

COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT AGENCY

AND

VICTORIAN LAKE, LLC

PAYMENT IN LIEU OF TAX AGREEMENT

October 8, 2013

**Affected Tax Jurisdictions:
County of Lewis
Town of Lowville
Village of Lowville
Lowville Central School District**

PAYMENT IN LIEU OF TAX AGREEMENT

THIS AGREEMENT, dated as of the 8th day of October, 2013, by and between

COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT AGENCY,
a public benefit corporation duly existing under the laws of the State of New York with
offices at 7642 State Street, P.O. Box 106, Lowville, New York 13367

(the "Agency")

and

VICTORIAN LAKE, LLC,
a New York limited liability company with an office and place of business at 7785 N. State
St., Lowville, NY 13367

(the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 62 of the Laws of 1973 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company requested the Agency's assistance with respect to a certain project (the "Project") involving a parcel of land at 5402 Dayan Street in the Village and Town of Lowville, Lewis County, New York identified on current 2013 tax rolls as tax parcels 212.11-4-1.1, 212.11-4-2.1, 212.11-4-3 and 212.11-4-4 (the "Land") and the rehabilitation, renovation and expansion of an existing office building located upon the Land, along with related structural, utility system and landscaping improvements, and machinery and equipment installations (the "Improvements", and collectively with the Land, the "Facility"); and

WHEREAS, in order to induce the Company to undertake the Project, the Agency has taken title to the Land, will acquire, construct, and install thereon the Improvements, and is leasing the said Facility to the Company for a term of 10 years and five months pursuant to the terms and conditions of a Lease Agreement dated October 8, 2013 (the "Lease Agreement"); and

WHEREAS, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it, other than special ad valorem levies, special assessments and service charges against real property which are or may be imposed for special improvements or special district improvements; and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provisions for payments in lieu of taxes by the Company to the Agency with respect to the Facility for the benefit of the County of Lewis (the "County"), Town of Lowville (the "Town"), Village of Lowville (the "Village"), and Lowville Central School District (the "School"; and collectively with the County, Town and Village, the "Affected Tax Jurisdictions").

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

Section I - Payment In Lieu Of Ad Valorem Taxes:

1.1 Payment Schedule. For the period of time beginning as of March 1, 2014 and ending on the earlier of (i) February 28, 2024, or (ii) February 28 of the year following the termination of the Company's leasehold interest in the Facility under the Lease Agreement, or (iii) February 28 of the year following termination of this Agreement (such period of time hereinafter referred to as the "Term"), the Company agrees to pay annually to the Agency on or before January 15 of each calendar year during that period (the "Payment Date") a payment in lieu of ad valorem real property taxes on the Facility, computed as provided in Sections 1.2, 1.3 and 1.4 below.

1.2 Payment Amount. The annual payment in lieu of taxes due from the Company to the Agency (the "Total PILOT Payment") shall be an escalating percentage (the "Applicable Percentage") of the ad valorem real property taxes which would have been levied against the tax parcels comprising the Facility but for the exemption deriving from the Agency's ownership of the Facility. The Applicable Percentage, by Payment Date, is indicated on Schedule A hereto. That Applicable Percentage shall be applied to the product of (i) the assessed value of each tax parcel which comprises the Facility as set out on current tax rolls as of the Payment Date, and (ii) the combined tax rates of the Affected Tax Jurisdictions for each such tax parcel which is within its or their taxing jurisdiction, such rates to be determined as indicated in subparagraph 1.4 below. The result (the "Tentative Payment") shall be the Total PILOT Payment due.

1.3 Allocation. The Agency shall remit to the Affected Tax Jurisdictions each Total PILOT Payment within thirty (30) days of its receipt from the Company and shall allocate said payments among the Affected Tax Jurisdictions in the same proportion as ad valorem taxes would have been allocated but for the Facility's exemption therefrom.

1.4 Tax Rates. For purposes of calculating the amount of a particular annual Total PILOT Payment and the allocation of that Total PILOT Payment among the Affected Tax Jurisdictions, the Agency shall use the tax rate of each Affected Tax Jurisdiction for the fiscal year which includes the Payment Date. (That is, as an example, a payment due on January 15, 2015 will be determined by reference to, and allocated in proportion to, the 2014-15 tax rate of the Village, the 2014-15 tax rate of the School, and the 2015 tax rates of the County and the Town.)

1.5 Valuation of the Facility. The Company shall have the right to challenge or contest by legal proceedings any increase in the assessed valuation of the Facility, except and unless (i) that increase is proportionate to an increase in the equalization rate for the Town, or (ii) that increase is a result of the Company's future addition, installation or erection of Facility improvements which constitute taxable real property and the increase in assessed value is, in the Company's judgment, proportionate to the increase in the value of the Facility.

