reasonably be expected to result in a Material Adverse Change, result in an Event of Default or materially impair Assignee's security for the Loan; not to borrow against, pledge, or assign any of Assignor's rights under the Leases or any Rents due thereunder; not to consent to a subordination or assignment of the interest of the tenants under the Leases to any party other than Assignee; not to collect the Rents under the non-residential Leases for more than one (1) month in advance (excluding security deposits) without the prior written consent of Assignee (unless otherwise contemplated by the Loan Agreement) and not to incur any indebtedness to the tenants without the prior written consent of Assignee. In addition, Assignor covenants and agrees, with respect to all Leases, that it shall comply with the Loan Agreement.

2. Protect Security. At Assignor's sole cost and expense, to appear in and defend any action or proceeding arising under, growing out of or in any manner connected with the Leases or the obligations, duties or liabilities of the lessor thereunder.

3. Representations. Assignor represents and warrants that: (a) it has good title to the Leases with full right to assign the same and the Rents due thereunder; (b) the Leases are valid, enforceable against Assignor (subject to the effect of bankruptcy, insolvency and other laws affecting the rights of creditors and principles of equity), are in full force and effect and have not been modified or amended except as permitted in the Loan Agreement; (c) there are no outstanding assignments or pledges of the Leases or Rents due thereunder; (d) except as previously disclosed to Assignee, there are no existing material defaults under the provisions of the non-residential Leases on the part of any party thereto; (e) no Rents have been waived, anticipated, discounted, setoff, compromised, discharged or released under the non-residential leases, other than in the ordinary course of business; and (f) to Assignor's actual knowledge, the tenants under the Leases have no defenses, setoffs, or counterclaims against Assignor.

4. Present Assignment. This Assignment shall constitute a perfected, absolute and present assignment of the Leases and Rents, provided Assignee hereby grants a license to Assignor to collect all of the Rents, but not prior to accrual, and to retain, use, enjoy and distribute (subject to any applicable restrictions on distributions set forth in the Loan Agreement) the same unless and until an Event of Default, as defined in the Loan Agreement, shall occur and

for so long as the same shall be continuing. Except as otherwise provided for herein, and in the ordinary course of its business at the Premises, so long as no Event of Default shall have occurred and be continuing, Assignor shall have the right to amend, modify or in any way alter, and enforce the terms of, the Leases without the prior written consent of Assignee.

5. **Event of Default and Remedies.** (a) The occurrence of an Event of Default (as defined in the Loan Agreement) shall constitute an Event of Default under the terms of this Assignment (hereinafter referred to as the "**Event of Default**"). Upon the occurrence of an Event of Default and the provision of written notice of such Event of Default to Assignor, the license granted to Assignor hereunder to collect the Rents shall be revoked for so long as such Event of Default is continuing; and Assignee, at its option upon written notice to Assignor, without regard to the adequacy of the security or the insolvency of Assignor, may either:

(i) in person or by agent, with or without taking possession of or entering the Premises, with or without bringing any action or proceeding, give, or require Assignor to give, notice to the tenants under the Leases authorizing and directing the tenants to pay all Rents directly to Assignee; collect all of the Rents; enforce the payment thereof and exercise all of the rights of Assignor under the Leases and all of the rights of Assignee hereunder; and may enter upon, take possession of, manage and operate the Premises, or any part thereof; may cancel, enforce or modify the Leases, and fix or modify Rents, and do any acts which Assignee reasonably deems proper to protect the security hereof; or

(ii) apply for appointment of a receiver as a matter of right in accordance with the statutes and law made and provided for, which receivership Assignor hereby consents to, who shall collect the Rents; manage the Premises so as to prevent waste; execute Leases within or beyond the period of receivership; perform the terms of this Assignment and apply the Rents as hereinafter provided.

(b) The entering upon and taking possession of such Premises, the appointment of a receiver, the collection of such Rents and the application thereof as aforesaid shall not cure or waive any default or waive, modify or affect notice of default under the Security Instrument or invalidate any act done pursuant to said notice, nor in any way operate to prevent Assignee from pursuing any remedy which now or hereafter it may have under the terms and conditions of the Security Instrument or the Note secured thereby or any other instruments securing the same. The rights and powers of Assignee hereunder shall remain in full force and effect both prior to and after any foreclosure of the Security Instrument and any sale pursuant thereto and until expiration of the period of redemption from said sale, regardless of whether a deficiency remains from said sale. The purchaser at any foreclosure sale, including Assignee, shall have the right, at any time and without limitation, to advance money to any receiver appointed hereunder to pay any part or all of the items which the receiver would otherwise be authorized to pay if cash were available from the Premises and the sum so advanced, with interest at the Default Rate, as defined in the Loan Agreement, shall be a part of the sum required to be paid to redeem from any foreclosure sale.

6. **Application of Rents.** After an Event of Default and while such Event of Default is continuing any Rents collected by Assignee shall be applied to the following items in such order as Assignee shall deem proper in its sole discretion: (a) to payment of all reasonable fees of any receiver appointed hereunder, (b) to payment of reasonable attorneys' fees and all other costs and expenses incurred incident to taking and retaining possession of the Premises, (c) to payment when due of prior or current real estate taxes or special assessments with respect to the Premises or, if the Security Instrument so requires, to the periodic escrow for payment of the taxes or special assessments then due, (d) to payment when due of premiums for insurance of the type required by the Loan Agreement or, if the Security Instrument so requires, to the periodic escrow for the payment of premiums then due, (e) to payment of all reasonable expenses necessary for managing and securing the Premises, including without being limited thereto, the salaries, fees and wages of a managing agent and such other employees or agents as may be reasonably necessary and all expenses of operating and maintaining the Premises, (f) to payment of all reasonable costs of any alterations, renovations, repairs or replacements of any improvements on the Premises, including the completion of any construction on the Premises in accordance with the Plans and Specifications, and (g) to payment of all or any portion of the Indebtedness which has become due and payable in such order as Assignee may determine.

7. **No Liability for Assignee.** Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge any obligation, duty or liability under said Leases, nor shall this Assignment operate to place responsibility for the control, care, management or repair of the Premises upon Assignee, nor for the carrying out of any of the terms and conditions of said Leases; nor shall it operate to make Assignee responsible or liable for any waste committed on the Premises, or for any dangerous or defective condition of the Premises unless caused by Assignee's or its agents', contractors', employees' or receivers' gross negligence or willful misconduct, or for any negligence in the management, upkeep, repair or control of said Premises resulting in loss or injury or death to any tenant, licensee, employee or stranger, unless caused by Assignee's or its agents', contractors', employees' or receivers' gross negligence or willful misconduct, nor liable for laches or failure to collect the Rents, and Assignee shall be required to account only for such moneys as are actually received by it. All actions taken by Assignee pursuant to this Assignment shall be taken for the purposes of protecting Assignee's security, and Assignor hereby agrees that nothing herein contained and no actions taken by Assignee pursuant to this Assignment, including, but not limited to, Assignee's approval or rejection of any Lease for any portion of the Premises, shall in any way alter or impact the obligation of Assignor to pay the Indebtedness. Assignor hereby waives any defense or claim that may now exist or hereinafter arise by reason of any action taken by Assignee pursuant to this Assignment.

8. **Assignor to Hold Assignee Harmless.** Assignor shall and does hereby agree to indemnify and to hold Assignee harmless of and from any and all liability, loss or damage which it may or might incur under the Leases or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said Leases. Should Assignee incur any such liability, or any costs or expenses in the defense of any such claims or demands, the amount thereof, including costs, expenses, and reasonable attorneys' fees, shall be secured hereby, shall be added to the Indebtedness and Assignor shall reimburse Assignee therefor within twenty (20) days

following demand, and the continuing failure of Assignor so to do shall constitute a default hereunder and an Event of Default under the Loan Agreement. Assignee shall not be entitled to indemnification with respect to matters arising from its or its agents', contractors', employees' or receivers' gross negligence or willful misconduct.

9. **Security Deposits.** Assignor agrees on demand after and during the continuance of an Event of Default to transfer to Assignee any security deposits held by Assignor under the terms of the Leases. Assignor agrees that such security deposits may be held by Assignee without any allowance of interest thereon, except statutory interest accruing to the benefit of the tenants, and shall become the absolute property of Assignee upon and during the continuance of a default hereunder or an Event of Default to be applied in accordance with the provisions of the Leases. Until Assignee makes such demand and the deposits are paid over to Assignee, Assignee assumes no responsibility to the tenants for any such security deposit.

