
COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY

and

COVENANT MANOR APARTMENTS, LLC

AGENCY LEASE AGREEMENT

Dated as of December 31st, 2012

THIS AGENCY LEASE AGREEMENT (“Lease”) is dated as of this 31st day of December, 2012 by and between the **COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at 200 Harrison Street, Jamestown, New York 14701 (“Agency”) and **COVENANT MANOR APARTMENTS, LLC**, a limited liability company organized and existing under the laws of the State of New York, having an address of 8111 Rockside Road, Suite 200, Valley View, OH 44125 (“Lessee”).

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, 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”) authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to promote, develop, encourage and assist in the acquiring, renovating, construction, reconstruction, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, including industrial pollution control facilities, and to thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living;

WHEREAS, in accordance with the provisions of the Enabling Act, the Agency was established pursuant to Chapter 71 of the 1972 Laws of the State of New York, as amended, constituting Section 895-h of the New York General Municipal Law (said Chapter and the Enabling Act, each as amended from time to time, collectively, the “Act”), for the benefit of the County of Chautauqua and its inhabitants;

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

WHEREAS, Lessee has presented an application (the “Application”), including a cost benefit analysis, to the Agency, requesting the Agency to consider undertaking a project (the “Project”) consisting of the following: (A) (1) the acquisition of an interest in approximately 0.62 acres of land located at and around 23 West Third Street, City of Jamestown, County of Chautauqua, State of New York, as more particularly described on Schedule A attached hereto (the “Land”), together with the existing approximately 120,000 square foot, eight-story building located on the Land (the “Building”), and parking and related improvements (together with the Building, collectively, the “Facility), and (2) the possible acquisition and installation therein and thereon of certain Equipment (as defined below)(the Land, the Facility and the Equipment, collectively, the “Project Facility”), all of the foregoing for use by Lessee as a low to moderate income senior independent living facility; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes and real property taxes (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or

sale of the Project Facility to Lessee or such other entity as may be designated by Lessee and agreed upon by the Agency; and

WHEREAS, pursuant to a resolution passed by the Agency on November 29, 2012, the Agency agreed to undertake the Project and to execute and deliver the Transaction Documents (as defined below);

WHEREAS, the Agency proposes to appoint Lessee as agent of the Agency to undertake the acquisition and installation of the Project Facility and to sublease the Project Facility to Lessee, and Lessee desires to act as agent of the Agency to undertake the acquisition and installation of the Project Facility and to sublease the Project Facility from the Agency, all pursuant to the terms and conditions hereinafter set forth in this Lease;

WHEREAS, the acquisition of the Project Facility, the sublease of the Project Facility and the granting of the Financial Assistance to Lessee are for proper purposes, including, without limitation, the advancement of job opportunities, health, general prosperity and economic welfare of the people of the State of New York and the improvement of their prosperity and standard of living;

WHEREAS, Lessee is the fee owner of the Premises (as defined below); and

WHEREAS, immediately prior to the execution and delivery of this Lease, Lessee will execute and deliver or cause to be executed and delivered to the Agency (A) a certain company lease agreement dated as of the date hereof (the "Company Lease") between Lessee, as lessor, and the Agency, as lessee, pursuant to which Lessee conveys to the Agency a leasehold interest in and to the Premises, and (B) a bill of sale dated as of the date hereof (the "Bill of Sale to Agency"), which conveys to the Agency all right, title and interest of Lessee in and to the Equipment.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreement herein contained, and intending to be legally bound, the parties hereto agree as follows:

ARTICLE I

CERTAIN DEFINITIONS

1.1. Definitions. The following words and terms used in this Lease shall have the respective meanings set forth below:

"Applicable Laws" means all current and future statutes, codes, laws, acts, ordinances, treaties, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions, determinations and requirements, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to or affect the Project Facility or any part thereof or the conduct of work on the Project Facility or any part thereof or to the operation, use, manner of use or condition of the Project Facility or any part thereof (the applicability of the foregoing to be determined both as if the Agency were the owner of the

interests in the Project Facility and as if Lessee and not the Agency were the owner of the interests in the Project Facility).

“Authorized Representative” means the person or persons at the time designated to act on behalf of the Agency or Lessee, as the case may be, by written certificate furnished to the Agency or Lessee, as the case may be, containing the specimen signature of each such person.

“Closing” means the closing at which the Transaction Documents are executed and delivered by Lessee to the Agency.

“Closing Date” means the date of the Closing.

“Counsel” means an attorney, or firm of attorneys, admitted to practice before the highest court of any State of the United States of America or the District of Columbia (who may be counsel for the Agency or Lessee).

“County” means Chautauqua County, New York.

“Environmental Laws” means all federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances, regulations, codes and rules relating to the protection of the environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Materials, including but not limited to, each of the following statutes, as well as any and all comparable statutes and regulations of the United States, the State of New York, the County of Chautauqua, or any applicable municipal authority effective on or after the effective date of this Lease: Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 3300F et seq.; and the Toxic Substances Control Act, 15 U.S.C. Section 2601, et seq.

“Environmental Permits” means all permits, approvals, identification numbers, licenses, registrations, and other authorizations required under any applicable Environmental Laws.

“Equipment” means all those materials, machinery, equipment, fixtures or furnishings intended to be acquired with the proceeds of any payment made by Lessee pursuant to this Lease, and such substitutions and replacements therefor as may be made from time to time pursuant to this Lease, including without limitation, all the property described in Exhibit A attached hereto. “Equipment” shall not include: (i) rolling stock, (ii) any item of personalty having a useful life of less than one (1) year or which shall not constitute a tangible capital asset, (iii) plants, shrubs, trees, flowers, lawns or plants, or (iv) fine art or other similar decorative items.

“Event of Default” (collectively, “Events of Default”) means any of the events or conditions designated as such in this Lease.

“Hazardous Materials” means all hazardous materials, including, without limitation, any explosives, radioactive materials, radon, asbestos-containing materials, urea formaldehyde foam insulation, polychlorinated biphenyls, lead based paints, petroleum, petroleum products, methane, hazardous materials, hazardous chemicals, hazardous wastes, extremely hazardous wastes, restricted hazardous wastes, hazardous or toxic substances, toxic pollutants, hazardous air pollutants, pollutants, contaminants, toxic chemicals, toxics, pesticides or related materials as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Clean Water Act, as amended (33 U.S.C. Section 1251 et seq.), the Safe Drinking Water Act, as amended (42 U.S.C. Section 300f, et seq.) the Clean Air Act, as amended (42 U.S.C. Section 7401, et seq.), Articles 15 or 27 of the New York State Environmental Conservation Law, or in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule or regulation.

“Lien” means any interest in personal or real property securing an obligation owed to a Person whether such interest is based on the common law, statute or contract. The term “Lien” includes reservations, exceptions, encroachments, easements, rights of way, covenants, conditions, restrictions, leases and other similar title exceptions and encumbrances affecting real property.

“Net Proceeds” means the amount 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.

“Permitted Encumbrances” means (i) Liens described in the title insurance policy referred to in Section 3.4 of this Lease, (ii) this Lease, (iii) utility, access and other easements and rights of way, restrictions and exceptions that do not materially impair the utility or the value of the property affected thereby for the purposes for which it is intended, (iv) mechanics’, materialmen’s, warehousemen’s, carriers’ and other similar Liens to the extent permitted by the Lease, (v) Liens for taxes at the time not delinquent, and (vi) the Company Lease.

“Person” means an individual, partnership, corporation, association, joint venture, trust or unincorporated organization, and a government or governmental agency or political subdivision thereof.

“Pilot Agreement” means the Payment in Lieu of Taxes Agreement dated the date hereof between the Agency and Lessee, a copy of which is attached hereto as Exhibit B, pursuant to which Lessee shall make certain payments in lieu of real estate taxes.

“Plans and Specifications” means the plans and specifications for the Project Facility prepared by Lessee’s architect and approved by the Agency and all applicable governmental authorities.

“Premises” means the Land, together with the Facility located thereon.

“Revenues” means all amounts payable by Lessee in respect of rentals under this Lease.

“SEQR Act” means the State Environmental Quality Review Act and the regulations thereunder.

“State” means the State of New York.

“Title Company” means Stewart Title Insurance Company

“Transaction Documents” means the Company Lease, the Bill of Sale to Agency, the Pilot Agreement, this Lease and all other instruments, agreements, certificates and documents related thereto and executed in connection therewith, and any other instrument, agreement, certificate or document supplemental thereto, each as amended from time to time.

1.2. Interpretation. In this Lease, unless the context otherwise requires: (i) the words “hereof”, “herein”, “hereto”, “hereby” and “hereunder” when used in the Lease shall refer to this Lease; (ii) words of masculine gender shall mean and include correlative words of feminine and neuter genders; (iii) words importing the singular number shall mean and include the plural number, and vice versa; (iv) words importing persons shall include firms, associations, partnerships, trusts, corporations, limited liability companies and other legal entities, including public bodies, as well as natural persons; (v) any certificates, letters or opinions required to be given pursuant to this 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 Lease; and (vi) references to documents, instruments or agreements shall mean such documents, instruments and agreements as they may be amended, modified, renewed, replaced or restated from time to time.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF LESSEE

2.1. Representations. Lessee makes the following representations and warranties as the basis for the undertakings on its part contained herein:

(a) Lessee has the power to enter into this Lease and the other Transaction Documents and to perform its obligations hereunder and thereunder. The entry into and the fulfillment of and compliance with the provisions of this Lease and the other Transaction Documents have been duly authorized by all necessary action of the Lessee, and no other consent or approval is required as a condition to the validity or enforceability of this Lease or any of the other Transaction Documents.

(b) This Lease and the other Transaction Documents to which Lessee is a party constitute valid and binding obligations of Lessee, enforceable in accordance with their respective terms, except as enforcement may be limited by applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors’ rights.

(c) Neither the Lessee's entry into nor the fulfillment of and compliance with the provisions of this Lease or any other Transaction Document to which Lessee is a party will conflict with or result in a breach of or constitute a default under (i) any provision of law, (ii) any order, writ, judgment, injunction or decree of any court or other governmental agency, or (iii) any instrument by which Lessee or its properties are bound.

(d) There is no litigation, proceeding or investigation before or by any court, public board or body, whether state, local or federal, pending or threatened against or affecting Lessee, nor is there any basis therefor, wherein any unfavorable decision, ruling or finding would, in any way, adversely affect the business, operations or condition, financial or otherwise, of Lessee, or question the validity of any of the Transaction Documents or any action to be taken in connection therewith.