Notwithstanding the Company's institution of legal proceedings challenging the assessed valuation of the Facility, the Company shall be responsible to make timely payment to the Agency of the Total PILOT Payment, determined as provided in subparagraphs 1.1, 1.2, 1.3 and 1.4 above.

If the outcome of such legal proceeding is to reduce the assessed value of the Facility, the Company shall promptly notify the Agency and the Agency shall recompute the Total PILOT Payments for the applicable Payment Dates, using the reduced assessed valuation. Any excess payment made by the Company shall be refunded to it by the respective Affected Tax Jurisdictions which received those excess payments or, in the Agency's sole discretion, such excess payment shall be applied as a credit against the next succeeding Total PILOT Payments to come due.

1.6 Period of Benefits. The tax benefits provided for herein shall be deemed to include the 2014-15 Village and School tax years through the 2023-24 school tax year and the 2015 County and Town tax years through the 2024 County and Town tax years. In no event shall the Company be entitled to receive tax benefits relative to the Facility for more than the periods provided for herein, unless the period is extended by amendment to this Agreement executed by both parties after any applicable public hearings. The Company agrees that the exemptions provided for herein supersede and are in substitution for the exemptions provided by Section 485-b, or any other provision or section, of the New York Real Property Tax Law. It is hereby agreed and understood that the Affected Tax Jurisdictions can rely upon and enforce the above waiver to the same extent as if they were signatories hereto.

Section II - Special District Charges, Special Assessments and Other Charges.

2.1 This Agreement shall not affect the Company's liability for, or exempt the Company from the payment of, special district charges, special assessments, special ad valorem levies (specifically including but not limited to fire district charges), and municipal water charges and sewer charges imposed on the Facility.

Section III - Termination.

3.1 The Company may unilaterally terminate this Agreement at any time on 60 days advance notice to the Agency. Except as otherwise provided herein, the Agency may not unilaterally terminate this Agreement. Neither termination of this Agreement nor the expiration of the Term shall affect the liability of the parties hereunder for, or the continuing application of this Agreement to, acts, omissions or obligations occurring or arising on or before, or as a consequence of, such termination or expiration.

3.2 Upon expiration of the Term of this Agreement and for so long thereafter as the Lease Agreement remains in effect, if at all, the Facility shall be classified as fully taxable, and the Company shall be liable for the timely payment of any and all real property taxes and assessment levied against the Facility by the Affected Tax Jurisdictions for fiscal years of such Affected Tax Jurisdictions beginning after the expiration of the Term.

3.3 Not more than 30 days after the expiration of the Term of this Agreement, the Company agrees to pay to each Affected Tax Jurisdiction:

a. An amount equal to the product of (a) the difference between (i) taxes and assessments which would have been levied against the Facility by that particular Affected Tax Jurisdiction for the fiscal year in which the Term expires if the Facility had been

classified as fully taxable, and (ii) the portion of the Total PILOT Payment realized, if any, by that particular Affected Tax Jurisdiction for its current fiscal year, and (b) a percentage which is the ratio of (i) the number of days left in that current fiscal year as of the date the Term expires, and (ii) 365 days; and, in addition

b. If the Term expires before the Company has made the Total PILOT Payment encompassing the current fiscal year of any Affected Tax Jurisdiction, an amount equal to the product of (a) the portion of that Total PILOT Payment which would have been due that Affected Tax Jurisdiction for its current fiscal year, and (b) a percentage which is the ratio of (i) the number of days elapsed in that current fiscal year as of the date the Term expires, and (ii) 365 days.

Section IV - Assessment Challenges.

4.1 Subject to the limitations contained in Section 1.5 above, the Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Facility, with respect to any proposed assessment or change in assessment with respect to the Facility by any of the Affected Tax Jurisdictions and likewise shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any tax equivalent provided for herein.

4.2 Subject to the limitations contained in Section 1.5 above, the Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Agreement, as if and to the same extent as if the Company were the owner of the Facility.

Section V - Changes in Law.

5.1 To the extent the Facility is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the obligations of the Company hereunder shall, to such extent, be null and void.

Section VI - Default.

6.1 The following shall constitute "Events of Default" hereunder:

a. The failure by the Company to make the payments described in Section I within thirty (30) days of the Payment Date (the "Delinquency Date"); or

b. Any other breach by the Company of its duties, obligations or responsibilities under this Agreement or under the Lease Agreement which is not remedied within 15 days after written notice to that effect issued by the Agency.