10. **Authorization to Tenants.** The tenants under the Leases are hereby irrevocably authorized and directed to recognize the claims of Assignee or any receiver appointed hereunder without investigating the reason for any action taken by Assignee or such receiver, or the validity or the amount of indebtedness owing to Assignee, or the existence of any default under the Note, the Loan Agreement, or under or by reason of this Assignment, or the application to be made by Assignee or receiver. Assignee shall not, however, request payment from the tenants under the Leases, unless an Event of Default is continuing. Assignor hereby irrevocably directs and authorizes the tenants to pay to Assignee or such receiver all sums due under the Leases and consents and directs that said sums shall be paid to Assignee or any such receiver in accordance with the terms of its receivership without the necessity for a judicial determination that a default has occurred hereunder or under the Loan Agreement or that Assignee is entitled to exercise its rights hereunder, and to the extent such sums are paid to Assignee or such receiver, Assignor agrees that the tenants shall have no further liability to Assignor for the same. The sole signature of Assignee or such receiver shall be sufficient for the exercise of any rights under this Assignment and the sole receipt of Assignee or such receiver for any sums received shall be a full discharge and release therefor to any such tenants or occupants of the Premises. Checks for all or any part of the Rents collected under this Assignment shall upon notice from Assignee or such receiver be drawn to the exclusive order of Assignee or such receiver.

11. **Satisfaction.** Upon the payment in full of all Indebtedness as evidenced by a recorded satisfaction of the Security Instrument executed by Assignee, or its subsequent assign, this Assignment shall without the need for any further satisfaction or release become null and void and be of no further effect.

12. **Assignee Creditor of the Tenants Upon Bankruptcy.** Upon or at any time during the continuance of an Event of Default, Assignor agrees that Assignee, and not Assignor, shall be and be deemed to be the creditor of the tenants in respect of assignments for the benefit of creditors and bankruptcy, reorganization, insolvency, dissolution, or receivership proceedings affecting such tenants (without obligation on the part of Assignee, however, to file or make timely filings of claims in such proceedings or otherwise to pursue creditors' rights therein, and reserving the right to Assignor to make such filing in such event) including without limitation, the right to file and prosecute, to the exclusion of Assignor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the tenant under a

Lease under the U.S. Bankruptcy Code. Assignee shall have the option to apply any money received by Assignee as such creditor in reduction of the Indebtedness.

13. **Assignor Bankruptcy.** If there shall be filed by or against Assignor a petition under the U.S. Bankruptcy Code, and Assignor, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the U.S. Bankruptcy Code, then Assignor shall give Assignee not less than ten (10) Business Days' prior notice of the date on which Assignor shall apply to the bankruptcy court for authority to reject the Lease. Assignee shall have the right, but not the obligation, to serve upon Assignor within such ten-day period a notice stating that (i) Assignee demands that Assignor assume and assign the Lease to Assignee pursuant to Section 365 of the U.S. Bankruptcy Code and (ii) Assignee covenants to cure or provide adequate assurance of future performance under the Lease. If Assignee serves upon Assignor the notice described in the preceding sentence, Assignor shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Assignee of the covenant provided for in clause (ii) of the preceding sentence.

14. **Assignee Attorney-In-Fact.** Upon the occurrence of and during the continuance of an Event of Default, Assignor hereby irrevocably appoints Assignee and its successors and assigns as its agent and attorney-in-fact, which appointment is coupled with an interest, to exercise any rights or remedies hereunder and to execute and deliver during the term of this Assignment such instruments as Assignee may deem necessary to make this Assignment and any further assignment effective.

15. **Subsequent Leases.** Until the Indebtedness shall have been paid in full, Assignor will deliver unto Assignee, without charge or expense to Assignor, upon demand and at any time or times, any and all assignments and other instruments sufficient to assign the Leases and the Rents thereunder to Assignee or that Assignee may deem to be advisable for carrying out the true purposes and intent of this Assignment; provided that such documents do not materially expand the liability or obligations of Assignor in any manner or reduce Assignee's obligations.

16. **General Assignment of Leases and Rents.** The rights contained in this Assignment are in addition to and shall be cumulative with the rights given and created in the Security Instrument and that, assigning generally all leases, rents and profits of the Premises, excluding therefrom the Agency Lease and the Company Lease, and shall in no way limit the rights created thereunder. The granting of this Assignment is a condition precedent to Assignee's making of the Loan secured hereby. To the extent that the terms of the Security Instrument are inconsistent with the terms of this Assignment, the terms of this Assignment shall control.

17. **No Mortgagee in Possession.** Nothing herein contained and no actions taken pursuant to this Assignment shall be construed as constituting Assignee a "Mortgagee in Possession".

18. **Continuing Rights.** The rights and powers of Assignee or any receiver hereunder shall continue and remain in full force and effect until all indebtedness, including any deficiency remaining from a foreclosure sale, are paid in full, and shall continue after

commencement of a foreclosure action and, if Assignee be the purchaser at the foreclosure sale, after foreclosure sale and until expiration of the equity of redemption.

19. **Time of the Essence.** Time is of the essence with regard to the performance of the obligations of Assignor in this Assignment and each and every term, covenant and condition herein by or applicable to Assignor.

20. **Governing Law.** This Assignment has been negotiated, executed and delivered and shall be construed and enforced in accordance with the Laws of the State of New York, except to the extent pre-empted by Federal laws without reference to the choice of law or conflicts of law principles of the State of New York.

21. **Jurisdiction.** The parties hereto irrevocably (a) agree that any suit, action or other legal proceeding arising out of or relating to this Assignment may be brought in a court of record in the County of Onondaga and the State of New York, (b) consent to the non-exclusive jurisdiction of each such court in any suit, action or proceeding, and (c) waive any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Nothing contained herein shall prevent Assignee from bringing any action or exercising any rights against any security given to Assignee by Assignor, or against Assignor personally, or against any property of Assignor, within any other state. Commencement of any such action or proceeding in any other state shall not constitute a waiver of the agreement as to the laws of the State of New York, which shall govern the rights and obligations of Assignor and Assignee hereunder.

22. **Captions.** The captions to the sections of this Assignment are for convenience only and shall not be deemed part of the text of the respective sections and shall not vary, by implication or otherwise, any of the provisions of this Assignment.

23. **Notices.** Any notice which any party hereto may desire or may be required to give to any other party shall be given in the manner prescribed in the Loan Agreement.

24. **Severability.** The parties hereto intend and believe that each provision of this Assignment comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or any portion of any provision contained in this Assignment is held by a court of law to be invalid, illegal, unlawful, void or unenforceable as written in any respect, then it is the intent of all parties hereto that such portion or provision shall be given force to the fullest possible extent that it is legal, valid and enforceable, that the remainder of this Assignment shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion or provision was not contained therein, and the rights, obligations and interests of Assignor and Assignee under the remainder of this Assignment shall continue in full force and effect.

25. **Successors and Assigns.** This Assignment and each and every covenant, agreement and other provision hereof shall be binding upon Assignor and its successors and assigns, including, without limitation each and every person or entity that may, from time to time, be record owner of the Premises or any other person having an interest therein, shall run with the land and shall inure to the benefit of Assignee and its successors and assigns. As used

herein the words "successors and assigns" shall also be deemed to include the heirs, representatives, administrators and executors of any natural person who is a party to this Assignment. Nothing in this section shall be construed to constitute consent by Assignee to assignment of this Assignment by Assignor.

26. **No Oral Modification.** This Assignment may not be modified or discharged orally, but only by an agreement in writing signed by Assignor and Assignee.