(e) The subleasing of the Project Facility by the Agency has induced Lessee to locate the Project Facility in the County, will increase employment opportunities and promote the health, general prosperity and economic welfare of the inhabitants of the County and will not result in the removal of any plant or facility of Lessee or any plant or facility of any other occupant or user of the Project Facility from one area of the State to another or in the abandonment of a plant or facility of Lessee or any other occupant or user of the Project Facility within the State.

(f) The Project Facility and the operation thereof will conform with all applicable zoning, planning, building and environmental laws, and all ordinances, rules and regulations of governmental authorities having jurisdiction over the Project Facility. The Project Facility shall not constitute a project where facilities or property that are primarily used in making Retail Sales (as defined below) to customers who personally visit the Project Facility constitute more than one-third of the total cost of the Project. "Retail Sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State primarily engaged in the retail sale of tangible personal property, as defined in section 1101(b)(4)(i) of the Tax Law of the State, or (ii) sales of a service to such customers.

(g) Neither this Lease nor any other Transaction Document nor any other document, certificate, agreement or instrument furnished by or on behalf of Lessee contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein not misleading.

(h) Lessee acknowledges receipt of notice of Section 874(8) of the Act, which requires that Lessee as agent of the Agency annually file a statement with the New York State Department of Taxation and Finance, on a form and in such a manner as is prescribed by the Commissioner of Taxation and Finance, of the value of any and all sales and use tax exemptions claimed by Lessee under the authority granted by the Agency.

(i) Lessee acknowledges receipt of notice of Section 858-b of the Act, which requires that new employment opportunities created as a result of the Project be listed with the following entities (hereinafter, the "JTPA Entities"): (1) the New York State Department of Labor Community Services Division and (2) the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300), or any successor statute

thereto, in which the Project Facility is located. Lessee agrees, except as is otherwise provided by collective bargaining contracts or agreements, where practicable, to first consider for such new employment opportunities persons eligible to participate in federal job training partnership programs who shall be referred by the JTPA Entities.

(j) Lessee acknowledges receipt of notice of Section 874(9) of the Act, which requires the Agency, in the event a sales tax exemption is provided in connection with the Project, to file within thirty (30) days of the date Lessee is appointed the agent of the Agency, a statement with the New York State Department of Taxation and Finance, on a form and in such a manner as is prescribed by the Commissioner of Taxation and Finance, identifying Lessee as agent of the Agency, setting forth the taxpayer identification number of Lessee, giving a brief description of the goods and/or services intended to be exempted from sales and use taxes as a result of such appointment as agent, indicating a rough estimate of the 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. Lessee agrees to timely provide the foregoing information to the Agency and to otherwise cooperate with the Agency in connection with the preparation and filing of such form.

(k) No funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State, nor shall any funds of the Agency be used for advertising or promotional materials which depict elected or appointed government officials in either print or electronic media.

ARTICLE III

ACQUISITION OF PROJECT

3.1. Transfer.

(a) Pursuant to the Company Lease, Lessee has granted a leasehold interest to the Agency in all of Lessee's right, title and interest in and to the Premises for the purpose of undertaking and completing the Project. Lessee represents and warrants that it has good and marketable title to the Premises, free and clear of all Liens, except for Permitted Encumbrances, and agrees to defend (with counsel selected by the Agency), indemnify and hold the Agency harmless from any liability due to any defect in title thereto.

(b) Title to all materials, equipment, machinery and other items of property intended to be incorporated or installed in the Project Facility shall vest in the Agency immediately upon execution and in accordance with the terms of the Bill of Sale to Agency. Title to all materials, equipment, machinery or other items of property acquired subsequent to the Closing Date and intended to be incorporated or installed in the Project Facility shall vest in the Agency immediately upon deposit on the Premises or incorporation or installation in the Project Facility. Lessee shall execute, deliver and record or file all instruments necessary or appropriate to vest title to the above in the Agency and shall take all action necessary or appropriate to protect such title against claims of any third Person.

(c) Lessee and the Agency acknowledge that the Project Facility and the interest therein leased to the Agency by Lessee and subleased by the Agency back to Lessee are not "property" as defined in Title 5-A of the Public Authorities Law of the State because such property and the interests therein are security for Lessee's obligations to the Agency under this Lease and the other Transaction Documents, including, without limitation, (i) Lessee's obligation to acquire, install and maintain the Project Facility on behalf of the Agency, and (ii) the performance by Lessee to the Agency of Lessee's other obligations under this Lease and the other Transaction Documents.

3.2. Acquisition and Installation of the Project Facility.

(a) Lessee shall, on behalf of the Agency, acquire and, if applicable, install the Project Facility on the Land in accordance with the Plans and Specifications.

(b) The Agency hereby appoints Lessee, and Lessee hereby accepts such appointment, as its true and lawful agent to perform the following in compliance with the terms, purposes and intent of the Transaction Documents: (i) to acquire and, if applicable, install any and all aspects of the Project Facility in accordance with the Plans and Specifications; (ii) to execute and deliver any contracts, orders or instruments, and do all other things necessary or appropriate, for the acquisition and installation of the Project Facility, on behalf of the Agency, provided that the liability of the Agency thereunder shall be limited to moneys made available therefor by Lessee and advanced for such purposes by Lessee in accordance with this Lease; (iii) to pay all fees, costs and expenses incurred in connection with the Project Facility; and (iv) to ask, sue for, recover and receive all sums of money and other demands that may be due and owing to the Agency under and to enforce any contracts, orders or instruments in connection with the acquisition or installation of the Project Facility.

(c) Lessee shall give or cause to be given all notices, secure all permits and licenses and comply or cause compliance with all Applicable Laws applying to or affecting the operation of the Project Facility, and Lessee will defend (with counsel selected by the Agency) and save the Agency and their respective officers, members and agents harmless from all reasonable fees, expenses and fines due to failure to comply therewith. All permits and licenses necessary for the prosecution of work on the Project Facility shall be timely procured by Lessee.

(d) If required by Applicable Law, Lessee, as agent of the Agency, will cause (i) compliance with the requirements of Article 8 of the New York Labor Law, and (ii) any contractors, subcontractors and other persons involved in the acquisition and installation of the Project Facility to comply with Article 8 of the New York Labor Law. Lessee shall not take any action, or neglect to take any action, including, without limitation, the employment of any contractor, if such action or inaction results in jurisdictional disputes or strikes or labor disharmony in connection with the Project.

(e) Lessee agrees, for the benefit of the Agency, to undertake and complete the Project and to pay all such sums as may be required in connection therewith, including, without limitation, all costs related to the Project Facility and all permitting, planning and consulting fees. A leasehold estate to any portions of the Project Facility acquired and installed at Lessee's

cost shall immediately upon such acquisition or installation vest in the Agency. Lessee shall execute, deliver and record or file such instruments as the Agency may request in order to perfect or protect the Agency's leasehold estate to such portions of the Project Facility, all at Lessee's sole cost and expense.

(f) No payment by Lessee pursuant to this Section 3.2 shall entitle Lessee to any reimbursement for any such expenditure from the Agency or to any diminution or abatement of any amounts payable by Lessee under this Lease.

3.3. Completion Date. Any Equipment to be installed as part of the Project Facility shall be installed on or before March 31, 2013 (the "Completion Date").

3.4. Title Insurance and Survey. On or prior to the Closing Date, Lessee will obtain and deliver to the Agency (i) title insurance in the amount of at least \$100,000 insuring the leasehold estate of the Agency, subject only to Permitted Encumbrances, and (ii) a current survey of the Premises certified to the Agency, Lessee and the Title Company.

3.5. Sales Tax Exemption.

(a) Any exemption from the payment of New York sales or use taxes resulting from Agency involvement in the Project shall be effective upon the issuance of a Sales Tax Letter (as defined below) by the Agency with respect to the Project and shall be limited to purchases of services and tangible personal property conveyed to the Agency or utilized by the Agency or by Lessee as agent of the Agency as a part of 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 New York sales or use taxes. The Agency makes no representations or warranties that any property is exempt from the payment of New York sales or use taxes.

(b) The Agency shall have the option, in its sole discretion, to execute and deliver to Lessee a sales tax exemption letter (a "Sales Tax Letter"). A Sales Tax Letter, if executed and delivered, shall be effective commencing on its date and shall expire pursuant to its terms. Anything to the contrary in this Lease or any Sales Tax Letter notwithstanding, the sales and use tax exemption provided by a Sales Tax Letter shall not be available for or with respect to tangible personal property having a useful life of less than one year.

(c) In the event a Sales Tax Letter is issued with respect to the Project, Lessee covenants to file annually, and cause any sublessee or other operator of the Project Facility to file with the New York State Department of Taxation and Finance (with a copy to the Agency) a statement, in a form and manner prescribed by the New York State Commissioner of Taxation and Finance, describing the value of the sales and use tax exemptions claimed with respect to the Project Facility by Lessee, any agents of Lessee or any operator of the Project Facility. If Lessee shall fail to comply with the foregoing, Lessee shall immediately cease to be the agent for the Agency in connection with the Project Facility. Lessee further covenants and agrees that it will, upon any request by the Agency, provide and certify, or cause to be provided and certified, any information concerning Lessee, or any sublessee, and its or their finances, operations and affairs, as may be necessary or appropriate in order to enable the Agency to make or prepare any report

required by any provision of law, governmental regulation, this Lease or any other Transaction Document.

(d) Lessee covenants and agrees that it shall include the following language in and as a part of each contract, invoice, bill or purchase order entered into by Lessee, as agent of the Agency, in connection with the acquisition and installation of any portion of the Project Facility for which a sales tax exemption is claimed:

“This [contract] is being entered into by Covenant Manor Apartments, LLC (the “Agent”), as agent for and on behalf of the County of Chautauqua Industrial Development Agency (the “Agency”) in connection with a certain project of the Agency for the Agent consisting in part of the acquisition of the existing approximately 120,000 square foot eight-story building, and the acquisition and installation of certain furniture, fixtures, machinery and equipment, all for incorporation and installation in certain premises located at and around 23 West Third Street, City of Jamestown, County of Chautauqua, State of New York (the “Premises”). The furniture, fixtures, machinery and equipment to be incorporated and installed in the Premises shall be exempt from the sales and use taxes levied by the State of New York if the acquisition thereof is effected in accordance with the terms and conditions set forth in the attached sales tax exemption letter of the Agency; and the Agent hereby represents that this [contract] is in compliance with the terms of the sales tax exemption letter. 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] hereby acknowledges and agrees to the terms and conditions set forth in this paragraph.”