6.2 If payments pursuant to Section I herein are not made by the Delinquency Date, or if any other payment required to be made hereunder is not made by the last day of any applicable cure period within which said payment can be made without penalty, the Company shall pay penalties and interest as follows. With respect to payments to be made pursuant to Section I herein, if said payment is not received by the Delinquency Date defined in Section 6.1 herein, Company shall pay, in addition to said payment, a late charge equal to six percent (6%) of the amount due plus interest on said payment equal to one percent (1%) per month or fraction thereof until said amount is paid in full. With respect to all other payments due hereunder, if said payment is not paid within any applicable cure period, the Company shall pay, in addition to said payment, the greater of the applicable penalties and interest or penalties and interest which would have been incurred had payments made hereunder been tax payments to the Affected Tax Jurisdictions.

6.3 Upon the occurrence of any Event of Default hereunder, in addition to any other right or remedy the Agency and/or the Affected Tax Jurisdictions may have at law or in equity, the Agency and/or Affected Tax Jurisdictions may:

a. Immediately and without further notice to the Company (but with notice to the Agency with respect to actions maintained by the Affected Tax Jurisdictions) pursue any action in the courts to enforce payment or to otherwise recover directly from the Company any amounts so in default,

b. Recapture all or part of the benefits realized to date by the Company as a result of this Agreement, such benefits being an amount equal to the difference between (i) the real property taxes that would have been payable if the Facility had not been entitled to exemption therefrom by virtue of its ownership by the Agency, and (ii) amounts actually paid by the Company under this Agreement in lieu of such taxes.

c. Cancel prospectively this Agreement and the resulting benefits to the Company, and withdraw or revoke the Facility's exemption from ad valorem real property taxes.

Section VII - Assignment.

7.1 No portion of any interest in this Agreement may be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits of the Company hereunder, without the prior written consent of the Agency, which shall not be unreasonably withheld or delayed.

Section VIII - Miscellaneous.

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

8.2 All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as

follows:

To the Agency: County of Lewis Industrial Development Agency
7642 State Street, PO Box 106
Lowville, New York 13367
Attn.: Executive Director

To the Company: Steven Lyndaker and/or Shereen Palmer
Victorian Lake, LLC
7785 N. State St.
Lowville, NY 13367

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

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


8.4 Notwithstanding any other term or condition contained herein, all obligations of the Agency hereunder shall constitute the sole and special obligation the Agency. No claim or right of recourse of the Company in respect to this Agreement may be brought or asserted, directly or indirectly, against any past, present or future member, officer, agent, servant, or employee of the Agency, or of any successor or political subdivision, all such liability of such members, officer, agents, servants and employees being, to the extent permitted by law, expressly waived and released by the Company as part of the consideration for the Agency's execution of and entry into this Agreement.


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

COUNTY OF LEWIS INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Name: Jack T. Bush
Title: Chairman

VICTORIAN LAKE, LLC

By: 
Name: Steven Lyndaker
Title: One of two Members

By: 
Name: Shereen Palmer
Title: One of two Members


STATE OF NEW YORK)
) ss:
COUNTY OF LEWIS)

On this 8th day of October, 2013 before me, the undersigned, personally appeared
 JACK T. BUSH
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
THOMAS A. CAMPANY
Notary Public in the State of New York
Appointed in Lewis County
My Commission Expires 7/31/2017

STATE OF NEW YORK)
) ss:
COUNTY OF LEWIS)

On this 8th day of October, 2013 before me, the undersigned, personally appeared
 STEVEN LYNDAKER and SHEREEN PALMER
personally known to me or proved to me on the basis of satisfactory evidence to be the individuals
whose names are subscribed to the within instrument and acknowledged to me that they executed
the same in their capacities, and that by their signatures on the instrument, the individuals, or the
person upon behalf of which the individuals acted, executed the instrument.

 Notary Public
THOMAS A. CAMPANY
Notary Public in the State of New York
Appointed in Lewis County
My Commission Expires 7/31/2017

SCHEDULE A

Payment Due Date

Applicable Percentage

2015	50%
2016	55%
2017	60%
2018	65%
2019	70%
2020	75%
2021	80%
2022	85%
2023	90%
2024	95%

LEASE AGREEMENT

THIS AGREEMENT (the "Lease"), dated as of October 8, 2013, by and between

COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT AGENCY,
a public benefit corporation duly existing under the laws of the State of New York, with
offices at 7642 State Street, P.O. Box 106, Lowville, New York 13367
(the "Agency")

and

VICTORIAN LAKE, LLC
a limited liability company organized under the laws of the State of New York, with an
office and place of business at 7785 N. State St., Lowville, NY 13367
(the "Company").