27. **Costs of Enforcement.** Assignor agrees to pay the reasonable costs and expenses, including but not limited to reasonable attorneys' fees and legal expenses incurred by Assignee in the exercise of any right or remedy available to it under this Assignment. If Assignee retains attorneys to enforce any of the terms of this Assignment, the Loan Agreement, the Security Instrument, the Note or any other Loan Document (as defined in the Loan Agreement) or because of the breach by Assignor of any of the terms thereof or for the recovery of any Indebtedness, Assignor shall pay to Assignee reasonable attorneys' fees and all costs and expenses, whether or not an action is actually commenced and the right to such reasonable attorneys' fees and all costs and expenses shall be deemed to have accrued on the date such attorneys are retained, shall include reasonable fees and costs in connection with litigation, arbitration, mediation, bankruptcy and/or administrative proceedings, and shall be enforceable whether or not such action is prosecuted to judgment and shall include all appeals, unless a court of competent jurisdiction ultimately rules against Assignee in the subject actions or dispute. Attorneys' fees and expenses shall for purposes of this Assignment include all reasonable paralegal, electronic research, legal specialists and all other costs in connection with that performance of Assignee's attorneys. If Assignee is made a party defendant of any litigation concerning this Assignment or the Premises or any part thereof or therein, or the construction, maintenance, operation or the occupancy or use thereof by Assignor, then Assignor shall indemnify, defend and hold Assignee harmless from and against all liability by reason of said litigation, including reasonable attorneys' fees and all costs and expenses incurred by Assignee in any such litigation or other proceedings, whether or not any such litigation or other proceedings is prosecuted to judgment or other determination. If Assignee is made a party defendant of any litigation concerning this Assignment or the Premises or any part thereof or therein, or the construction, maintenance, operation or the occupancy or use thereof by Assignor, then Assignor shall indemnify, defend and hold Assignee harmless from and against all liability by reason of said litigation, including reasonable attorneys' fees and all out-of-pocket costs and expenses incurred by Assignee in any such litigation or other proceedings, whether or not any such litigation or other proceedings are prosecuted to judgment or other determination. Assignee shall not be entitled to indemnification with respect to matters arising from its or its agents', contractors', employees' or receivers' gross negligence or willful misconduct.

28. **Waiver of Jury Trial.** ASSIGNEE BY ITS ACCEPTANCE HEREOF AND ASSIGNOR HEREBY VOLUNTARILY, KNOWINGLY AND INTENTIONALLY WAIVE ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING UNDER THIS SECURITY INSTRUMENT OR CONCERNING THE INDEBTEDNESS AND/OR ANY COLLATERAL SECURING SUCH INDEBTEDNESS, REGARDLESS OF WHETHER SUCH ACTION OR PROCEEDING CONCERNS ANY CONTRACTUAL OR TORTIOUS OR OTHER CLAIM. ASSIGNOR ACKNOWLEDGES THAT THIS WAIVER OF JURY TRIAL IS A

MATERIAL INDUCEMENT TO ASSIGNEE IN EXTENDING CREDIT TO ASSIGNOR, THAT ASSIGNEE WOULD NOT HAVE EXTENDED SUCH CREDIT WITHOUT THIS JURY TRIAL WAIVER, AND THAT ASSIGNOR HAS BEEN REPRESENTED BY AN ATTORNEY OR HAS HAD AN OPPORTUNITY TO CONSULT WITH AN ATTORNEY IN CONNECTION WITH THIS JURY TRIAL WAIVER AND UNDERSTANDS THE LEGAL EFFECT OF THIS WAIVER.

29. **Exculpation.** The provisions of Article 24 of the Loan Agreement are hereby incorporated by reference into this Assignment to the same extent and with the same force as if fully set forth herein.

30. **Real Property Law of New York.** Notwithstanding anything to the contrary contained herein or the Security Instrument, Assignee shall have all of the rights against lessees of the Property (as defined in the Security Instrument) as set forth in Section 291-f of the Real Property law of New York.

31. Joinder by Agency.

Notwithstanding any other terms or conditions contained in this Assignment, this Assignment is executed by the Agency solely for the purpose of subjecting its rights under the Agency Lease, dated as of March 10, 2017 between the Assignor and the Agency (the "**Agency Lease**") and the Company Lease, dated as of March 10, 2017 between the Agency and the Assignor (the "**Company Lease**") to the rights of Assignee and for no other purpose. All representations, covenants, and warranties of the "Assignor" herein are hereby deemed to have been made by Assignor and not by the Agency.

The obligations and agreements of the Agency contained herein or therein shall not constitute or give rise to an obligation of the State of New York or the City of Syracuse, New York, and neither the State of New York nor the City of Syracuse, New York shall be liable hereon. All obligations of the Agency hereunder shall constitute a special obligation payable solely from the revenues and other monies, if any, derived from the Premises by means of this Assignment or any other loan documents. Neither the members of the Agency, nor any person executing this Assignment on its behalf shall be liable personally under this Assignment. No recourse shall be had for the payment of the principal or interest on the Security Instrument or the Note or for any claim based on the Security Instrument, or otherwise in respect hereof, or based upon or in respect of this Assignment, or any modification of or supplemental hereto, against any past, present, or future member, officer, agent, servant, or employee, as such, of the Agency or of any successor or political subdivision, either directly or through the Agency or any such successor, all such liability of such members, officers, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the acceptance hereof and as part of the consideration for the execution of this Assignment. Any judgment or decree shall be enforceable against the Agency only to the extent of its interest in the Premises and any such judgment shall not be subject to execution on or by a lien on assets of the Agency other than its interest in the Premises.

No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless the party seeking such

order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than thirty (30) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period. If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree may, at its option, place, in an account with the Agency, an amount or undertaking sufficient to cover such reasonable fees and expenses whereupon the Agency shall agree to comply with such request. If the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, directors, servants, agents or employees shall be subject to potential liability, the party seeking such order or decree may, at its option, (1) agree to protect, defend, indemnify and hold harmless the Agency and its members, officers, directors, servants, agents and employees against any liability incurred as a result of its compliance with such demand, and (2) if requested by the Agency, furnish to the Agency reasonably satisfactory security to protect the Agency and its members, officers, directors, servants, agents and employees against all liability reasonably expected to be incurred as a result of compliance with such request whereupon the Agency shall agree to comply with such request. This agreement on the part of Assignee shall not be construed in any way so as to effect or impair the lien of this Assignment or Assignee's right to foreclose under the Security Interest as provided by law or construed in any way so as to limit or restrict any of the rights or remedies of Assignee in any foreclosure proceedings.

The Agency will record or cause the Company as its agent to record this Assignment to be recorded in the office of the Onondaga County Clerk and will cause the Company as its agent to pay all mortgage recording taxes, if any, which may be imposed by the United States of America or any agency thereof or by the State of New York or other governmental authority upon this Assignment.

32. **Definitions:**

"Agency Lease" means the Agency Lease Agreement dated as of March 10, 2017 between the Agency and the Assignor, as the same may be amended or supplemented from time to time.

"Company Lease" means the Company Lease Agreement dated as of March 10, 2017 between the Assignor and the Agency, as the same may be amended or supplemented from time to time.

"Unassigned Rights" means the unassigned rights of the Agency under the Agency Lease.

33. **Assignor's Obligations To Comply With Company Lease and the Agency Lease:** Assignor shall: (i) pay the all other sums of money due and payable at any time and from time to time under the Company Lease and the Agency Lease as and when such sums become due and payable, but in any event before the expiration of any grace period provided in the Company Lease and the Agency Lease for the payment of any such sum; and (ii) at all times fully perform, observe and comply with all other terms, covenants and conditions of the Company Lease and the Agency Lease to be performed, observed or complied with by Assignor

as lessor under the Company Lease and lessee under the Agency Lease, as applicable. If the Company Lease and/or the Agency Lease does not provide for a grace period for the payment of a sum of money, Assignor shall make the payment on or before the date on which the payment becomes due and payable. Assignor shall deliver evidence of the payment to Assignee within ten (10) days after receipt of a written request from Assignee for evidence of the payment.

34. **Agency Executing at the Direction of Assignor.** The Assignor directs the Agency to execute and deliver this Instrument to the Assignee, and further agrees to indemnify the Agency (and its members, officers, directors, agents, servants and employees) for all fees and costs incurred in connection with the execution, delivery, recording, performing and enforcing of this Instrument, including but not limited to reasonable attorney's fees.

35. **Hold Harmless.** The Assignor acknowledges and reiterates the provisions and obligations of the Assignee pursuant to Sections 8.2 and 11.11 of the Agency Lease as if fully set forth herein and hereby agrees that such provisions shall be applicable to this Instrument.

36. **Miscellaneous Provision.** The Assignor and the Assignee hereto, by accepting this Mortgage, acknowledge that the Agency is executing this Mortgage solely to subject its interest in the Premises, if any, to this Mortgage. Notwithstanding anything herein to the contrary, the Assignee acknowledges and agrees that its sole recourse against the Agency for any default hereunder shall be with respect to the Agency's interest in the Premises.