If Lessee fails to include, incorporate by reference or otherwise cause a contract, invoice, bill or purchase order to be subject to the above provision, then such contract, invoice, bill or purchase order shall not be an undertaking on behalf of the Agency and shall not be entitled to any of the benefits that may be conferred by the Agency, Lessee shall not claim any sales or use tax benefits or exemptions with respect thereto, and Lessee shall return to the Agency any such benefits or exemptions so taken, together with interest thereon at a rate of 12% per annum (the “Default Rate”) from the date of such taking.

(e) If Lessee shall use the sales or use tax exemption provided pursuant to a Sales Tax Letter in violation of the provisions of this Section 3.5, Lessee shall promptly notify the Agency of the same and shall pay to the Agency a return of sales or use tax exemptions in an amount equal to all such unauthorized sales or use tax exemptions together with interest at the Default Rate from the date and with respect to the dollar amount for which each such unauthorized sales or use tax exemption was used by Lessee.

(f) No Sales Tax Letter may be assigned or transferred by Lessee to any other Person without the prior written consent of the Agency, which consent may be withheld in the sole and absolute discretion of the Agency, and any such assignment or transfer without Agent's consent shall be null and void.

ARTICLE IV

DEMISE OF PROJECT FACILITY; RENTAL PROVISIONS

4.1. Demise. The Agency hereby leases the Project Facility to Lessee, and Lessee hereby leases the Project Facility from the Agency, upon the terms and conditions of this Lease.

4.2. Lease Term; Quiet Enjoyment. The leasehold estate created hereby shall commence on the Closing Date and, provided that all amounts, costs and expenses payable by Lessee to the Agency under this Lease and all other Transaction Documents are paid in full, shall terminate at 12:00 a.m. on the earliest to occur of (1) December 31, 2022, or (2) the date that this Lease shall terminate pursuant to Article VIII or Article IX hereof, or (3) the date that the Company Lease shall terminate pursuant to the terms thereof. The Agency shall not take nor permit any action, other than pursuant to Article VIII of this Lease, to prevent Lessee during the term of the Lease from having quiet and peaceable possession of the Project Facility or which will otherwise adversely affect the rights or estate of Lessee hereunder, except upon the written consent of Lessee.

4.3. Rent and Other Amounts Payable. Lessee shall pay to the Agency as the basic rental payments due hereunder: (i) the sum of One Dollar (\$1.00) per year on each anniversary of the Closing Date throughout the term of this Lease; (ii) all fees and expenses of Counsel to the Agency with respect to the Project, and (iii) all other costs and expenses incurred by the Agency in connection with the transactions contemplated by this Lease and the other Transaction Documents (items (ii) and (iii) to be paid upon demand therefor from the Agency). In addition to the foregoing, Lessee shall also pay to the Agency, as additional rent, within fifteen (15) days after receipt of demand therefor from the Agency, the sum of the expenses of the Agency and the officers, members and agents thereof, incurred by reason of the Agency's leasing, subleasing or sale of the Project Facility or in connection with the carrying out of the Agency's duties and obligations under this Lease or any of the other Transaction Documents, and any other fee or expense of the Agency with respect to the Project Facility, the subleasing or sale of the Project Facility to Lessee, or any of the other Transaction Documents, the payment of which is not otherwise provided for under this Lease. All payments made pursuant to this Article IV shall be made in immediately available funds in lawful money of the United States.

4.4. Administrative Fee. Lessee shall pay to the Agency, at Closing, an administrative fee in the amount of \$27,160. Such administrative fee is non-refundable and is deemed earned in full upon the execution and delivery of this Lease.

4.5. Security Interest. Lessee hereby grants to the Agency a security interest in all of its right, title and interest in the Project Facility and in all additions and accessions thereto, all replacements and substitutions therefor, all books, records and accounts of Lessee pertaining to the Project Facility, and all proceeds and products thereof (collectively, the "Collateral"), as security for the obligations (payment and otherwise) of Lessee under this Lease and the other Transaction Documents (including, without limitation, Lessee's obligation to make payments under the Pilot Agreement). The Agency is authorized to file financing statements with respect to the Collateral, with or without the signature of Lessee thereon, and to do any other acts or things necessary or appropriate in order to perfect the security interest created hereby. The

Agency's rights with respect to the Collateral, in addition to its other rights set forth in or created by this Lease or any Applicable Laws, shall be those of a secured party under the Uniform Commercial Code adopted in the State, as the same may be amended from time to time. The Agency's security interest created by this Section 4.5, together with the Agency's rights in connection therewith, shall survive any termination of this Lease and shall continue in effect until all amounts owed pursuant to this Lease and the other Transaction Documents have been paid in full.

ARTICLE V

COVENANTS OF LESSEE

5.1. Maintenance and Operation. Lessee shall: (i) not abandon the Project Facility nor cause or permit any waste, loss or damage, ordinary wear and tear excepted, to the Facility; (ii) not remove any part of the Project Facility outside the jurisdiction of the Agency; (iii) maintain and operate the Project Facility and make all reasonably necessary repairs and replacement thereto (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen); (iv) not take any action or fail to take any action which would cause the Project Facility not to constitute a "project" for purposes of the Act. Lessee may from time to time make structural additions, modifications and improvements to the Project Facility which it deems desirable, all of which shall become a part of the Project Facility (but in no way an obligation or expense of the Agency); provided, however, that the Agency's prior consent shall be required to the extent any such additions, modifications or improvements will have an impact on the assessed value of the Premises.

5.2. Taxes and Special Assessments.

(a) Lessee shall pay or cause to be paid, as the same respectively become due: (i) all taxes and governmental charges of any kind which may at any time be lawfully assessed or levied against or with respect to the Project Facility (other than those taxes for which payments in lieu thereof are being paid pursuant to the Pilot Agreement); (ii) all utility and other charges incurred or imposed with respect to the Project Facility or the operation, maintenance, use, occupancy, upkeep or improvement thereof, and (iii) all assessments and charges of any kind lawfully imposed by any governmental body.

(b) Lessee may in good faith contest any such taxes, assessments and other charges, so long as the overall operating efficiency of the Project Facility for the purposes for which it is intended is not impaired. In the event of any such contest, Lessee may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, provided that (i) Lessee is not in default under any of the Transaction Documents, (ii) neither the Project Facility nor any part thereof or interest therein would be in any immediate danger of being sold, forfeited or lost by reason of such proceedings, (iii) Lessee diligently prosecutes such contest to completion, and (iv) Lessee shall have set aside on its books adequate reserves with respect thereto.

5.3. Insurance.

(a) At all times throughout the term of this Lease, Lessee will maintain or cause to be maintained, in financially sound and generally recognized responsible insurance companies, the following insurance coverages:

(i) "All-Risk" property insurance protecting the interests of Lessee and the Agency, as their interests may appear, in an amount sufficient to cover 100% of the replacement cost of the Project Facility, without deduction for depreciation;

(ii) insurance protecting Lessee and the Agency against loss or losses from liabilities imposed by law or assumed in any written contract (including the contractual liability assumed by Lessee under Section 5.6 hereof) and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$2,000,000 per accident or occurrence on account of personal injury and property damage and an excess liability policy in an amount not less than \$5,000,000, including the Agency as an additional insured party; and

(iii) during any period of capital renovation, construction, improvement or reconstruction (but not including routine maintenance and repairs) (A) "Builder's Risk" extended coverage casualty insurance in an amount satisfactory to the Agency, and (B) to the extent not covered by the liability insurance described in the preceding paragraph, Owners & Contractors Liability Insurance for the benefit of Lessee and the Agency with limits for personal and property damage satisfactory to the Agency.

(b) All policies evidencing the insurance required by this Section 5.3 shall name Lessee and the Agency as insureds and provide for (i) unless otherwise provided in any mortgage affecting the Premises, payment of the losses to Lessee and the Agency as their respective interests may appear, and (ii) at least thirty (30) days' written notice to Lessee and the Agency prior to cancellation, lapse, reduction of benefits or material change in coverage thereof. Certificates satisfactory in form and substance to the Agency to evidence all insurance required hereby shall be delivered to the Agency on or before the Closing Date. Prior to the expiration of any policy of insurance, Lessee shall furnish to the Agency evidence that the policy has been renewed or replaced or is no longer required by this Lease.

(c) The Net Proceeds of the insurance required by Sections 5.3(a)(i) and 5.3(a)(iii)(A) shall be applied as set forth in Section 7.1 hereof, and the Net Proceeds of the insurance required by Sections 5.3(a)(ii) and 5.3(a)(iii)(B) shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance is written.

5.4. Disposal of Assets. During the term of this Lease, Lessee shall maintain its corporate existence and its state of formation as in effect on the date hereof and not dissolve, liquidate or otherwise dispose of all or substantially all of its assets, nor shall Lessee merge or consolidate with another Person or permit one or more Persons to merge or consolidate with it, without the written consent of the Agency.

5.5. Right of Agency to Perform Lessee's Obligations. Should Lessee fail to make any payment or to do any act provided for in this Lease which amounts to an Event of Default, the Agency may, but shall not be obligated to, without notice to or demand on Lessee and without releasing Lessee from any obligation, make or do the same on behalf of Lessee, including, without limitation, appearing in and defending any action purporting to affect the rights or powers of Lessee or the Agency, and paying all premiums, fees, actual costs and expenses (including reasonable attorneys' fees and expenses) incurred by the Agency in connection therewith; and Lessee shall pay immediately upon demand all sums so incurred or expended by the Agency under the authority hereof, together with interest thereon, at the Default Rate.

5.6. Indemnity and Hold Harmless Provisions.

(a) Lessee releases the Agency from, agrees that the Agency shall not be liable for, and indemnifies, defends (with counsel selected by the Agency) and holds harmless the Agency and its officers, members, agents (other than Lessee) and employees, past, present and future, from and against any and all claims, causes of action, judgments, liabilities, damages, losses, costs and expenses (including reasonable attorneys' fees) resulting from or arising in connection with the Agency's undertaking the Project, including, but not limited to: (i) 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 or 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, (ii) liability arising from or expense incurred by the Agency's acquiring, renovating, constructing, equipping, installing, owning, subleasing 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 Lease or any of the other Transaction Documents or the enforcement of or defense of validity of any provision of any of the Transaction Documents, (iii) liability or loss in connection with or occasioned by any breach of Lessee's covenants or agreements under this Lease; (iv) all claims arising from the exercise by Lessee of its authority conferred pursuant to Section 3.2(b) hereof, and (v) 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 such claims, causes of action, judgments, liabilities, damages, losses, costs or expenses of the Agency are not incurred or do not result from the intentional wrongdoing or gross negligence of the Agency or any of its officers, members, agents (other than Lessee) and employees. The foregoing indemnities shall not apply to the Agency or any of its officers, members, agents and employees to the extent of their own gross negligence or intentional misconduct. Lessee agrees to provide for and insure, to the extent possible, in the liability policies required by Section 5.3 (a)(ii) of this Lease, its liabilities assumed pursuant to this Section 5.6.