RECITALS

WHEREAS, Title I of Article 18-A of the General Municipal Law of the State of New York, as amended (the "Enabling Act"), authorizes the creation of industrial development agencies for the benefit of municipalities in the State of New York (the "State") and empowers such agencies, among other things, to acquire, construct, reconstruct, improve, maintain, equip, and furnish real and/or personal property, whether now in existence or under construction or to be constructed, which real and/or personal property shall be suitable for industrial, manufacturing, warehousing, commercial, research or recreation facilities, including industrial pollution control facilities, educational or cultural facilities, railroad facilities and horse racing facilities, all for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, and general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, the Enabling Act further authorizes such industrial development agencies to own or lease any and all of its facilities at such rentals and on such other terms as may be advisable; and

WHEREAS, in accordance with the Enabling Act, in particular Section 902-a thereof, and Chapter 62 of the Laws of 1973 of the State (collectively the "Act"), the Agency was created for the benefit of the people of the County of Lewis, and the Agency is empowered under the Act to undertake the ownership and/or leasing of the premises and property described herein; and

WHEREAS, the Company has requested the Agency's assistance with respect to a certain project (the "Project") involving real estate owned by the Company at 5402 Dayan Street in the Village and Town of Lowville, County of Lewis, New York described on the attached Schedule A (the "Land") and presently or to be improved by structures, fixtures and accessions related to the Company's operation of a facility utilized for the provision of professional

medical arts and other health care services to the public, including equipment, machinery, structures or structural additions and other tangible property (the "Improvements", and together with the Land, the "Facility");and

WHEREAS, to induce and enable the Company to maintain, develop and improve the Facility, the Agency is willing to take title to it and to lease back the Facility to the Company pursuant to the terms and conditions contained herein; and

WHEREAS, the Agency has determined that by doing so it will accomplish its public purposes, in particular: promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, and general prosperity and economic welfare of the people of the State pursuant to the provisions of the Act; and

WHEREAS, all things and actions necessary to make this a valid agreement between the parties in accordance with the terms hereof, have been done and performed, and the creation, execution and delivery of this Lease has in all respects been duly authorized and all actions have been duly taken.

NOW, THEREFORE, Agency and the Company agree and covenant as follows:

ARTICLE I

REPRESENTATIONS, COVENANTS AND WARRANTIES

SECTION 1.01 REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE AGENCY.

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

- (a) The Agency is duly established under the provisions of the Act and has the power to enter into the Lease. By proper official action, the Agency has been duly authorized to execute, deliver and perform the Lease.
- (b) The Agency has been induced to enter into this Lease by the Company's wish and desire to maintain, develop and improve the Facility.
- (c) Neither the execution and delivery of the Lease, nor the consummation of the transactions contemplated hereby, will: (i) conflict with or result in a breach by the Agency of any of the terms, conditions or provisions of the Act, the by-laws of the Agency or any order, judgment, restriction, agreement or instrument to which the Agency is a party or by which it is bound, or (ii) constitute a default by the Agency under any of the foregoing, or (iii) require consent under, conflict

with, or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any governmental authority or court having jurisdiction over the Agency or any of the property of the Agency.

- (d) Immediately prior to the execution of this Lease, the Company has conveyed to the Agency by deed fee title to the Facility.
- (e) Except as otherwise provided herein, the Agency, to the extent of its interest therein, shall not sell, assign, transfer, encumber or pledge as security the Facility or any part thereof.

SECTION 1.02 REPRESENTATIONS, COVENANTS AND WARRANTIES OF THE COMPANY.

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

- (a) The Company is a limited liability company duly organized and existing, and in good standing, under the laws of the State of New York, is duly authorized to do business in the State of New York, has the power to enter into the Lease and to carry out its obligations hereunder, has duly authorized the execution, delivery and performance of the Lease, and will remain qualified to do business in the State until its obligations under this Lease have been fully performed.
- (b) Immediately prior to the execution and delivery of this Lease, the Company will have conveyed to the Agency by deed fee title to the Facility.
- (c) The Company agrees to defend, indemnify and hold the Agency harmless from any expense or liability due to any defect in the Agency's title to the Facility.
- (d) The Lease constitutes, or upon its execution and delivery in accordance with the terms hereof will constitute, a valid and legally binding obligation of the Company enforceable in accordance with its terms.
- (e) Neither the execution and delivery of the Lease by the Company, the consummation of the transactions contemplated by it, nor the mutual fulfillment of and compliance with the provisions of the Lease will (i) result in a breach of, or conflict with any term or provision in, the Company's operating agreement; or (ii) require consent under, or result in a breach of or default under, any credit agreement, indenture, purchase agreement, mortgage, deed of trust, commitment, guaranty or other agreement or instrument to which the Company is a party or by which it or any of its property interests may be bound or affected; or (iii) conflict with or violate any existing law, rule, regulation, judgment, order, writ, injunction or decree of any governmental authority or court, federal, state or local, having jurisdiction over the Company, the Agency, the Project, or any of the property interests of the Company.