[No further text on this page; Signature Page Follows]

IN WITNESS WHEREOF, Assignor has caused this Assignment of Leases and Rents (Project Loan) to be executed under seal as of the date first above written.

ASSIGNOR:

SOUTHSIDE GENESEE ASSOCIATES, LLC,
a New York limited liability company

By: CG USL Ventures I, LLC,
a New York limited liability company

Its: Managing Member

By: Syracuse-Michaels, LLC,
a New York limited liability company

Its: Managing Member

By: 
Name: James A. Malesich, Jr.
Title: Vice President

STATE OF *New Jersey*
COUNTY OF *Burlington* ss:

On the *27* day of June in the year 2017 before me, the undersigned a notary public in and for the State of New York, personally appeared **JAMES A. MALESICH, JR.**, 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.


Notary Public



[Signature Page to Project Loan ALR]

IN WITNESS WHEREOF, Agency has caused this Assignment of Leases and Rents (Project Loan) to be executed under seal as of the date first above written.

AGENCY:

CITY OF SYRACUSE INDUSTRIAL DEVELOPMENT AGENCY, a body corporate and politic and a public instrumentality of the State of New York

By: [Signature]
Name: William M. Ryan
Title: Chairman

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On the 30th day of June in the year 2017 before me, the undersigned a notary public in and for the State of New York, personally appeared **WILLIAM M. RYAN**, 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.

[Signature]
Notary Public
Lori McRobbie
LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18
New York
2-12-18
ONON
CO

[Signature Page to Project Loan ALR]

EXHIBIT A
LEGAL DESCRIPTION

Property Addresses: 1200-24 Genesee Street East & Walnut Avenue
511 Walnut Avenue
City of Syracuse, New York

Tax Account Nos.: 048.-10-01.0 & 048.-10-15.0

Lot 1

All that tract or parcel of land containing 0.942 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017 and filed in the Onondaga County Clerk's Office on June 28, 2017 as Map No. 12399 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 206.84 feet to a point; thence,
2. S 03° 20' 30" E, a distance of 250.90 feet to a point of intersection with northerly line of lands now or formerly of Rita E. Gokey; thence,
3. S 86° 05' 16" W, along said lands of Gokey, a distance of 49.48 feet to a point of intersection with the easterly line of lands now or formerly of 513 Walnut LLC; thence,
4. N 03° 20' 30" W, partially along said easterly line, a distance of 74.28 feet to a point; thence,
5. N 89° 31' 30" W, a distance of 169.10 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence,
6. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 171.74 feet to the Point of Beginning.

Lot 2

A-1

All that tract or parcel of land containing 0.304 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017, and filed in the Onondaga County Clerk's Office on June 28, 2017 as Map No. 12399 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the westerly line of Comstock Avenue (80' wide); thence,

1. S 04° 20' 10" E, along said westerly line of Comstock Avenue, a distance of 143.80 feet to a point of intersection with northerly line of lands now or formerly of the City of Syracuse; thence,
2. S 88° 11' 00" W, along said northerly line, a distance of 40.00 feet to a point; thence,
3. S 04° 20' 10" E, along the westerly line of said lands of the City of Syracuse, a distance of 40.00 feet to a point intersection with the northerly line of lands now or formerly of Rita E. Gokey; thence.
4. S 88° 11' 00" W, along said northerly line of lands of Gokey, a distance of 42.44 feet to a point; thence,
5. N 03° 20' 30" W, a distance of 183.69 feet to a point of intersection with the aforementioned southerly line of East Genesee Street; thence,
6. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 79.25 feet to the Point of Beginning.

Lot 3

All that tract or parcel of land containing 0.240 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017 and filed in the Onondaga County Clerks on June 28, 2017 as Map No. 12399

Commencing at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. S 00° 28' 30" W, along said easterly line of Walnut Avenue, a distance of 171.74 feet to the Point of Beginning of the hereinafter described parcel; thence,
2. S 89° 31' 30" E, a distance of 169.10 feet to a point; thence,

3. S 03° 20' 30" E, a distance of 50.46 feet to a point; thence the following three (3) courses along the northerly line of lands now or formerly of 513 Walnut LLC.
4. N 88° 24' 19" W, a distance of 49.67 feet to a point; thence,
5. S 03° 20' 30" E, a distance of 16.02 feet to a point; thence,
6. N 89° 49' 00" W, a distance of 123.86 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence,
7. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 66.00 feet to the Point of Beginning.

Lots 1, 2 & 3 Combined

All that tract or parcel of land containing 1.486 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, Walnut Avenue Apartments, Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017 and filed in the Onondaga County Clerk's Office on June 18, 2017 as Map No. 12399 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 286.09 feet to a point of intersection with the westerly line of Comstock Avenue (80' wide); thence,
2. S 04° 20' 10" E, along said westerly line of Comstock Avenue, a distance of 143.80 feet to a point of intersection with northerly line of lands now or formerly of the City of Syracuse; thence,
3. S 88° 11' 00" W, along said northerly line, a distance of 40.00 feet to a point; thence,
4. S 04° 20' 10" E, along the westerly line of said lands of the City of Syracuse, a distance of 40.00 feet to a point intersection with the northerly line of lands now or formerly of Rita E. Gokey; thence,
5. S 88° 11' 00" W, along said northerly line of lands of Gokey, a distance of 42.44 feet to a point; thence,
6. S 03° 20' 30" E, along the westerly line of lands of Gokey, a distance of 67.21 feet to a point of intersection with other lands of Gokey; thence,

7. S 86° 05' 16" W, along said lands of Gokey, a distance of 49.48 feet to a point of intersection with the easterly line of lands now or formerly of 513 Walnut LLC; thence,
8. N 03° 20' 30" W, along said easterly line, a distance of 23.82 feet to a point; thence the following three (3) courses along the northerly line of said lands of 513 Walnut LLC
9. N 88° 24' 19" W, a distance of 49.67 feet to a point; thence,
10. S 03° 20' 30" E, a distance of 16.02 feet to a point; thence,
11. N 89° 49' 00" W, a distance of 123.86 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence,
12. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 237.74 feet to the Point of Beginning

AFFIDAVIT RE: MORTGAGE TAX EXEMPTION

STATE OF NEW YORK)
) SS.
COUNTY OF ONONDAGA)

WILLIAM M. RYAN, being duly sworn, deposes and says:

He is Chairman of the City of Syracuse Industrial Development Agency (the "Agency").

The Agency is an industrial development agency duly established under Title I of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the "Act"), and it is a corporate governmental agency constituting a public benefit corporation of the State.

By resolutions adopted on January 24, 2017 and June 20, 2017, the Agency, at the request of Southside Genesee Associates, LLC (the "Applicant" and/or "Company") agreed to undertake a project (the "Project") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "Existing Buildings") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (collectively, the "Land"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "Facility"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company and the Agency are mortgaging their respective interests in the improved real property described on Exhibit "A" to: Citizens Bank of Pennsylvania (the "Mortgagee"), pursuant to a certain Building Loan Mortgage dated June 30, 2017 in the amount of \$33,000,000 (the "Building Loan Mortgage"), an Assignment of Leases and Rents (Building Loan) dated June 30, 2017 ("Assignment of Leases and Rents (Building Loan)", a certain Project Loan Mortgage dated June 30, 2017 in the amount of \$3,760,000 (the "Project Loan Mortgage" and together with the Building Loan Mortgage, collectively, the "Mortgages") and an Assignment of Leases and Rents (Project Loan) dated June 30, 2017 ("Assignment of Leases and Rents (Project Loan)", and together with the Assignment of Leases and Rents (Building Loan),

collectively, the "*Assignments of Leases and Rents*". The Mortgages are pledged to secure notes given by the Company to the Mortgagee.

Pursuant to Article 18-A of the New York General Municipal Law, the Agency is regarded as performing a governmental function and is generally not required to pay taxes or assessments upon any property acquired by it or under its jurisdiction, control or supervision or upon its activities.

Deponent submits that no mortgage tax, other than as may be required in Section 874(1) of the Act and Section 252(2) of the Tax Law of the State of New York (if any), should be imposed upon the Mortgages and the Assignments of Leases and Rents, insomuch as the Mortgages and the Assignments of Leases and Rents are being executed and delivered under the State authority creating the Agency, insomuch as the use by the Agency of its powers to secure the payment of **principal and interest on the loan is deemed by Article 18-A public purpose** essential to the public interest, and insomuch as both the New York State Department of Taxation and Finance and Counsel to the New York State Department of Taxation and Finance have expressed their opinion that the recording of similar documents by similar agencies organized under Article 18-A of the New York General Municipal Law are operations of said agencies entitled to exemption from the mortgage recording tax.