(b) Notwithstanding any other provisions of this Lease, the obligations of Lessee pursuant to this Section 5.6 shall remain in full force and effect after the termination of this 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, 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, employees or agents, relating to the enforcement of the provisions herein specified.

5.7. Limitation of Liability of the Agency. Notwithstanding any other provision of this Lease, any liability of the Agency to Lessee under this Lease shall be enforceable only out of the Agency's interest under this Lease, and there shall be no other recourse against the Agency, its officers, members, agents and employees, past, present or future, or any of the property now or hereafter owned by it or them.

5.8. Discharge of Liens. If any Lien (other than a Permitted Encumbrance) is filed or asserted against the Project Facility or the Agency's or Lessee's interest therein, Lessee will cause each such Lien to be fully discharged and released or bonded within sixty (60) days after its assertion; provided, however, Lessee may contest any such Lien in good faith. If any such Lien shall be reduced to final judgment, and such judgment or other process issued for the enforcement thereof is not promptly stayed, or if so stayed and said stay thereafter expires, Lessee shall forthwith pay and discharge said judgment.

5.9. Certificate of No Default; Financial Statements. Within one hundred twenty (120) days after the close of each fiscal year, Lessee shall, upon the request of the Agency, furnish to the Agency: (i) a certificate stating that no Event of Default under this Lease has occurred, and that no event has occurred which with the giving of notice or lapse of time or both would constitute an Event of Default (or, if either of such statements is not correct, the details with respect to the event or occurrence); and (ii) audited financial statements of Lessee consisting of a balance sheet as of the last day of such period and an operating or income statement through the last day of such period.

5.10. Compliance with Laws. Lessee agrees that it will, during the term of this Lease, comply with all Applicable Laws at its sole cost and expense.

5.11. Employment Opportunities.

(a) Lessee shall insure that all employees and applicants for employment with regard to the Project are afforded equal employment opportunities without discrimination.

(b) Pursuant to Section 858-b of the Act, except as otherwise provided by collective bargaining contracts or agreements, Lessee agrees (i) to list all new employment opportunities created as a result of the Project with the New York State Department of Labor, Community Services Division (the "NYSDOL") and with the administrative entity (collectively with NYSDOL, the "JTPA Referral Entities") of the service delivery area created by the federal Job Training Partnership Act (P.L. No. 97-300) (including any successor statute thereto, the "JTPA") in which the Project is located, and (ii) where practicable, to first consider for such new employment opportunities persons eligible to participate in federal JTPA programs who shall be referred by the JTPA Referral Entities.

(c) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, Lessee agrees to file with the Agency, prior to the effective date of this Lease, an employment plan, in form and substance satisfactory to the Agency.

(d) Pursuant to the requirements of subsection one of Section 6 of Chapter 127 of the 1995 Laws of the State, Lessee agrees to file with the Agency, on an annual basis not later than January 1 of each year during the term of this Lease, reports regarding the number of people employed at the Project Facility and certain other matters, such annual employment report to be in such form and to contain such information as may be reasonably requested by the Agency.

5.12. Payments in Lieu of Taxes.

(a) It is recognized that, under the provisions of the Act, the Agency is required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control or supervision or upon its activities. It is the intention of the parties hereto that the Project Facility be treated as exempt from real property taxation to the extent set forth in the Pilot Agreement. Accordingly, the parties hereto acknowledge that the Agency shall file New York State Board of Real Property Services Form RP-412-a with respect to the Project Facility.

(b) The Agency and Lessee hereby agree that Lessee, or any permitted subsequent user of the Project Facility under this Lease, shall be required to make or cause to be made payments in lieu of taxes to the school district or school districts, city, town, county, village and other political units wherein the Project Facility is located having taxing powers in such amounts and at such times as are required by the Pilot Agreement.

ARTICLE VI

HAZARDOUS MATERIALS

6.1. Environmental Representations and Warranties. Lessee represents and warrants that, except as may be disclosed in the Phase 1 Environmental Assessment prepared by ATC Associates, Inc. in connection with the Premises dated March 2012, (i) Lessee has not used Hazardous Materials on, from or affecting the Project Facility in any manner which violates any Environmental Law, (ii) the environmental and ecological condition of the Project Facility is not in violation of any Environmental Law, (iii) Lessee has all Environmental Permits required to renovate and operate the Project Facility and is in compliance with their requirements, (iv) the Premises is not listed in CERCLIS, the NPL, the New York State Registry of Inactive Hazardous Waste Sites, or any similar state or local listing nor is it included in an area included in such a list, and Lessee has no knowledge that such a listing is pending or contemplated, (v) no event has occurred which, with the passage of time or the giving of notice or both, would constitute a violation of any Environmental Law, (vi) to the best of Lessee's knowledge, there are not now, nor have there ever been, above ground or underground storage tanks on or under the Premises, (vii) there are no actions, suits, claims or proceedings seeking money damages, injunctive relief, remedial action or any other remedy pending or, to Lessee's knowledge, threatened relating to a violation of Environmental Law or the disposal, discharge or release of Hazardous Materials, (viii) there has been no release or threatened release of any Hazardous Materials on, upon or into the Project Facility site and, to Lessee's knowledge, there have been no such releases or threatened releases on, upon or into any real property adjoining or in the vicinity of the Project Facility site which through soil or groundwater migration could have come to be located upon the Project Facility site, and (ix) to the best of Lessee's knowledge, no prior owner of the Project

Facility or any tenant, subtenant, operator, occupant, prior tenant, prior subtenant, prior operator or prior occupant, has used Hazardous Materials on, from or affecting the Project Facility in any manner which violates any Environmental Law.

6.2. Environmental Covenants.

(a) Except in compliance with all Environmental Laws, Lessee shall keep and shall cause the Project Facility to be kept free of Hazardous Materials. Without limiting the foregoing, Lessee shall not cause or permit the Project Facility to be used to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials, except in compliance with all Environmental Laws, nor shall Lessee cause or permit, as a result of any intentional or unintentional act or omission on the part of Lessee, or any tenant, subtenant, operator or occupant of the Project Facility, a release or threatened release of Hazardous Materials onto, under or from the Project Facility or onto any other property. Lessee shall not cause or permit, as a result of any intentional or unintentional act or omission on the part of Lessee or its members, directors, officers, agents, servants, employees or representatives, a release or threatened release of Hazardous Materials on, under or from the Project Facility.

(b) Lessee shall comply with, and ensure compliance by all tenants, subtenants and occupants of the Project Facility with, all Environmental Laws whenever and by whomever triggered, and shall obtain and comply with, and ensure that all tenants, subtenants, operators and occupants of the Project Facility obtain and comply with, any and all approvals, registrations or permits required thereunder. Lessee agrees to provide the Agency with copies of any notifications given by Lessee to any governmental authority or received by Lessee from any governmental authority with respect to any Environmental Law respecting the Project Facility.

(c) Lessee shall (i) conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up, remove or contain all Hazardous Material on, from or affecting the Project Facility (A) in accordance with all Applicable Laws, (B) to the satisfaction of the Agency, and (C) in accordance with the orders and directives of all governmental authorities, and (ii) defend (with counsel selected by the Agency), indemnify, and hold harmless the Agency and its employees, agents, officers, attorneys, servants and members, past, present and future, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, whether groundless or not, arising out of, or in any way related to: (A) the presence, disposal, release or threatened release of any Hazardous Materials on, from, under or affecting the Project Facility, (B) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials, (C) any lawsuit brought or threatened, settlement reached, or any government order relating to such Hazardous Materials, and/or (D) any violation of any Environmental Law, including, without limitation, attorney and consultant fees, costs of remediation, investigation and laboratory fees, court costs and litigation expenses. Costs under this subsection 6.2 (c) will be repaid immediately with interest at the Default Rate.

(d) In the event that insurance is or shall become available at a reasonable cost to cover Lessee's obligations under this Section 6.2, then, at the option of the Agency, Lessee shall obtain adequate coverage.

ARTICLE VII

DAMAGE TO AND STATUS OF PROJECT

7.1. Damage, Destruction and Condemnation.

(a) If (i) the Project Facility or any portion thereof shall be destroyed (in whole or in part) or damaged by fire or other casualty, or (ii) title to, or the temporary use of the Project Facility or any portion thereof shall be taken under the exercise of the power of eminent domain by a Person acting under governmental authority, Lessee may, within thirty (30) days after the occurrence, terminate this Lease and the Company Lease upon notice to the Agency or continue the Lease and the Company Lease in effect. In no event shall the Agency have any liability or duty to replace, repair, rebuild or restore the Project Facility.

(b) Lessee shall have the right to settle and adjust all claims under any policies of insurance or in condemnation on behalf of the Agency and itself. Lessee shall be entitled to the proceeds of any condemnation award related to the Project Facility and the Agency shall have no interest therein.

7.2. No Warranty by Agency. THE AGENCY MAKES NO WARRANTY, 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 LESSEE'S PURPOSES OR NEEDS. LESSEE ACCEPTS THE PROJECT FACILITY "AS IS".

7.3. Inspection. The Agency and its agents shall have the right at all reasonable times and upon advance notice to inspect the Project Facility.

7.4. Information. Lessee agrees to provide promptly such information concerning Lessee, its finances and the Project Facility as the Agency may reasonably request from time to time, including, without limitation, any such information required to enable the Agency to make any report(s) required by Applicable Laws.

7.5. Identification of Equipment. All Equipment which is or may become a part of the Project Facility shall be properly identified by Lessee by such appropriate records as may be approved by the Agency.

7.6. Depreciation. The parties agree that, as between them, Lessee shall be entitled to all depreciation or recovery deductions with respect to any depreciable property in the Project Facility pursuant to Sections 167 or 168 of the Internal Revenue Code and to all other state and/or federal income tax deductions and credits which may be available with respect to the Project Facility.

7.7. Restriction on Sale and Encumbrance of Project Facility. Except as otherwise specifically provided in this Lease, Lessee shall not sell, convey, transfer or encumber the Project Facility or any part thereof without the prior written consent of the Agency, which consent may be granted or withheld in the Agency's sole discretion.