- (f) The Company's entry into this Lease and its use and occupation of the Facility will not result in the removal of an industrial or manufacturing plant or commercial activity located elsewhere in the State or in the abandonment of any such plant or commercial activity of the Company or of any subtenant located elsewhere within the State.
- (g) The Facility and the operation thereof by the Company will reasonably conform with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Facility, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of his subsection (g).
- (h) The Company shall cause all notices as required by law to be given, and shall reasonably comply or reasonably cause compliance with all laws, ordinances, municipal rules and regulations and requirements of all governmental authorities applying to or affecting the conduct of its business operations at the Facility, and the Company will defend and save the Agency and its officers, members, agents and employees harmless from all fines and penalties due to the failure of the Company to comply therewith.
- (i) The Company will not change or discontinue the intended principal use and function of the Facility as a facility for the provision of professional medical art and other health care services during the Term of the Lease. This provision shall not, however, be deemed to prohibit expansion or extension of that use or the introduction at the Facility of operations and activities complementary or collateral to that principal use.
- (j) The Company will comply in all respects with its obligations and covenants under the "Payment In Lieu Of Tax Agreement" between the Agency and the Company dated the same date as this Lease (the "PILOT Agreement").
- (k) In compliance with Section 858-b of the New York State General Municipal Law, the Company will cause any new employment opportunities created in connection with the Facility to be listed with the New York State Department of Labor, Community Services Division, and with the local office of the New York State Job Service which serves the County of Lewis, New York, and will first consider, for such new employment opportunities, where practicable, persons eligible to participate in federal job training partnership programs who shall be referred to it. Nothing in this subparagraph shall be construed to require the Company to violate any existing collective bargaining agreement with respect to hiring new employees.

ARTICLE II

AGREEMENT TO LEASE FACILITY; RENTS AND OTHER AMOUNTS PAYABLE

SECTION 2.01. AGREEMENT TO LEASE FACILITY.

In consideration of the covenants and representations of the Company contained herein, the Agency hereby agrees to lease and does lease and demise to the Company, and the Company hereby agrees to let from the Agency and does let from the Agency, the Facility, subject to conditions, covenants, easements, encumbrances, reservations and restrictions of record, if any.

SECTION 2.02. TERM AND OCCUPANCY RIGHTS.

- (a) Unless otherwise agreed by the Agency and the Company, the Agency shall on the date of this Lease deliver to the Company all of the Agency's right and entitlement to use and possession of the Facility deriving from its ownership thereof, and the leasehold estate created hereby shall commence on such date, and the Company shall accept possession of the Facility on such date.
- (b) Except in the event of its early termination in accordance with the provisions of this Lease, the leasehold estate created by this Lease shall continue until February 28, 2024 (the "Term").
- (c) Subject to Article IV of this Lease, the Company shall peaceably and quietly have, hold, and enjoy all right and entitlement to use and possession of the Facility which the Agency may, as owner, have and convey. The Agency shall take no action, other than pursuant to Article VII of this Lease, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project Facility during the term of this Lease. The Agency agrees that, at the request and sole cost of the Company, it will cooperate with the Company in the event that such quiet and peaceful possession and enjoyment of the Facility is disturbed during the Term.

SECTION 2.03. RENTAL PAYMENTS.

The Company shall pay to the Agency as periodic rent for the Facility during the Term the sum of \$1.00 per year, in advance.

SECTION 2.04. CONVEYANCE AT TERMINATION OF THE LEASE.

- (a) At the conclusion of the Term, for whatever reason, the Facility shall be promptly reconveyed from the Agency to the Company for the sum of One Dollar (\$1.00).

- (b) The conveyance of the Agency's right, title and interest in and to the Facility shall be effected by the execution and delivery by the Agency of (A) a quit claim deed of the Agency's interest in real property.
- (c) The Company shall pay all expenses and taxes, if any, applicable to or arising from the transfer contemplated by this Section, including those to obtain and record terminations, discharges and releases of all mortgages or other security interests affecting the Facility.

SECTION 2.05. FINANCIAL OBLIGATIONS AT TERMINATION OF THE LEASE.

At the conclusion of the Term, the Company shall pay to the Agency an amount certified by the Agency sufficient to pay all unpaid reasonable fees and expenses of the Agency for which the Company is responsible under the provisions of this Lease, together with all fees and expenses incurred or to be incurred by the Agency in order to convey the Facility to the Company.

SECTION 2.06. OBLIGATIONS OF THE COMPANY HEREUNDER ABSOLUTE AND UNCONDITIONAL.