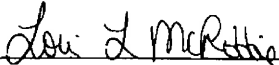
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CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY


By:


William M. Ryan, Chairman

Subscribed and sworn to before me
this 29 day of June, 2017.


Notary Public

Lori


LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MCS055591
Commission Expires on Feb. 12, 2018

2-12-18

ONON
CC

[Signature page to Mortgage Recording Tax Affidavit]

22

AFFIDAVIT RE: MORTGAGE TAX EXEMPTION

STATE OF NEW YORK)
)
COUNTY OF ONONDAGA) SS.

WILLIAM M. RYAN, being duly sworn, deposes and says:

He is Chairman of the City of Syracuse Industrial Development Agency (the “*Agency*”).

The Agency is an industrial development agency duly established under Title I of Article 18-A of the General Municipal Law of the State of New York (the “*State*”), as amended, and Chapter 641 of the Laws of 1979 of the State (collectively, the “*Act*”), and it is a corporate governmental agency constituting a public benefit corporation of the State.

By resolutions adopted on January 24, 2017 and June 20, 2017, the Agency, at the request of Southside Genesee Associates, LLC (the “*Applicant*” and/or “*Company*”) agreed to undertake a project (the “*Project*”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “*Existing Buildings*”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (collectively, the “*Land*”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “*Facility*”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “*Equipment*” and together with the Land and the Facility, the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the “*Financial Assistance*”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

The Company and the Agency are mortgaging their respective interests in the improved real property described on Exhibit “A” to: Citizens Bank of Pennsylvania (the “*Mortgage*”), pursuant to a certain Building Loan Mortgage dated June 30, 2017 in the amount of \$33,000,000 (the “*Building Loan Mortgage*”), an Assignment of Leases and Rents (Building Loan) dated June 30, 2017 (“*Assignment of Leases and Rents (Building Loan)*), a certain Project Loan Mortgage dated June 30, 2017 in the amount of \$3,760,000 (the “*Project Loan Mortgage*” and together with the Building Loan Mortgage, collectively, the “*Mortgages*”) and an Assignment of Leases and Rents (Project Loan) dated June 30, 2017 (“*Assignment of Leases and Rents (Project Loan)*”, and together with the Assignment of Leases and Rents (Building Loan),

collectively, the “*Assignments of Leases and Rents*”. The Mortgages are pledged to secure notes given by the Company to the Mortgagee.

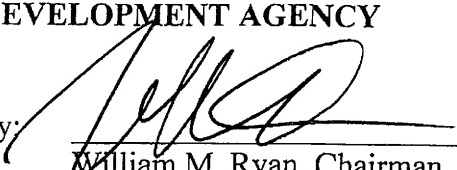
Pursuant to Article 18-A of the New York General Municipal Law, the Agency is regarded as performing a governmental function and is generally not required to pay taxes or assessments upon any property acquired by it or under its jurisdiction, control or supervision or upon its activities.

Deponent submits that no mortgage tax, other than as may be required in Section 874(1) of the Act and Section 252(2) of the Tax Law of the State of New York (if any), should be imposed upon the Mortgages and the Assignments of Leases and Rents, inasmuch as the Mortgages and the Assignments of Leases and Rents are being executed and delivered under the State authority creating the Agency, inasmuch as the use by the Agency of its powers to secure the payment of principal and interest on the loan is deemed by Article 18-A public purpose essential to the public interest, and inasmuch as both the New York State Department of Taxation and Finance and Counsel to the New York State Department of Taxation and Finance have expressed their opinion that the recording of similar documents by similar agencies organized under Article 18-A of the New York General Municipal Law are operations of said agencies entitled to exemption from the mortgage recording tax.

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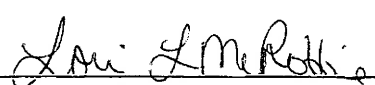
**CITY OF SYRACUSE INDUSTRIAL
DEVELOPMENT AGENCY**

By:



William M. Ryan, Chairman

Subscribed and sworn to before me
this 29th day of June, 2017.



Notary Public

LORI L. McROBBIE
Notary Public, State of New York
Qualified in Onondaga Co. No. 01MC5055591
Commission Expires on Feb. 12, 20 18

[Signature page to Mortgage Recording Tax Affidavit]

EXHIBIT "A"

LEGAL DESCRIPTION

20152158.0002

6-23-17

Description of Lots 1, 2, & 3

All that tract or parcel of land containing 1.486 acres, more or less situate in the City of Syracuse, Onondaga County, State of New York, all as shown on a map entitled, "ALTA/NSPS Land Title Survey of Lots 1, 2 & Part of Lots 7, 8 & 11 in Block 410 the Highlands of Syracuse being New Lots 1, 2 & 3, prepared by Passero Associates, dated June 2, 2017, having a drawing no. 20152150.0002 ALTA-1 and described as follows:

Beginning at the point of intersection of the southerly line of East Genesee Street (99' wide) with the easterly line of Walnut Avenue (66' wide); thence,

1. N 88° 11' 00" E, along said southerly line of East Genesee Street, a distance of 286.09 feet to a point of intersection with the westerly line of Comstock Avenue (80' wide); thence,
2. S 04° 20' 10" E, along said westerly line of Comstock Avenue, a distance of 143.80 feet to a point of intersection with northerly line of lands now or formerly of the City of Syracuse; thence,
3. S 88° 11' 00" W, along said northerly line, a distance of 40.00 feet to a point; thence,
4. S 04° 20' 10" E, along the westerly line of said lands of the City of Syracuse, a distance of 40.00 feet to a point intersection with the northerly line of lands now or formerly of Rita E. Gokey; thence,
5. S 88° 11' 00" W, along said northerly line of lands of Gokey, a distance of 42.44 feet to a point; thence,
6. S 03° 20' 30" E, along the westerly line of lands of Gokey, a distance of 67.21 feet to a point of intersection with other lands of Gokey; thence,
7. S 86° 05' 16" W, along said lands of Gokey, a distance of 49.48 feet to a point of intersection with the easterly line of lands now or formerly of 513 Walnut LLC; thence,
8. N 03° 20' 30" W, along said easterly line, a distance of 23.82 feet to a point; thence the following three (3) courses along the northerly line of said lands of 513 Walnut LLC
9. N 88° 24' 19" W, a distance of 49.67 feet to a point; thence,
10. S 03° 20' 30" E, a distance of 16.02 feet to a point; thence,
11. N 89° 49' 00" W, a distance of 123.86 feet to a point of intersection with the aforementioned easterly line of Walnut Avenue; thence,
12. N 00° 28' 30" E, along said easterly line of Walnut Avenue, a distance of 237.74 feet to the Point of Beginning.

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CERTIFICATION

In March, 2017, at the request of **SOUTHSIDE GENESEE ASSOCIATES, LLC** (the "**Company**"), the City of Syracuse Industrial Development Agency (the "**Agency**") undertook a project (the "**Project**") consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the "**Existing Buildings**") located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the "**Land**"); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the "**Facility**"); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility, the "**Project Facility**"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

In connection with the Project, the Company previously executed and delivered certain documents to and for the benefit of the Agency, which included but are not limited to, a company lease between the Company and the Agency dated as of March 10, 2017 (the "**Company Lease**"), an agency lease between the Agency and the Company, dated as of March 10, 2017, by and between the Agency and the Company (the "**Agency Lease**"), an environmental compliance and indemnification agreement by the Company in favor of the Agency, dated as of March 10, 2017 (the "**Environmental Agreement**") and numerous other documents with respect to the Project (all of the foregoing collectively referred to herein as the "**Lease Documents**").

The Company now seeks to close on its mortgage financing on the Project with Citizens Bank of Pennsylvania (the "**Mortgage Closing**").

The meaning of capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Agency Lease.

The undersigned, James A. Malesich, Jr., Vice President of Syracuse-Michaels, LLC, as managing member of CG USL Ventures 1, LLC, as managing member of the Company, does hereby certify and confirm in connection with the Mortgage Closing:

(1) There is no event of default on the part of the Company under the Lease Documents executed as part of the 2017 Project closing with the Agency (the "**Closing**") and no event has occurred and is continuing which, after notice or passage of time or both, would give rise to a default under the Lease Documents; and

(2) The representations and covenants made by the Company in its general certificate, dated as of March 10, 2017 and given to the Agency in conjunction with the Closing remain true and correct and there have been no amendments or changes to the Company's Articles of Organization or Operating Agreement except as set forth in **Exhibit "A"** hereto, and each are still in full force and effect.