7.8. Assignment or Sub-Sublease.

(a) Lessee shall not at any time assign or transfer this Lease, in whole or in part, nor shall Lessee sub-sublet the whole or any part of the Facility, without the prior written consent of the Agency, which consent may be withheld in Agency's sole and absolute discretion, except for sub-subleases of portions of the Facility in arms' length, bona fide transactions with third parties for use as the residence of such third parties pursuant to a form of lease approved in advance by the Agency; provided further, that if the Agency consents to (or the Lessee is otherwise permitted hereunder to proceed with) any such assignment, transfer or sub-subletting, (1) Lessee shall nevertheless remain liable to the Agency for the payment of all rent and for the full performance of all of the terms, covenants and conditions of this Lease and of any other Transaction Documents to which it shall be a party, (2) any assignee or transferee of Lessee in whole of the Facility shall have assumed in writing and have agreed to keep and perform all of the terms of the Lease on the part of Lessee to be kept and performed, shall be jointly and severally liable with Lessee for the performance thereof, shall be subject to service of process in the State of New York, and shall be qualified to do business in the State of New York, (3) any assignee, transferee or sub-sublessee shall utilize the Facility as a qualified "project" within the meaning of the Act, (4) such assignment, transfer or sub-sublease shall not violate any provision of this Lease or any other Transaction Documents, (5) such assignment, transfer or sub-sublease shall in no way diminish or impair Lessee's obligation to carry the insurance required under this Lease and Lessee shall furnish written evidence satisfactory to the Agency that such insurance coverage shall in no manner be limited by reason of such assignment, transfer or sub-sublease, and (6) each such assignment, transfer or sub-sublease contains such other provisions as the Agency may require in its sole and absolute discretion.

(b) Any consent by the Agency to any act of assignment, transfer or sub-sublease shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver of the duty of Lessee or the successors or assigns of Lessee, to obtain from the Agency consent to any other or subsequent assignment, transfer or sub-sublease, or as modifying or limiting the rights of the Agency under the foregoing covenant by Lessee.

(c) If the Facility or any part thereof be sublet or occupied by any person other than Lessee, the Agency, in the event of Lessee's default in the payment of rent may, and is hereby empowered to, collect rent from the undertenant or occupant during the continuance of any such default. In either of such events, the Agency may apply the net amount received by it to the rent herein provided, and no such collection shall be deemed a waiver of the covenant herein against assignment, transfer or sub-sublease of this Lease, or constitute the acceptance of the under-tenant or occupant as tenant, or a release of Lessee from the further performance of the covenants herein contained on the part of Lessee.

7.9. Merger of Agency.

(a) Nothing contained in this Lease shall prevent the consolidation of the Agency with, the merger of the Agency into, or the assignment by the Agency of its rights and interests hereunder to, any other public benefit corporation of the State or any political subdivision thereof which has the legal authority to own and lease the Project Facility and to perform the Agency's obligations 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 Lease to be kept and performed by the Agency shall be expressly assumed in writing by the public benefit corporation or political subdivision resulting from such consolidation, surviving such merger or to which the Agency's rights and interests under this Lease shall be assigned.

(b) The Agency shall endeavor to give Lessee notice in reasonable detail as to any such consolidation, merger or assignment. The Agency shall promptly furnish such additional information with respect to any such consolidation, merger or assignment as Lessee may reasonably request.

7.10. Waiver of Real Property Law Section 227. Lessee hereby waives the provisions of Section 227 of the Real Property Law of the State or any laws of like import now or hereafter in effect.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

8.1. Events of Default Defined. Any one or more of the following events shall be "Events of Default" under this Lease:

(a) failure by Lessee to pay or cause to be paid any amount due under this Lease or under any other Transaction Document within ten (10) days of when due;

(b) failure by Lessee to observe and perform any other of the covenants, conditions or agreements in this Lease on its part to be observed or performed and the continuation thereof for a period of thirty (30) days after written notice thereof is given by the Agency to Lessee;

(c) Lessee shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee or liquidator of itself or of any of its assets, (ii) admit its inability, or be generally unable, to pay its debts as such debts become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition or other request seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, or (vi) take any corporate action for the purpose of effecting any of the foregoing;

(d) a proceeding or case shall be commenced, without the application or consent of Lessee, in any court of competent jurisdiction, seeking (i) liquidation, reorganization,

arrangement, adjustment of debts, adjudication as a bankrupt, dissolution, winding-up, or relief as a debtor, (ii) the appointment of a trustee, receiver, custodian, liquidator or the like of Lessee or of any of its assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) days;

(e) any certificate, statement, representation, warranty or financial statement furnished by or on behalf of Lessee shall prove to have been false or misleading in any material respect at the time as of which the facts therein set forth were made, or to have omitted any substantial or unliquidated liability or claim against Lessee;

(f) there shall be a default in respect of any evidence of indebtedness for money borrowed by Lessee (or with respect to the performance of any obligations of Lessee incurred in connection with any such indebtedness for money borrowed) where the effect of such default is to accelerate the maturity of such indebtedness or to permit the holders thereof (or a trustee on behalf of such holders) to cause such indebtedness to become due prior to its stated maturity, or any such indebtedness shall not be paid as and when due and payable;

(g) the Project Facility, or any portion thereof, shall be removed outside Chautauqua County, New York, without the prior written consent of the Agency; and/or

(h) the occurrence of any event of default under any other Transaction Document.

8.2. Force Majeure. Notwithstanding the provisions of Section 8.1 hereof, if by reason of force majeure (as hereinafter defined) either party hereto is unable in whole or in part to carry out the agreements on its part herein contained, Lessee shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall include acts outside of the control of the Agency and Lessee, including, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, restraint of government and people, civil disturbances, breakage or accident to transmission pipes or canals, and partial or entire failure of utilities. Notwithstanding anything to the contrary contained in this Section 8.2, an event of force majeure shall not excuse, delay or in any way diminish the obligations of Lessee to make the payments required under this Lease, to obtain and provide the insurance required by Section 5.3 hereof, to provide the indemnity required by Sections 3.1, 5.6 and 6.2(c) hereof and to comply with the provisions of Sections 5.4, 5.10 and 7.4 hereof. Lessee agrees that after the occurrence of an event of force majeure, it will take such steps as may thereafter be within its reasonable control to mitigate the cause or causes preventing Lessee from carrying out its obligations under this Lease.

8.3. Remedy on Default. Upon the occurrence of an Event of Default, in addition to any other remedy which may be available under any applicable law, the Agency may, at its option, terminate this Lease and the Company Lease.

8.4. No Remedy Exclusive. No course of dealing and no delay or omission by the Agency in exercising any right or remedy hereunder shall operate as a waiver thereof or of any

other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. The Agency may remedy any default by Lessee hereunder or with respect to any other Person in any reasonable manner without waiving such default. All rights and remedies of the Agency hereunder are cumulative.

8.5. Agreement to Pay Attorneys' Fees and Expenses. In the event Lessee defaults under any of the provisions of this Lease or any other Transaction Document and the Agency retains attorneys or incurs other expenses for the collection of amounts payable hereunder or thereunder, or the enforcement of performance or observance of any obligations or agreements on the part of Lessee herein or therein contained, Lessee shall, on demand therefor, pay to the Agency such fees and expenses (including, without limitation, reasonable attorneys' fees and expenses) so incurred, whether an action is commenced or not.

ARTICLE IX

TERMINATION OF THIS LEASE; OPTION IN FAVOR OF LESSEE

9.1. Early Termination. Lessee shall have the option to terminate this Lease and the Company Lease at any time prior to the termination date specified in Section 4.2 hereof by filing with the Agency a certificate signed by an Authorized Representative of Lessee stating Lessee's intention to do so pursuant to this Section 9.1.

9.2. Obligation to Purchase Project Facility. Upon termination of this Lease and the Company Lease in accordance with Section 4.2 or Section 9.1 hereof, Lessee shall pay all sums required to be paid to the Agency or any other Person pursuant to this Lease and the other Transaction Documents. The obligation of the Agency under this Section 9.2 to terminate its interest in the Project Facility will be subject to there being no Event of Default existing hereunder, and there being no other event which would, but for the passage of time or the giving of notice, or both, be such an Event of Default.

9.3. Conveyance Upon Termination. The Agency shall, upon the satisfaction of the conditions set forth in Sections 9.1 and 9.2 hereof, deliver all necessary documents (a) to terminate the Company Lease and this Lease; (b) to release and convey to Lessee all of the Agency's rights and interest in and to any rights of action or any Net Proceeds of insurance or condemnation awards with respect to the Project Facility; and (c) to discharge and release any security interest or lien of any nature held by the Agency.

ARTICLE X

MISCELLANEOUS

10.1. Notices. All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given, if by delivery, when delivered and, if delivered by mail, on the second day following the day on which mailed by certified mail, postage prepaid, addressed as follows:

To the Agency: County of Chautauqua Industrial Development Agency
200 Harrison Street
Jamestown, New York 14701
Attention: Administrative Director, CEO

With a copy to: Phillips Lytle LLP
201 West Third Street, Suite 205
Jamestown, NY 14701
Attention: Jonathan P. Taber, Esq.

To Lessee: Covenant Manor Apartments, LLC
8111 Rockside Road, Suite 200
Valley View, OH 44125
Attention: Frank T. Sinito

With a copy to: Covenant Manor Apartments, LLC
8111 Rockside Road, Suite 200
Valley View, OH 44125
Attention: Laura Anderson

The Agency or Lessee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

10.2. Binding Effect. This Lease shall inure to the benefit of the Agency and Lessee and shall be binding upon the Agency, Lessee and, as permitted by this Lease, their respective successors and assigns.

10.3. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

10.4. Execution of Counterparts. This 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.

10.5. Integrated Agreement; Amendments. This Lease represents the entire agreement between the parties hereto on the subject matter hereof and may not be amended, changed, modified or altered except by an instrument in writing signed by the parties hereto.

10.6. Survival of Certain Obligations. The obligations of Lessee to make payments required by the provisions of this Lease and to provide the indemnity required by Sections 3.1, 5.6 and 6.2(c) hereof shall survive the termination of this Lease, and all such payments after such termination shall be made upon demand of the party to whom such payment is due.

10.7. Net Lease. The obligation of Lessee to make the payments specified in this Lease shall be absolutely net to the Agency without any abatement, recoupment, diminution, reduction,

deduction, counterclaim, set-off or offset whatsoever, so that this Lease shall yield, net, to the Agency, the payments set forth herein.

10.8. Applicable Law. This Lease shall be governed and construed under the internal laws of the State, as the same may be in effect from time to time, without regard to principles of conflicts of law.

10.9. Headings for Convenience Only. The descriptive headings in this Lease are inserted for convenience only and shall not control or affect the meaning or construction of any provisions hereof.