- (a) The obligation of the Company to make the payments required in Sections 2.03, 2.04 and 2.05 and to perform and observe any and all of the other covenants and agreements on its part contained in the Lease, shall be a general obligation of the Company, absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it might otherwise have against the Agency. The Company agrees that it will not (a) discontinue, forego or abate any payment required, or (b) neglect or fail to observe any of its other covenants or promises contained in this Lease.
- (b) Nothing contained in this Section 2.06 shall be construed to release the Agency from the performance of any of the agreements on its part contained in this Lease, and, in the event the Agency should fail to perform any such agreement, the Company may institute such action against the Agency as the Company may deem necessary to compel performance or recover damages for non-performance; provided, however, that the Company shall look solely to the Agency's estate and interest in the Facility for the satisfaction of any right or remedy of the Company for the collection of a judgment (or other judicial process) requiring the payment of money by the Agency in the event of any liability on the part of the Agency, and no other property or assets of the members, officers, agents (other than the Company) or employees of the Agency (except to the extent that said members, officers, agents or employees acted willfully or beyond the scope of their authority) shall be subject to levy, execution, attachment or other enforcement procedure for the satisfaction of the Company's remedies under or with respect to this Lease, the relationship of the Agency and the Company hereunder or the Company's use and occupancy of or

purchase of or title to the Facility, or any other liability of the Agency to the Company.

ARTICLE III

MAINTENANCE, MODIFICATION, TAXES AND INSURANCE

SECTION 3.01. MAINTENANCE AND MODIFICATION OF FACILITY BY COMPANY.

- (a) Except as provided in Article IV, the Company shall not abandon the Facility or cause or permit any waste therein or thereon. The Company shall at its own expense (i) keep the Facility in as reasonably safe condition as the character of the business operations conducted thereat will permit, (ii) keep the buildings, equipment and all other improvements forming a part of the Facility in good repair and in good operating condition, making from time to time all necessary repairs and replacements thereof, and (iii) operate the Facility in a manner consistent with sound practices for facilities like it and in compliance with all applicable federal, state and local laws, rules, regulations and orders; and (iv) indemnify and hold the Agency harmless from and against any liability or expenses, including the expenses of defense, from the failure by the Company to comply with (i), (ii), or (iii) above.
- (b) With the written consent of the Agency, which shall not be unreasonably withheld or delayed, the Company from time to time may make structural additions or improvements to the Facility or any part thereof, provided such actions (i) do not adversely affect the structural integrity of then-existing buildings comprising the Facility, and (ii) will conform with the Company representations set out in Section 1.02 of this Lease. The Agency's consent with respect to any structural addition or improvement may be subject to such reasonable conditions as the Agency may deem appropriate. All such additions, modifications or improvements made by the Company shall become a part of the Facility and the property of the Agency. The Company agrees to deliver to the Agency all documents which may be necessary or appropriate to convey to the Agency title to such property.

SECTION 3.02. INSTALLATION OF ADDITIONAL EQUIPMENT.

The Company may from time to time install additional machinery, equipment, trade fixtures or other personal property appropriate to its authorized use of the Facility. Any damage sustained by the Facility in consequence of the Company's installation or removal of such installations shall be promptly repaired by it at its sole cost.

SECTION 3.03. TAXES, ASSESSMENTS AND UTILITY CHARGES.

- (a) The Company agrees to pay, as the same become due and before any fine, penalty, interest (except interest which is payable in connection with legally permissible installment payments) or other cost may be added thereto or become due or be imposed by operation of law for the non-payment thereof, (i) all taxes and governmental charges of any kind whatsoever which may at any time be lawfully assessed or levied against or with respect to the Facility and any machinery, equipment or other property installed or bought by the Company therein or thereon, including, without limiting the generality of the foregoing, any sales or use taxes, if applicable, imposed with respect to the Facility or any part or component therefor, or the rental or sale of the Facility or any part thereof and any taxes levied upon or with respect to the income or revenues of the Agency from the Facility; (ii) all utility and other charges, including service charges, incurred or imposed for or with respect to the operation, maintenance, use occupancy, upkeep and improvement of the Facility; and (iii) all assessments and charges of any kind whatsoever lawfully made by any governmental body for public improvements upon or servicing the Facility. With respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Company shall be obligated under this Lease to pay only such installments as are required to be paid while the Lease is in effect.
- (b) The Company may in good faith contest any such taxes, assessments and other charges. In the event of any such proceedings, the Company may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such proceedings and any appeal therefrom, provided and only if (i) neither the Facility nor any part thereof or interest therein would be in any immediate danger of being sold, forfeited or lost by reason of such proceedings and (ii) the Company shall have set aside on its books adequate reserves with respect thereto and shall have furnished such security, if any, as may be required in such proceedings or requested by the Agency.
- (c) The Agency agrees that if it or the Company contests any taxes, assessments or other charges provided for in paragraph (b) hereof, all sums rebated as a result thereof will be promptly transmitted by the Agency to the Company and that the Company shall be entitled to retain all such amounts.
- (d) Within thirty (30) days of receipt of written request therefor, the Company shall deliver to the Agency official receipts of the appropriate taxing authorities or other proof reasonably satisfactory to the Agency evidencing payment of any tax.
- (e) The Company shall defend, indemnify and hold the Agency harmless from and against any liability or expense, including expense of defense, resulting from any failure by the Company to comply with the provisions of the foregoing subsection (a).