(3) The Company is, has been and at all times will be, a limited liability company, duly organized, validly existing and in good standing under the laws of the State, authorized to transact business as a limited liability company in the State of New York for the purpose of owning and operating the Project Facility (as that term is defined in the Agency Lease) in the State, for so long as the Lease Documents remain in effect. Attached hereto as **Exhibit "B"** is a true and correct copy of a Certificate of Good Standing of the Company issued by the New York State Secretary of State.

(4) As evidenced by the Company's resolution dated March 24, 2017, (the "**Resolution**"), attached hereto as **Exhibit "C"**, the Company has full legal right, power and authority to execute and deliver the notes, mortgages and all other documents in connection with the Mortgage Closing (collectively, the "**Mortgage Documents**") and said Resolution remains in full force and effect as of the date hereof.

(5) Assuming the valid authorization, execution and delivery of the Mortgage Documents by the other parties thereto, the Mortgage Documents are the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except to the extent that enforcement thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally or by the exercise of judicial discretion in accordance with general principles of equity. The Company has duly authorized the taking of and has taken all actions necessary to carry out and give effect to the transactions contemplated to be performed on its part by the Mortgage Documents.

(6) Attached hereto at **Exhibit "D"** is proof of current insurance naming the Agency as an additional insured pursuant to the requirements under the Agency Lease.

(7) The Company is familiar with all of the Agency's policies, including but not limited to, its Recapture Policy, and agrees to be bound thereby.

Dated: June 30, 2017

SOUTHSIDE GENESEE ASSOCIATES, LLC

By: CG USL VENTURES I, LLC,
its Managing Member

By: SYRACUSE-MICHAELS, LLC,
its Managing Member


By: 
James A. Malesich, Jr., Vice President

EXHIBIT "A"

**CHANGES TO ARTICLES OF ORGANIZATION
OR OPERATING AGREEMENT**

NONE

EXHIBIT "B"
GOOD STANDING CERTIFICATE

State of New York
Department of State } **ss:**

I hereby certify, that SOUTHSIDE GENESEE ASSOCIATES, LLC a NEW YORK Limited Liability Company filed Articles of Organization pursuant to the Limited Liability Company Law on 01/13/2017, and that the Limited Liability Company is existing so far as shown by the records of the Department. I further certify the following:

A Certificate of Publication of SOUTHSIDE GENESEE ASSOCIATES, LLC was filed on 04/13/2017.

I further certify, that no other documents have been filed by such Limited Liability Company.

*Witness my hand and the official seal
of the Department of State at the City
of Albany, this 15th day of June
two thousand and seventeen.*



Brendan W. Fitzgerald
Executive Deputy Secretary of State



201706160259 * LR

EXHIBIT "C"
RESOLUTION

**SOUTHSIDE GENESEE ASSOCIATES, LLC
ACTION
BY MEMBERS WITHOUT MEETING**

Pursuant to the Operating Agreement of **SOUTHSIDE GENESEE ASSOCIATES, LLC**, a New York limited liability company (“Company”), the undersigned, being all the Members of the Company, do hereby consent to the following resolutions in lieu of a formal meeting:

WHEREAS the Company has acquired certain real property located at 1200-1224 E Genesee St. and 509-511 Walnut Avenue, both of which properties are located in the City of Syracuse, Onondaga County, New York (the “Property”) for the purpose of redeveloping the Property involving the demolition of the two existing buildings and the construction of approximately 126 residential units for use as a student apartment complex (the “Project”); and

WHEREAS the Company desires to obtain financial assistance for Project in the form of New York State and local sales and use tax exemption benefits in an amount not to exceed \$1,440,000.00 and mortgage recording tax exemption in the approximate amount of \$367,000.00 (collectively the “Benefits”) which benefits have been approved by the City of Syracuse Industrial Development Agency (“IDA”); it is hereby

RESOLVED that the Company be and is hereby authorized to enter into a Lease, a Lease-back, a bill of sale, an environmental compliance and indemnification agreement and other related certificates and documents (collectively the “Agency Documents”) with the IDA for the purpose of receiving the Benefits; and be it further


RESOLVED that James Malesich be and hereby are authorized and directed to take or cause to be taken such action or actions as necessary or desirable to carry out the purposes of this resolution and execute the Agency Documents; and be it further

RESOLVED that James Malesich has the authority to bind the Company with respect to the negotiation, execution and delivery of the Agency Documents; and be it further

RESOLVED that the contents of the application dated December 6, 2016 filed by CG USL Ventures I, LLC with the Agency in conjunction with the Project is true and accurate in all respects and is binding upon the Company.


Date: March 24, 2017

CG USL VENTURES 1, LLC
By: SYRACUSE-MICHAELS, LLC,
its Managing Member




VICE PRESIDENT

SOUTHSIDE GENESEE INVESTOR, LLC
By: Michael J. Levitt, its Managing
Member



Michael J. Levitt
Partner/Member

Filed in the minutes of the company this ____ day of March, 2017.



Name: JAMES A. MALESICH JR
Title: Member

EXHIBIT "D"

INSURANCE

DESCRIPTIONS (Continued from Page 1)

Policy No.: CX0054217

Policy Term: 01/01/2017 to 01/01/2018

Limits: \$15,000,000 XS \$10,000,000 Each Occurrence

\$15,000,000 XS \$10,000,000 Aggregate

Excess Liability Layer

Carrier: Crum & Forster Insurance Company (#42471)

Policy No.: 5228004861

Policy Term: 01/01/2017 to 01/01/2018

Limits: \$25,000,000 XS \$25,000,000 Each Occurrence

\$25,000,000 XS \$25,000,000 Aggregate

Named Insured: Southside Genesee Associates, LLC

University Student Living, LLC

University Student Living Management, LLC

Certificate holder is included as an Additional Insured if required by written contract and only to the extent required by written contract.

Loc# 28 - 1200 Genesee Street & 511 Walnut Street; Syracuse, NY

ACORD™ EVIDENCE OF COMMERCIAL PROPERTY INSURANCE

DATE (MM/DD/YYYY)
06/22/2017

THIS EVIDENCE OF COMMERCIAL PROPERTY INSURANCE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE ADDITIONAL INTEREST NAMED BELOW. THIS EVIDENCE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS EVIDENCE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE ADDITIONAL INTEREST.

PRODUCER NAME, CONTACT PERSON AND ADDRESS Conner Strong & Buckelew Two Liberty Place 50 S. 16th Street, Suite 3600 Philadelphia, PA 19102		PHONE (A/C, No, Ext): 877 861-3220	COMPANY NAME AND ADDRESS See Below		NAIC NO:
FAX (A/C, No): 8567959783	E-MAIL ADDRESS: msmyth@connerstrong.com		IF MULTIPLE COMPANIES, COMPLETE SEPARATE FORM FOR EACH		
CODE:	SUB CODE:		POLICY TYPE		
AGENCY CUSTOMER ID #: 88			LOAN NUMBER	POLICY NUMBER IMD1478800	
NAMED INSURED AND ADDRESS Southside Genesee Associates, LLC 3 E. Stow Road P.O. Box 994 Marlton, NJ 08053-0994			EFFECTIVE DATE 04/15/2017	EXPIRATION DATE 08/15/2018	CONTINUED UNTIL TERMINATED IF CHECKED
ADDITIONAL NAMED INSURED(S)			THIS REPLACES PRIOR EVIDENCE DATED:		

PROPERTY INFORMATION (Use REMARKS on Page 2, if more space is required) BUILDING OR BUSINESS PERSONAL PROPERTY

LOCATION/DESCRIPTION
 Location #1 1200 Genesee Street & 511 Walnut Street Syracuse, NY 13210

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS EVIDENCE OF PROPERTY INSURANCE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