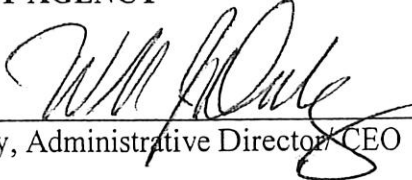
10.10. WAIVER OF JURY TRIAL. THE AGENCY AND LESSEE HEREBY WAIVE THE RIGHT EACH MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION ARISING IN CONNECTION WITH THIS LEASE OR ANY OTHER TRANSACTION DOCUMENT.

10.11. Third Party Beneficiaries. Nothing in this Lease is intended to be for or inure to the benefit of any Person other than the parties hereto.

[Remainder of This Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Agency and Lessee have hereby executed this Lease as of the date first above written.

**COUNTY OF CHAUTAUQUA INDUSTRIAL
DEVELOPMENT AGENCY**

By 
William J. Daly, Administrative Director/CEO

COVENANT MANOR APARTMENTS, LLC

By: Cedar Valley Associates, LP, its Sole Member

By: Cedar Valley Apartments, LLC, its General Partner

By: _____
Frank T. Sinito, its Managing Member

IN WITNESS WHEREOF, the Agency and Lessee have hereby executed this Lease as of the date first above written.

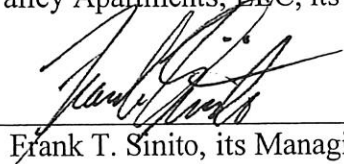
**COUNTY OF CHAUTAUQUA INDUSTRIAL
DEVELOPMENT AGENCY**

By _____
William J. Daly, Administrative Director/ CEO

COVENANT MANOR APARTMENTS, LLC

By: Cedar Valley Associates, LP, its Sole Member

By: Cedar Valley Apartments, LLC, its General Partner

By:  _____
Frank T. Sinito, its Managing Member

STATE OF NEW YORK)
) SS:
COUNTY OF CHAUTAUQUA)

On the 27th day of December, 2012 before me, the undersigned, a notary public in and for said state, personally appeared William J. Daly, 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

CRYSTAL L. ALMETER, #01AL5088075
Notary Public, State of New York
Qualified in Cattaraugus County
My Commission Expires Nov. 10, 2013

STATE OF NEW YORK)
) SS:
COUNTY OF _____)

On the ____ day of December, 2012 before me, the undersigned, a notary public in and for said state, personally appeared Frank T. Sinito, 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

STATE OF NEW YORK)
) SS:
COUNTY OF CHAUTAUQUA)

On the ____ day of December, 2012 before me, the undersigned, a notary public in and for said state, personally appeared William J. Daly, 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

STATE OF ^{Ohio}~~NEW YORK~~)
) SS:
COUNTY OF Cuyahoga)

On the Sunday day of December, 2012 before me, the undersigned, a notary public in and for said state, personally appeared Frank T. Sinito, 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.

Anna Brown
Notary Public



Attorney Anna V. Brown
Resident Summit County
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec 147.03 RC

Schedule A

PARCEL A

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Jamestown, County of Chautauqua and State of New York, being part of Lot 34, Township 2, Range 11 of the Holland Land Company's Survey and being more particularly described as follows:

BEGINNING at the intersection of the southerly street line of West Third Street and the easterly street line of Cherry Street; thence North $77^{\circ} 38' 40''$ East along the southerly street line of West Third Street, a distance of 122.37 feet to the intersection of the southerly street line of West Third Street and the westerly line of Mechanics Alley; thence South $12^{\circ} 19' 40''$ East along the westerly line of Mechanics Alley, a distance of 175.50 feet to a point; thence South $77^{\circ} 52' 10''$ West, a distance of 122.45 feet to a point on the easterly street line of Cherry Street; thence North $12^{\circ} 18' 05''$ West along the easterly street line of Cherry Street, a distance of 175.02 feet to the point of beginning.

Also known of record as the following:

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Jamestown, County of Chautauqua and State of New York, being bounded and described as follows:

BEGINNING at a point in the southerly line of Third Street where it is intersected by the easterly line of Cherry Street; running thence North $77^{\circ} 38' 40''$ East along the southerly line of Third Street, 122.37 feet to the westerly line of Mechanic's Alley; thence South $12^{\circ} 7' 40''$ East along the westerly line of Mechanic's Alley a distance of 175.50 feet to a point; thence running South $77^{\circ} 40'$ West 60.73 feet to a point; thence North $12^{\circ} 21' 20''$ West 15.99 feet to a point; thence South $77^{\circ} 40'$ West 0.54 feet to a point; thence North $12^{\circ} 21' 20''$ West 19.76 feet to a point; thence South $77^{\circ} 38' 40''$ West 59.58 feet to a point in the easterly bounds of said Cherry Street; thence North $12^{\circ} 18' 05''$ West along said easterly street line of Cherry Street 140.28 feet to the point of beginning. According to a survey made by George N. Dimas, Surveyor, Jamestown, New York, dated July 19, 1976 and designated as Job No. 4100.

ALSO, ALL THAT TRACT OR PARCEL OF LAND situate in the City of Jamestown, County of Chautauqua and State of New York, being bounded and described as follows:

BEGINNING at a point in the easterly street line of Cherry Street South $12^{\circ} 18' 05''$ East 140.28 feet as measured along said easterly line from its intersection with the southerly street line of West Third Street; running thence North $77^{\circ} 38' 40''$ East parallel to said southerly line of West Third Street 59.58 feet to a point; thence South $12^{\circ} 21' 20''$ East 19.76 feet to a point; thence North $77^{\circ} 40'$ East 0.54 feet to a point; thence South $12^{\circ} 21' 20''$ East 15.99 feet to a point; thence South $77^{\circ} 40'$ West 60.49 feet to a point in the easterly line of said Cherry Street; thence North $12^{\circ} 18' 05''$ West along said easterly line of Cherry Street 35.27 feet to the point of beginning.

PARCEL B

TOGETHER WITH the benefits of an Easement Agreement made between City of Jamestown and Walcott Corporation dated August 5, 1977 and recorded December 29, 1977 in Liber 1740 of Deeds at page 290.

PARCEL C

TOGETHER WITH the benefits of an Easement Agreement made between City of Jamestown and Covenant Manor Housing Development Fund Company, Inc. dated December 10, 1979 and recorded January 10, 1980 in Liber 1855 of Deeds at page 94.

PARCEL D

ALL THAT TRACT OR PARCEL OR LAND situate in the City of Jamestown, County of Chautauqua and State of New York and being part of Lot 34, Town 2, Range 11 of the Holland Land Company's Survey and bounded and described as follows:

BEGINNING at the intersection of the southerly line of West Second Street and the easterly

line of Foundry Alley; and running thence southerly along the easterly line of said Foundry Alley, 100 feet to an iron stake; thence easterly parallel with the said southerly line of West Second Street and 100 feet therefrom, 39 feet; thence northerly parallel with the first described line and 39 feet easterly therefrom, 100 feet to the said southerly line of West Second Street; and thence westerly along said southerly line of West Second Street, 39 feet to the place of beginning.

The above lands are also bounded and described as follows:

BEGINNING at an iron stake at the intersection of the east bounds of Foundry Alley and the southerly bounds of West Second Street; thence north $77^{\circ} 44' 00''$ east along the southerly bounds of West Second Street a distance of 39.10 feet to a point; thence south $12^{\circ} 23' 40''$ east 100 feet to a point; thence south $77^{\circ} 44' 00''$ west 39.10 feet to a point in the easterly bounds of Foundry Alley; thence north $12^{\circ} 23' 40''$ west along the easterly bounds of Foundry Alley 100 feet to the point and place of beginning, according to a survey of Steven A. Carlson, L.L.S., dated July 1, 1995 and designated as Job No. 7-6-95.

PARCEL E

TOGETHER WITH the benefits of an easement for light and air as set forth in a Deed made by Arthur M. Wellman and Ada O. Wellman, his wife to Henry F. Love dated October 1, 1925 and recorded December 21, 1925 in Liber 529 of Deeds at page 302.

Exhibit A

EQUIPMENT

All equipment, fixtures, machines, building materials and items of personal property and all appurtenances (A) acquired, constructed and/or intended to be installed and/or to be acquired, constructed or installed in connection with the acquisition and installation of the Covenant Manor Apartments, LLC Project (the "Project") of the County of Chautauqua Industrial Development Agency (the "Agency") located on the real property described on Schedule A hereto (the "Land"), said Project to be acquired and installed by Covenant Manor Apartments, LLC (the "Lessee") as agent of the Agency pursuant to an Agency Lease Agreement dated as of the date hereof (the "Lease Agreement") by and between the Agency and Lessee and (B) now or hereafter attached to, contained in or used in connection with the Land or placed on any part thereof, though not attached thereto, including but not limited to the following:

(1) Pipes, screens, fixtures, heating, lighting, plumbing, ventilation, air conditioning, compacting and elevator plants, call systems, stoves, ranges, refrigerators and other lunch room facilities, rugs, movable partitions, cleaning equipment, maintenance equipment, shelving, flagpoles, signs, waste containers, outdoor benches, drapes, blinds and accessories, sprinkler systems and other fire prevention and extinguishing apparatus and materials, motors and machinery;

(2) 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 B

PILOT AGREEMENT

PAYMENT IN LIEU OF TAXES AGREEMENT

THIS PAYMENT IN LIEU OF TAXES AGREEMENT ("Agreement") is made as of the 31st day of December, 2012, by and between **COVENANT MANOR APARTMENTS, LLC**, a limited liability company existing under the laws of the State of New York having an address at 8111 Rockside Road, Suite 200, Valley View, OH 44125 (the "Lessee"), and the **COUNTY OF CHAUTAUQUA INDUSTRIAL DEVELOPMENT AGENCY**, a corporate government agency constituting a body corporate and politic and a public benefit corporation of the State of New York (the "Agency") having an address at 200 Harrison Street, Jamestown, NY 14701.