- (f) The provisions of subsections 3.03(a), (b) and (c) above shall not have any application to, and shall not amend or supersede, the obligations and restrictions imposed upon the Company under the terms of the PILOT Agreement.

SECTION 3.04. INSURANCE REQUIRED.

At all times while this Lease is in effect, including without limitation during any period of construction, reconstruction, renovation, equipping or operating of the Facility, the Company shall, at its sole cost and expense, maintain or cause to be maintained (a) comprehensive public liability insurance against all claims of bodily injury, death or property damage occurring at the Facility with coverage limits of not less than \$1,000,000 on a combined limit basis for personal injury and property damage, (b) workers compensation insurance, and (c) insurance against loss or damage by fire, lightning, and other perils with a uniform standard extended coverage endorsement and with coverage limits of not less than the replacement value of the Improvements and Equipment from time to time comprising the Facility. The Agency shall be named as an additional insured with respect to the public liability insurance, as its interest may appear, as a result of any claim or suit brought against the Company as a result of an improper act or omission, and as a loss payee with respect to the property insurance, as its interest may appear.

SECTION 3.05. RIGHT OF THE AGENCY TO PAY TAXES, INSURANCE PREMIUMS AND OTHER CHARGES.

If the Company fails to pay (a) any tax, inclusive of any fine, penalty, interest or cost which may have been added thereto or become due or been imposed by operation of law for nonpayment thereof, or (b) any assessment or other governmental charges required to be paid (b) to maintain any insurance required to be maintained, or (c) any amount required to be paid by any law or ordinance relating to the use or occupancy of the Facility or by any requirement, order or notice of violation thereof issued by any governmental person, (d) any mechanic's Lien which is recorded or filed against the Facility in connection with work performed after Lease inception or any part thereof (unless contested), or (v) any other amount hereunder required to be paid by the Company hereunder, the Agency may, but shall not be obligated to, pay or cause to be paid such tax, assessment or other governmental charge or the premium for such insurance or any other payment or may perform any such act. No such payment shall be made, however, if the Company is contesting the same in good faith to the extent and as permitted by this Lease unless an Event of Default shall have occurred and be continuing. No such payment by the Agency shall affect or impair any rights of the Agency hereunder. The Company shall, on demand, reimburse the Agency for any amount so paid and for related expenses or costs incurred by the Agency, if any, in the performance of any such act, together with interest thereon from the date of payment of such amount, expense or cost by the Agency at one (1) percentage point above the prevailing prime lending rate of interest published in the Wall Street Journal or at the maximum rate permitted by law, whichever is less.

SECTION 3.06. GENERAL PROVISIONS RESPECTING INSURANCE.

- (a) Every policy of insurance which the Company is required to carry shall name the Agency as additional insured, and shall contain agreements by the insurer that (i) it will not cancel or modify such policy except after thirty (30) days prior written notice to the Agency, and that (ii) it will not change or alter the designation of the Agency as an additional insured without the prior written consent of the Agency.
- (b) The Company shall deliver to the Agency the policies or binders of insurance required by this Lease, together with proof of the payment of premium therefor, and shall annually furnish the Agency with a certificate reciting that the insurance coverage required by this Lease is in full force and effect.

ARTICLE IV

DAMAGE OR DESTRUCTION

SECTION 4.01. DAMAGE OR DESTRUCTION OF THE FACILITY

- (a) If all or any portion of the Facility shall be damaged or destroyed at any time during the Term of this Lease:
 - (i) Upon the occurrence of such damage or destruction, the Company shall promptly give notice thereof to the Agency;
 - (ii) There shall be no resulting abatement or reduction in the amounts payable by the Company, for rent or otherwise, under this Lease;
 - (iii) The Company and the Agency shall cooperate in preparing and submitting insurance claim forms to the Facility's casualty insurance carriers, and all insurance proceeds realized shall be held by the Agency in escrow. Insurance checks jointly payable to the Company and the Agency shall be endorsed by the Company promptly upon request for that purpose;
 - (iv) If the damage to the Facility is such that substantial structural replacement, repair, rebuilding or renovation would be required in order to reinstitute normal business operations and activities at the site, the Company shall notify the Agency, within thirty days after a final determination of the insurance recovery entitlement, whether it wishes to have the Facility replaced, repaired, rebuilt or restored;
 - (v) If the damage to the Facility is not so significant as to require substantial structural replacement, repair, rebuilding or renovation in order to

reinstitute normal business operations and activities, the Company shall be required to repair or restore the Facility.