COVERAGE INFORMATION		PERILS INSURED	BASIC	BROAD	<input checked="" type="checkbox"/> SPECIAL	DED: 10,000
COMMERCIAL PROPERTY COVERAGE AMOUNT OF INSURANCE: \$ 43,875,436						
<input type="checkbox"/> BUSINESS INCOME	<input checked="" type="checkbox"/> RENTAL VALUE	YES	NO	N/A	If YES, LIMIT: 5,100,000	Actual Loss Sustained; # of months 12
BLANKET COVERAGE		<input checked="" type="checkbox"/>	If YES, indicate value(s) reported on property identified above: \$			
TERRORISM COVERAGE		<input checked="" type="checkbox"/>	Attach Disclosure Notice / DEC			
IS THERE A TERRORISM-SPECIFIC EXCLUSION?		<input checked="" type="checkbox"/>				
IS DOMESTIC TERRORISM EXCLUDED?		<input checked="" type="checkbox"/>				
LIMITED FUNGUS COVERAGE		<input checked="" type="checkbox"/>	If YES, LIMIT:		DED:	
FUNGUS EXCLUSION (IF "YES", specify organization's form used)		<input checked="" type="checkbox"/>				
REPLACEMENT COST		<input checked="" type="checkbox"/>				
AGREED VALUE		<input checked="" type="checkbox"/>				
COINSURANCE		<input checked="" type="checkbox"/>	If Yes, %			
EQUIPMENT BREAKDOWN (If Applicable)		<input checked="" type="checkbox"/>	If YES, LIMIT: Included		DED: 10,000	
ORDINANCE OR LAW - Coverage for loss to undamaged portion of bldg		<input checked="" type="checkbox"/>	If YES, LIMIT: Included		DED: 10,000	
- Demolition Costs		<input checked="" type="checkbox"/>	If YES, LIMIT: 1,000,000		DED: 10,000	
- Incr. Cost of Construction		<input checked="" type="checkbox"/>	If YES, LIMIT: INCLUDED IN B		DED:	
EARTH MOVEMENT (If Applicable)		<input checked="" type="checkbox"/>	If YES, LIMIT: 5000000		DED: 25,000	
FLOOD (If Applicable)		<input checked="" type="checkbox"/>	If YES, LIMIT: 5000000		DED: 25,000	
WIND/HAIL (If Subject to Different Provisions)		<input checked="" type="checkbox"/>	If YES, LIMIT: Included		DED: 10,000	
PERMISSION TO WAIVE SUBROGATION IN FAVOR OF MORTGAGE HOLDER PRIOR TO LOSS		<input checked="" type="checkbox"/>				

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

ADDITIONAL INTEREST

MORTGAGEE	CONTRACT OF SALE	LENDER SERVICING AGENT NAME AND ADDRESS	
LENDERS LOSS PAYABLE	<input checked="" type="checkbox"/> Mortgagee and Loss Payee		
NAME AND ADDRESS Syracuse Industrial Development Agency ISAOA ATIMA 201 East Washington Street 7th Floor Syracuse, NY 13202		AUTHORIZED REPRESENTATIVE <i>W. Michael Trapani</i>	

Named Insured:

Southside Genesee Associates, LLC
University Student Living, LLC
University Student Living Management, LLC
Interstate Realty Management Company
The Michaels Development Company I, LP
Hueber Breuer

All Risk of Direct Physical Damage including Flood, Earthquake, Windstorm/Hail and Equipment Breakdown per Occurrence

**Valuation: Building under Construction/Renovation/Declared Project Value
Replacement Cost Basis and Agreed Amount (no coinsurance clause)**

Delayed Completion/Soft Costs - Actual Loss Sustained up to Limit of Insurance (no coinsurance clause or monthly limitation)

Coinsurance: None

Non-reporting form

Insurance Carriers:

HDI Global Insurance Company - 50% Participation (Lead) - Policy No. IMD1478800
Allied World Specialty Insurance Company - 50% Participation - Policy No. 03106579

Limits & Coverages

Direct Damage: \$34,648,000
Furniture & Fixtures: \$1,158,000
Rental Value: \$5,100,000
Soft Costs: \$3,127,436
Back-Up of Sewers & Drains: Included in Flood
Transit: \$1,000,000
Flood \$5,000,000
Earthquake & Earth Movement: \$5,000,000
Temporary Storage Locations: \$1,000,000
Additional Debris Removal: 25% of loss or \$5,000,000 whichever is less
Pollution Clean-Up: \$250,000
Fire Dept. Service Charge: \$100,000
Expediting Expenses: \$100,000
Wind/Hail: Included
Ordinance or Law Coverage A: Included
Ordinance or Law Coverage B&C: \$1,000,000
Office Trailers: \$100,000
Utility Interruption/Off premises Power Failure - Direct Damage; \$100,000
Valuable Papers & Records: \$100,000
Permission to Occupy: Included
Equipment Breakdown - At Project Site: Included

Deductibles

All Other Perils: \$10,000
Earthquake & Earth Movement: \$25,000
Flood: \$25,000
Named Windstorm/Windstorm: \$10,000
Equipment Breakdown: \$10,000
Water Damage: \$25,000
Delay in Opening: 14 Days

EVIDENCE OF COMMERCIAL PROPERTY INSURANCE REMARKS - Including Special Conditions (Use only if more space is required)

24

BARCLAY DAMON^{LLP}

As of June 30, 2017

Citizens Bank of Pennsylvania
One Logan Square
130 North 18th Street
Philadelphia, Pennsylvania 19103

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202

Re: \$3,760,000.00 Project Loan and \$33,000,000.00 Building Loan from Citizens Bank of Pennsylvania to Southside Genesee Associates, LLC (the "**Loan Facilities**")

Ladies and Gentlemen:

We have acted as counsel to Southside Genesee Associates, LLC, a New York limited liability company ("**Borrower**"), and The Michaels Development Company I, L.P., a New Jersey limited partnership ("**Guarantor**"), in connection with the preparation, execution and delivery of the following documents (collectively, the "**Loan Documents**"), by the Borrower and Guarantor, as applicable, to Citizens Bank of Pennsylvania ("**Lender**"):

1. Project Loan Agreement (Loan 1);
2. Project Loan Promissory Note (Loan 1);
3. Fee, Leasehold and Subleasehold Project Loan Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing (Loan 1);
4. Project Loan Assignment of Leases and Rents (Loan 1);
5. Building Loan Agreement (Loan 2);
6. Building Loan Promissory Note (Loan 2);
7. Fee, Leasehold and Subleasehold Building Loan Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing (Loan 2);
8. Building Loan Assignment of Leases and Rents (Loan 2);
 - a. Exemption Affidavit;
9. Notice of Lending (Loan 2);

10. Performance and Completion Guaranty (Loan 2);
11. Assignment of Contracts (Loan 2);
12. Architect's Continuation Letter / Consent (Loan 2);
13. Contractor's Continuation Letter / Consent (Loan 2);
14. Engineer's Continuation Letter / Consent (Loan 2);
15. UCC-1 Financing Statements (Loans 1&2);
16. Environmental Indemnity Agreement (Loans 1&2);
17. Guaranty Agreement (Loans 1&2);
18. W-9 (Loans 1&2);
19. Patriot Act Form (Loans 1&2);
20. Affidavit of No Change and Agreement to Correct Errors and Omissions (Loans 1&2);
21. Copy of Driver's License for Borrower and Guarantor;
22. Borrower's Certificate (Loans 1&2);
23. Guarantor's Certificate (Loans 1&2);
24. Subordination / Assignment of Management Agreement (Loans 1&2);
25. Debt Service Guaranty (Loans 1&2);
26. Mortgage Loan Closing Statement (Loans 1&2);
27. Post-Closing Agreement (Loans 1&2);

We have examined the original or certified copies of the proceedings of Borrower and Guarantor taken with respect to the Loan Facilities, as well as certificates of the Borrower's members and Guarantor's partners, the opinion letter of E. Allan Mack, LLC, dated June 30, 2017, and such other evidence of the Borrower's and Guarantor's approval and authorization of participation in the Loan Facilities as we deemed necessary and appropriate to render the following opinions.

In our examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity with the original documents of all documents submitted to us as copies. Furthermore, in rendering the following opinions, we have assumed that all documents executed by a person or persons other than the Borrower or Guarantor have been duly

executed and delivered by said other person or persons and that said documents, to the extent they create obligations, constitute legal, valid and binding obligations of said person or persons enforceable against said person or persons in accordance with their terms.

Based upon our examination of the foregoing and in reliance upon the matters and subject to the limitations contained herein, we are of the opinion, as of the date hereof and under existing law, as follows:

1. Borrower is a limited liability company duly organized and validly existing under the laws of the State of New York, is authorized to do business in the State of New York, and possesses full power and authority to own its property, to conduct its business and to execute and deliver the Loan Documents and to carry out and perform its obligations thereunder.