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, constituting Title I of Article 18-A of the General Municipal Law of the State of New York, Chapter 24 of the Consolidated Laws of the State of New York, as amended (the "Enabling Act") authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, expand, construct, reconstruct, lease, improve, maintain, equip, furnish, and dispose of one or more projects for the purpose of promoting, developing, encouraging, and assisting in the acquisition, expansion, construction, reconstruction, improvement, maintaining, equipping, and furnishing of industrial, manufacturing, warehousing, commercial, research, and recreational facilities, and thereby advance the job opportunities, general prosperity, and economic welfare of the people of the State of New York;

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act and Chapter 71 of the 1972 Laws of New York, as amended (together with the Enabling Act, hereinafter referred to as the "Act"), the Agency, which has been created and established pursuant thereto for the benefit of the County of Chautauqua, proposes to undertake the Project described below;

WHEREAS, the Agency on behalf of Lessee intends to (i) acquire a leasehold interest in certain land more particularly described on Schedule A attached hereto (the "Land") together with the improvements thereon (the "Improvements"); and (ii) possibly acquire and install therein and thereon certain Equipment (as defined in the Lease (as hereinafter defined))(the Land, Improvements and Equipment are hereinafter collectively referred to as the "Project");

WHEREAS, Lessee will be the owner in fee simple of the Land and the Improvements (collectively, the "Facility");

WHEREAS, Lessee will lease the Facility to the Agency pursuant to a Company Lease Agreement dated as of the date hereof entered into between Lessee, as lessor, and the Agency, as lessee (as amended, modified, restated or replaced from time to time, the "Company Lease");

WHEREAS, the Agency proposes to undertake the Project as an authorized project under the Act and to sublease the interest of the Agency to Lessee pursuant to an Agency Lease Agreement dated as of the date hereof entered into between the Agency, as lessor, and Lessee, as lessee (as amended, modified, restated or replaced from time to time, the "Lease");

WHEREAS, under the present provisions of the Act and under the present Section 412-a of the Real Property Tax Law of the State of New York, the Agency is required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or supervision or under its control; and

WHEREAS, the Agency intends to file an application for tax exemption pursuant to Section 412-a of the Real Property Tax Law (an "Application") for only that portion of the Facility identified as Tax Parcel Numbers 387.40 – 3 – 14 and 387.40 - 3 - 50 (collectively, the "Exempt Parcels"), and to not file an Application in connection with the remainder of the Facility.

NOW, THEREFORE, in consideration of the premises and the payments, agreements, and covenants hereinafter contained, Lessee and the Agency formally covenant and agree as follows:

Section 1. Tax-Exempt Status of Facility.

(a) Application. Lessee shall complete, and the Agency shall file, an Application with respect to the Exempt Parcels only. Such application shall be filed with the assessor of each of the various taxing entities having jurisdiction over the Exempt Parcels, including, without limitation, the County of Chautauqua, the City of Jamestown, and the Jamestown Public School District (such taxing entities, and any successors thereto, being hereinafter collectively referred to as the "Taxing Entities" and individually, as a "Taxing Entity"). The Exempt Parcels shall not be entitled to exempt status on the tax rolls of any Taxing Entity until the beginning of the first tax year of such Taxing Entity following the first taxable status date of such Taxing Entity occurring subsequent to the last to occur of (i) the Agency becoming holder of a leasehold estate in the Exempt Parcels, (ii) the filing by the Agency of the appropriate applications for tax exemption, and (iii) the receipt of such applications by the appropriate tax assessors (such date, the "PILOT Commencement Date"). The Agency shall not file an Application with respect to the remainder of the Facility (i.e., all portions of the Facility other than the Exempt Parcels, including, without limitation, Tax Parcel Numbers 387.48-1-5 & 387.40-3-14..A) (the "Remainder of the Facility"), and Lessee represents, acknowledges and agrees that the Remainder of the Facility shall not be entitled to exempt status.

(b) Special Assessments. The parties hereto understand that the tax exemption extended to the Agency by Section 874 of the General Municipal Law and Section 412-a of the Real Property Tax Law does not entitle the Agency to exemption from special assessments and special ad valorem levies. Lessee will be required to pay all special assessments and special ad valorem levies lawfully levied and/or assessed against the Exempt Parcels. Lessee will also be required to pay all special assessments and ad valorem levies lawfully levied and/or assessed against the Remainder of the Facility.

(c) Other Charges. If any taxes, assessments, service charges or other governmental charges become payable by the Agency or Lessee on the rents under the Lease or the occupancy of or any interest of the Agency or Lessee in the Facility or any part thereof or any personal property used in connection with the business conducted and located therein, the amount of any tax, assessment or charges shall be paid by Lessee. Furthermore, water charges, sewer rentals, sewage treatment charges, solid waste charges and any other charges in the nature of utility charges shall be paid directly by Lessee and shall not be credited against nor affect in any manner any payment in lieu of general real estate taxes in any year and shall be computed pursuant to the formula adopted by the relevant Taxing Entity.

Section 2. Payments.

(a) Tax Payments.

(i) With respect to the Exempt Parcels, prior to the PILOT Commencement Date, the applicable real estate tax levies, if any, on the Exempt Parcels shall be payable in full by Lessee to the applicable Taxing Entities.

(ii) With respect to the Remainder of the Facility, Lessee shall pay in full all applicable real estate tax levies to the applicable Taxing Entities for the entire term of this Agreement, it being the intention of the Agency and Lessee that the Remainder of the Facility not be exempt from applicable real estate tax levies and that this Agreement not affect in any way Lessee's obligation to pay such taxes. In the event the Remainder of the Facility does become exempt from applicable real estate tax levies as a result of or in connection with this Agreement or the transactions contemplated hereby, whether because of an error at the assessor's office or for any other reason, then Lessee shall make, to the Agency on account and for the benefit of each of the applicable Taxing Entities, payments in lieu of general real estate tax levies on the Remainder of the Facility in an amount equal to the amount of the tax levies which would be payable if the Remainder of Facility were listed on the assessment rolls as fully taxable. Any such payments in lieu of general real estate taxes will be considered PILOT Payments for the purposes of sections 2(c), (d) and (f) below, and such payments will continue until the subject property is no longer exempt.

(b) PILOT Payments on the Exempt Parcels.

(i) PILOT Payments before Abatement Commencement. From the PILOT Commencement Date until the last day of the tax fiscal year of the applicable Taxing Entity in which the Abatement Commencement Date (as hereinafter defined) occurs, Lessee shall make payments in lieu of real property taxes and assessments levied and/or assessed by the Taxing Entities against the Exempt Parcels (collectively, the "PILOT Payments") equal to one hundred percent (100%) of the amount of real property taxes and assessments that would have been levied and/or assessed against the Exempt Parcels if the Facility were owned by Lessee and the Agency were not involved in the Project.

(ii) PILOT Payments after Abatement Commencement. Commencing with the first day of the first tax fiscal year of the applicable Taxing Entity following the Abatement Commencement Date, and for each subsequent tax fiscal year thereafter during the "Term of the PILOT" (as hereinafter defined), Lessee shall pay to the Agency PILOT Payments in the amounts specified in Schedule B attached hereto.

The PILOT payments shall remain as specified in Schedule B during the Term of the PILOT for each applicable Taxing Entity, and shall not increase or decrease from the specified amounts regardless of any increase or decrease in the underlying assessment for the Exempt Parcels or any portion thereof.

The "Term of the PILOT" shall be the period of time from the first day of the first tax fiscal year of the applicable Taxing Entity following the Abatement Commencement Date until the last day of the tax fiscal year of the applicable Taxing Entity following ten (10) annual PILOT Payments to such Taxing Entity. The "Abatement Commencement Date" shall mean June 30, 2013. If the Term of the PILOT for any Taxing Entity shall have expired while the Term of the PILOT for any other Taxing Entity shall not have expired, Lessee shall pay to the Agency, until the termination of this Agreement, PILOT Payments in an amount equal to the amount of the tax levies which would be payable to such Taxing Entity if the Exempt Parcels were listed on the assessment rolls as fully taxable.

(c) Payments to Agency. All PILOT Payments shall be made by Lessee directly to the Agency promptly upon receipt of billings from the Agency.

(d) Due Dates; Interest; and Penalties. The Agency will bill Lessee for the respective PILOT Payments as if the Facility were on the tax rolls at the time when taxes for each Taxing Entity are due. All payments are net if paid on or before the due dates listed below. If any PILOT Payment is not made on or before the due date, such payment shall be delinquent and Lessee shall pay, for the benefit of the applicable Taxing Entity, a late charge equal to five percent (5%) of the payment. For each month, or part thereof, that the payment is delinquent beyond the first month, Lessee shall pay an additional late charge equal to one and one-half percent (1-1/2%) per month of the total amount payable.

As of the date of this Agreement, the due dates for the PILOT Payment are as follows:

County/City Taxes:	January 30 th
School Taxes:	September 30 th

(e) Partial Sale; Transferee's Obligation; Apportionment of Reduction to Local Taxing Entities. During the term of this Agreement, in the event that any portion of the Land or the Improvements located thereon is sold or disposed of, the transferees thereof will thereafter pay the real property taxes on such Improvements as may be located on the portion of the Land sold and on the portion of the Land sold as may be required by applicable law.

(f) Sale; Lessee's Obligation. In the event that the Agency terminates its interest in and/or sells the Facility to any party other than Lessee, Lessee's obligation for PILOT Payments shall be prorated to the date of the closing of the transaction and thereupon all obligations of Lessee for PILOT Payments shall cease, but the Agency shall take such steps with the purchaser other than Lessee to assure that each of the Taxing Entities shall suffer no loss of revenue until the Facility (or such portion thereof that may then be exempt) can be placed back on the tax rolls and taxes levied and billed therefor.

Section 3. Jobs. Lessee covenants and agrees that it shall, throughout the term of this Agreement, maintain, or create within three (3) years from the date of the application submitted to the Agency with respect to the Project, the number of permanent, private sector jobs at the site of the Project as set forth in the application. The Lessee agrees to deliver to the Agency on each annual anniversary of this Agreement a written report describing its compliance or noncompliance with the provisions of this Section 3 and to permit the Agency to audit the books and records of Lessee supporting such report.

Section 4. Effective Date; Duration of Agreement. This Agreement shall become effective upon the delivery of the Lease by Lessee and the Agency and shall continue in effect until the earlier of (i) the termination of this Agreement pursuant to the terms of the Lease or this Agreement, or (ii) the date on which the Agency's interest in the Facility is terminated pursuant to the Lease or this Agreement.

Section 5. Events of Default. The following shall constitute "Events of Default" under this Agreement:

(a) failure by Lessee to make any payment specified herein within ten (10) days of when due;

(b) failure by Lessee to comply with or perform any provision of this Agreement other than the payment provisions hereof and the continuance of such failure for a period of thirty (30) days following written notice from the Agency;

(c) default in the terms of any agreement entered into between the Agency and Lessee (beyond any applicable grace period).

Upon the occurrence and continuance of an Event of Default hereunder, Lessee shall be required to make payments in lieu of general real estate taxes levied by the Taxing Entities on the Facility (or those portions of the Facility then exempt) as if it were owned by Lessee, such amounts to commence to be paid for the period subsequent to the date it is determined by the Agency that there is an Event of Default hereunder. In such event, the tax rate, interest and penalties shall be those then in effect in the jurisdiction(s) in which the Facility is (or those portions of the Facility then exempt are) located.

Upon the occurrence and continuance of an Event of Default hereunder, the Agency shall be entitled to sue to enforce any provision of this Agreement and to recover the payments in default from Lessee, together with all the costs and expenses of the Agency, its

successors or assigns, paid or incurred in such recovery (including court costs and reasonable attorney's fees and expenses) and interest at the rate specified in Section 2(d) above. In addition, the Agency shall have the right to reconvey the Facility to Lessee at any time, and Lessee shall accept any such tender of reconveyance.

The Agency, in enforcing payment by Lessee of said amounts, may take whatever action and exercise any or all of the rights and remedies specified in this Agreement or any other remedy provided by law.

Each and every Event of Default shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder as each cause of action arises. Lessee irrevocably agrees that any suit, action, or other legal proceeding arising out of this Agreement may be brought in the courts of record of the State of New York, or the courts of the United States located within the State of New York, consents to the jurisdiction of each such court in any such suit, action, or proceeding, and waives any objection which it may have to the laying of the venue of any such suit, action, or proceeding in any of such courts.

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

In no event shall the Agency be liable to any of the Taxing Entities for the payments specified herein, whether or not Lessee makes such payments. Lessee hereby agrees to indemnify the Agency against any such liability for such payments and against all penalties, interest, and other charges resulting from the delinquency of such payments.

Section 6. Covenants by the Agency. The Agency covenants that, unless otherwise required by law, the Agency will not enact or adopt any laws, ordinances, rules, or regulations imposing any taxes, assessments, or other charges of payments on the Project or Lessee's subleasehold interest or personal property therein, or its use or occupancy thereof or its gross receipts or income therefore, except as Lessee and the Agency have herein agreed, or may agree from time to time in the future.

Section 7. Notices. All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given, if by delivery, when delivered and, if delivered by mail, on the second day following the day on which mailed by certified mail, postage prepaid, addressed as follows:

To the Agency: County of Chautauqua Industrial Development Agency
200 Harrison Street
Jamestown, New York 14701
Attention: Administrative Director/CEO

With a copy to:

Phillips Lytle LLP
201 West Third Street, Suite 205
Jamestown, New York 14701
Attn: Jonathan P. Taber, Esq.

To Lessee: Covenant Manor Apartments, LLC
8111 Rockside Road, Suite 200
Valley View, OH 44125
Attn: Frank Sinito

With a copy to:

Covenant Manor Apartments, LLC
8111 Rockside Road, Suite 200
Valley View, OH 44125
Attn: Laura Anderson

The Agency or Lessee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

Section 8. Assignment of Agreement. This Agreement shall be binding upon the successors and assigns of Lessee, but no assignment shall be effective to relieve Lessee of any of its obligations hereunder unless expressly authorized and approved in writing by the Agency.

Section 9. Independent Agreement. Notwithstanding any other provision of this Agreement, including the recitals hereof, the parties agree that the Lease and the Company Lease executed between the parties hereto shall be separate and independent document from this Agreement, and irrespective of whether any provision of this Agreement or the entirety hereof shall be held invalid or unenforceable by any court of competent jurisdiction, the Lease and the Company Lease shall be construed, interpreted, and otherwise regarded separate and apart from this Agreement. The parties hereto specifically note that the considerations and terms provided for in this Agreement and provided for in the Lease and the Company Lease are the only considerations and terms for which the parties hereto have executed this Agreement.

Section 10. Amendments. This Agreement may not be modified, amended, supplemented, or changed without the written consent of the Agency and Lessee.

Section 11. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 12. Prior Agreements; Counterparts. This Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, whether written or oral, among the parties with respect to the subject matter hereof and may be executed simultaneously in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 13. Delivery of Agreement. The Agency agrees to use commercially reasonable efforts to deliver to each Taxing Entity a copy of this Agreement within fifteen (15) days after its execution by the Agency.

IN WITNESS WHEREOF, the Agency and Lessee have executed this Agreement as of the date first above written.

**COUNTY OF CHAUTAUQUA
INDUSTRIAL DEVELOPMENT AGENCY**

By: 
William J. Daly, Administrative Director/CEO

COVENANT MANOR APARTMENTS, LLC

By: Cedar Valley Associates, LP, its Sole Member

By: Cedar Valley Apartments, LLC, its General Partner

By: _____
Frank T. Sinito, its Managing Member

Section 13. Delivery of Agreement. The Agency agrees to use commercially reasonable efforts to deliver to each Taxing Entity a copy of this Agreement within fifteen (15) days after its execution by the Agency.

IN WITNESS WHEREOF, the Agency and Lessee have executed this Agreement as of the date first above written.

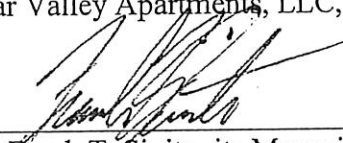
**COUNTY OF CHAUTAUQUA
INDUSTRIAL DEVELOPMENT AGENCY**

By: _____
William J. Daly, Administrative Director/CEO

COVENANT MANOR APARTMENTS, LLC

By: Cedar Valley Associates, LP, its Sole Member

By: Cedar Valley Apartments, LLC, its General Partner

By:  _____
Frank T. Sinito, its Managing Member

Schedule A

PARCEL A

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Jamestown, County of Chautauqua and State of New York, being part of Lot 34, Township 2, Range 11 of the Holland Land Company's Survey and being more particularly described as follows:

BEGINNING at the intersection of the southerly street line of West Third Street and the easterly street line of Cherry Street; thence North $77^{\circ} 38' 40''$ East along the southerly street line of West Third Street, a distance of 122.37 feet to the intersection of the southerly street line of West Third Street and the westerly line of Mechanics Alley; thence South $12^{\circ} 19' 40''$ East along the westerly line of Mechanics Alley, a distance of 175.50 feet to a point; thence South $77^{\circ} 52' 10''$ West, a distance of 122.45 feet to a point on the easterly street line of Cherry Street; thence North $12^{\circ} 18' 05''$ West along the easterly street line of Cherry Street, a distance of 175.02 feet to the point of beginning.

Also known of record as the following:

ALL THAT TRACT OR PACEL OF LAND situate in the City of Jamestown, County of Chautauqua and State of New York, being bounded and described as follows:

BEGINNING at a point in the southerly line of Third Street where it is intersected by the easterly line of Cherry Street; running thence North $77^{\circ} 38' 40''$ East along the southerly line of Third Street, 122.37 feet to the westerly line of Mechanic's Alley; thence South $12^{\circ} 7' 40''$ East along the westerly line of Mechanic's Alley a distance of 175.50 feet to a point; thence running South $77^{\circ} 40'$ West 60.73 feet to a point; thence North $12^{\circ} 21' 20''$ West 15.99 feet to a point; thence South $77^{\circ} 40'$ West 0.54 feet to a point; thence North $12^{\circ} 21' 20''$ West 19.76 feet to a point; thence South $77^{\circ} 38' 40''$ West 59.58 feet to a point in the easterly bounds of said Cherry Street; thence North $12^{\circ} 18' 05''$ West along said easterly street line of Cherry Street 140.28 feet to the point of beginning. According to a survey made by George N. Dimas, Surveyor, Jamestown, New York, dated July 19, 1976 and designated as Job No. 4100.

ALSO, ALL THAT TRACT OR PARCEL OF LAND situate in the City of Jamestown, County of Chautauqua and State of New York, being bounded and described as follows:

BEGINNING at a point in the easterly street line of Cherry Street South $12^{\circ} 18' 05''$ East 140.28 feet as measured along said easterly line from its intersection with the southerly street line of West Third Street; running thence North $77^{\circ} 38' 40''$ East parallel to said southerly line of West Third Street 59.58 feet to a point; thence South $12^{\circ} 21' 20''$ East 19.76 feet to a point; thence North $77^{\circ} 40'$ East 0.54 feet to a point; thence South $12^{\circ} 21' 20''$ East 15.99 feet to a point; thence South $77^{\circ} 40'$ West 60.49 feet to a point in the easterly line of said Cherry Street; thence North $12^{\circ} 18' 05''$ West along said easterly line of Cherry Street 35.27 feet to the point of beginning.

PARCEL B

TOGETHER WITH the benefits of an Easement Agreement made between City of Jamestown and Walcott Corporation dated August 5, 1977 and recorded December 29, 1977 in Liber 1740 of Deeds at page 290.

PARCEL C

TOGETHER WITH the benefits of an Easement Agreement made between City of Jamestown and Covenant Manor Housing Development Fund Company, Inc. dated December 10, 1979 and recorded January 10, 1980 in Liber 1855 of Deeds at page 94.

PARCEL D

ALL THAT TRACT OR PARCEL OR LAND situate in the City of Jamestown, County of Chautauqua and State of New York and being part of Lot 34, Town 2, Range 11 of the Holland Land Company's Survey and bounded and described as follows:

BEGINNING at the intersection of the southerly line of West Second Street and the easterly line of Foundry Alley; and running thence southerly along the easterly line of said Foundry Alley, 100 feet to an iron stake; thence easterly parallel with the said southerly line of West Second Street and 100 feet therefrom, 39 feet; thence northerly parallel with the first described line and 39 feet easterly therefrom, 100 feet to the said southerly line of West Second Street; and thence westerly along said southerly line of West Second Street, 39 feet to the place of beginning.

The above lands are also bounded and described as follows:

BEGINNING at an iron stake at the intersection of the east bounds of Foundry Alley and the southerly bounds of West Second Street; thence north $77^{\circ} 44' 00''$ east along the southerly bounds of West Second Street a distance of 39.10 feet to a point; thence south $12^{\circ} 23' 40''$ east 100 feet to a point; thence south $77^{\circ} 44' 00''$ west 39.10 feet to a point in the easterly bounds of Foundry Alley; thence north $12^{\circ} 23' 40''$ west along the easterly bounds of Foundry Alley 100 feet to the point and place of beginning, according to a survey of Steven A. Carlson, L.L.S., dated July 1, 1995 and designated as Job No. 7-6-95.

PARCEL E

TOGETHER WITH the benefits of an easement for light and air as set forth in a Deed made by Arthur M. Wellman and Ada O. Wellman, his wife to Henry F. Love dated October 1, 1925 and recorded December 21, 1925 in Liber 529 of Deeds at page 302.

Schedule B

PILOT PAYMENTS

<u>Year</u>	<u>PILOT Amount</u>
1	\$37,847.00
2	\$38,604.00
3	\$39,376.00
4	\$40,163.00
5	\$40,967.00
6	\$41,786.00
7	\$42,622.00
8	\$43,474.00
9	\$44,344.00
10	\$45,230.00