2. Guarantor is limited partnership duly organized and validly existing under the laws of the State of New Jersey, is authorized to do business in the State of New York, and possesses full power and authority to conduct its business and to execute and deliver the Loan Documents to which it is a party and to carry out and perform its obligations thereunder.

3. The execution and delivery by Borrower of the Loan Documents have been duly authorized by all necessary action of Borrower. Each of the Loan Documents has been duly executed and delivered by an authorized representative of Borrower and is a legal and valid binding obligation of Borrower enforceable against Borrower in accordance with its terms, except as the enforcement of the Loan Documents may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization, or other laws relating to fraudulent conveyances or affecting the enforcement of rights of creditors of Borrower generally and equitable principles of general applicability.

4. The execution and delivery by Guarantor of the Loan Documents have been duly authorized by all necessary action of Guarantor. Each of the Loan Documents has been duly executed and delivered by an authorized representative of Guarantor and is a legal and valid binding obligation of Guarantor enforceable against Guarantor in accordance with its terms, except as the enforcement of the Loan Documents may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization, or other laws relating to fraudulent conveyances or affecting the enforcement of rights of creditors of Guarantor generally and equitable principles of general applicability.

5. The execution and delivery by Borrower of the Loan Documents, the execution and compliance with the provisions of each and the consummation of the transactions contemplated therein do not and will not conflict with or constitute on the part of Borrower a breach of or default under Borrower's Articles of Organization, Operating Agreement or any indenture, deed of trust, bank loan or credit agreement or other agreement or instrument to which Borrower is a party or by which Borrower or any of its property is bound or affected (of which Borrower has made us aware and has provided us with copies of the same) for which a valid consent has not been secured; nor is any approval or any action by any governmental authority or agency required in connection with the execution, delivery or performance thereof by Borrower.

6. The execution and delivery by Guarantor of the Loan Documents, the execution and compliance with the provisions of each and the consummation of the transactions contemplated therein do not and will not conflict with or constitute on the part of Guarantor a breach of or default under

Guarantor's Certificate of Limited Partnership, Partnership Agreement or any indenture, deed of trust, bank loan or credit agreement or other agreement or instrument to which Guarantor is a party or by which Guarantor or any of its property is bound or affected (of which Guarantor has made us aware and has provided us with copies of the same) for which a valid consent has not been secured; nor is any approval or any action by any governmental authority or agency required in connection with the execution, delivery or performance thereof by Guarantor.

7. To the best of our knowledge, upon reasonable inquiry, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened against, or affecting, Borrower, wherein an unfavorable decision, ruling or finding would in any way adversely affect, in a material fashion, the validity or enforceability of the Loan Documents.

8. To the best of our knowledge, upon reasonable inquiry, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened against, or affecting, Guarantor, wherein an unfavorable decision, ruling or finding would in any way adversely affect, in a material fashion, the validity or enforceability of the Loan Documents.

Notwithstanding anything to the contrary contained herein, specifically limiting our opinion relative to the enforceability of the Loan Documents, we hereby advise you that certain provisions of the Loan Documents may be limited or rendered unenforceable by applicable law, but in our opinion, such law does not render the Loan Documents invalid as a whole or substantially interfere with realization of the principal benefits and/or security provided thereby. Furthermore, the validity, binding effect or enforceability of any document may be limited to or otherwise affected by (A) any applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar statute, rule, regulation or other law affecting the enforcement of creditors' rights and remedies generally or (B) the unavailability of, or any limitation on the availability of, any particular right or remedy (whether in a proceeding in equity or law) because of the discretion of a court or because of any equitable principle or requirement as to commercial reasonableness or good faith.

We have not been requested to examine and have not examined any documents or information relating to Borrower or Guarantor other than the documents hereinabove referred to, and no opinion is expressed as to any financial or other information, or the adequacy thereof.

We have rendered this opinion solely for the benefit of the addressees, and this opinion may not be relied upon by, nor copied or delivered to, any other person without our prior written consent. This opinion is rendered as of the date hereof, and no opinion is expressed as to matters referred to herein on any subsequent date.

Very truly yours,

A handwritten signature in cursive script that reads "Barclay Damon LLP". The signature is written in black ink and is positioned below the typed name.

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June 30, 2017

City of Syracuse Industrial Development Agency
201 East Washington Street, 7th Floor
Syracuse, New York 13202

Southside Genesee Associates, LLC
1 East Stow Road
Marlton, New Jersey 08053

Re: City of Syracuse Industrial Development Agency
Southside Genesee Associates, LLC Project

Ladies and Gentlemen:

We have acted as counsel to the City of Syracuse Industrial Development Agency (the “**Agency**”) in connection with a project (the “**Project**”) undertaken by the Agency at the request of Southside Genesee Associates, LLC (the “**Company**”) consisting of: (A)(i) the acquisition of an interest in 2 parcels of land totaling approximately 1.5 acres improved by two existing buildings (the “**Existing Buildings**”) located at 1200-24 East Genesee Street and 509 and 511 Walnut Avenue, in the City of Syracuse, New York (the “**Land**”); (ii) the demolition of the Existing Buildings and the construction of a new six level, approximately 128,830 square foot building consisting of approximately 126 residential units (approximately 30 one bedroom, 19 two bedroom, 13 three bedroom, 14 four bedroom) for use as a student apartment complex, including approximately 90 ground level parking spaces, study rooms, game rooms, meeting rooms, bicycle storage facility and an 847 square foot café, all located on the Land (collectively, the “**Facility**”); (iii) the acquisition and installation in and at the Land and Facility of furniture, fixtures and equipment (the “**Equipment**” and together with the Land and the Facility, the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and mortgage recording tax (collectively the “**Financial Assistance**”); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the lease of the Land and Facility by the Agency pursuant to a lease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the sublease of the Project Facility back to the Company pursuant to a sublease agreement.

On or about March 10, 2017, the Company and the Agency closed on the lease transaction relative to the Project (the “**Project Closing**”) with the understanding that the Company and the Agency would close on the mortgage financing for the Project at a later date. The Company is now prepared to close on the mortgage financing (the “**Mortgage Closing**”) and has asked the Agency to participate in the execution and delivery of, a \$33,000,000 Building Loan Mortgage, a \$3,760,000 Project Loan Mortgage, a Building Loan Assignment of Leases and Rents, a Project Loan Assignment of Leases and Rents and a Mortgage Recording Tax Exemption Affidavit, each dated as of June 30, 2017, along with other necessary and required certificates (collectively the “**Mortgage Documents**”) and has asked the Agency to issue this opinion in conjunction therewith.

Capitalized terms used herein which are not otherwise defined shall have the meanings ascribed to them in the Agency Lease.

As counsel to the Agency, we have examined originals or copies, certified or otherwise identified to our satisfaction, of such instruments, certificates, and documents as we have deemed necessary or appropriate for the purposes of the opinion expressed below. In such examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to the original documents of all documents submitted to us as copies, and have assumed the accuracy and truthfulness of the factual information, expectations, conclusions, representations, warranties, covenants and opinions of the Company and its counsel and representatives as set forth in the various documents executed and delivered by them or any of them both in connection with the Project Closing and the Mortgage Closing.

We are of the opinion that:

1. The Agency is a duly organized and existing corporate governmental agency constituting a public benefit corporation of the State of New York.
2. The Agency is duly authorized and empowered by law to execute and deliver the Mortgage Documents.
3. The Mortgage Documents have been authorized by and lawfully executed and delivered by the Agency and (assuming the authorization, execution, and delivery by the other respective parties thereto) are valid and legally binding obligations enforceable against the Agency in accordance with their respective terms.

June 30, 2017

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In rendering this opinion, we advise you of the following:

The enforceability of the Mortgage Documents may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium, or similar law or enactment now or hereafter enacted by the State of New York or the Federal government affecting the enforcement of creditors' rights generally and the general principles of equity, including limitations on the availability of the remedy of specific performance which is subject to discretion of the court.

This opinion is rendered to the addressees named above and their successors and/or assigns, and may not be relied upon by any other person without our prior, express written consent.

Very truly yours,

BARCLAY DAMON, LLP

A handwritten signature in blue ink that reads "Barclay Damon, LLP". The signature is written in a cursive, flowing style.