- (vi) The Agency shall have no obligation to contribute to the cost of replacing, repairing, rebuilding, or restoring the Facility;
- (b) In the event the Company elects to, or by the terms of this Article is required to, replace, repair, rebuild, or restore the Facility:
- (i) The Facility shall be placed in substantially the same condition and value at the completion of that work as it was immediately prior to the damage or destruction;
 - (ii) Any such repair, replacement, rebuilding, or restoration of the Facility shall be effected with due diligence in a good and workmanlike manner, in compliance with all applicable legal and regulatory requirements; and
 - (iii) All insurance proceeds realized in consequence of the damage or destruction shall be held in trust by the Agency and applied to the costs of the repair and restoration work, subject to the Company's contribution at its sole cost and expense of whatever additional sums may be necessary to satisfy the requirements of subparagraphs (i) and (ii) above. If said insurance proceeds exceed the cost to repair or restore, said excess insurance proceeds shall be promptly paid by the Agency to the Company.
- (c) In the event the Company has the right under Section 4.01(a) above, and elects, not to replace, repair, rebuild, or restore the Facility, the Company shall be required to exercise the early termination option provided for in Article VIII of this Lease and to make the payments to the Agency provided for in that Article. In that event, all insurance proceeds realized in consequence of the damage or destruction shall be retained by the Agency and shall be credited against the amounts due from the Company by virtue of early termination.

If said insurance proceeds exceed the credits applied by the Agency, said excess insurance proceeds shall be promptly paid by the Agency to the Company.

ARTICLE V

SPECIAL COVENANTS

SECTION 5.01. NO WARRANTY OF CONDITION OR SUITABILITY BY AGENCY.

THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE FACILITY OR ANY PORTION THEREOF OR THAT THE FACILITY IS OR WILL BE SUITABLE FOR THE COMPANY'S PURPOSES OR NEEDS. THE COMPANY SHALL AND DOES ACCEPT ITS LEASEHOLD INTEREST IN THE FACILITY "AS IS" WITHOUT RECOURSE OF ANY NATURE AGAINST THE AGENCY FOR ANY CONDITION NOW OR HEREAFTER EXISTING. NO WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY ARE MADE. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE, WHETHER PATENT OR LATENT, THE AGENCY SHALL HAVE NO RESPONSIBILITY OR LIABILITY WHATSOEVER WITH RESPECT THERETO.

SECTION 5.02. HOLD HARMLESS PROVISIONS.

- (a) The Company agrees that the Agency shall not be liable for and agrees to defend, indemnify, release, and hold the Agency harmless from and against any and all (i) liability, claim or expense for loss or damage to property or injury to or death of any and all persons that may be occasioned, directly or indirectly, by any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any person or property on, in or about the Facility, other than liabilities, claims or expenses resulting from the intentional wrongdoing of the Agency or any of its members, officers, agents (other than the Company), or employees, and (ii) liability, claim or expense arising from the breach by the Company of any of its covenants contained in this Lease, and (iii) causes of action and attorneys fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing, except as set forth in clause (i) of this subsection.
- (b) Notwithstanding any other provisions of this Lease, the obligations of the Company pursuant to this Section 5.02 shall remain in full force and effect after the termination of this Lease and until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought, and (ii) the payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described, and (iii) the payment of all expenses and charges incurred by the Agency, or its respective members, directors, officers, agents and employees, relating to the enforcement of the provisions herein specified.

SECTION 5.03. RIGHT TO INSPECT FACILITY.

During the Term of this Lease, the Agency and its agents or representatives may enter the Facility, upon prior verbal or written notice to the Company, for the purpose of inspecting the Facility, or effecting repairs or maintenance which have been neglected by the Company. No prior notice shall be required in order for the Agency to enter the

Facility to serve the Company with any written notice or legal process, or to take possession and control of the Facility upon expiration of the Term.

SECTION 5.04. COMPLIANCE WITH ORDERS.

- (a) The Company agrees that it will comply with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements, which now or at any time hereafter may be applicable to the Facility or any part thereof or to the acquisition, construction, equipping, and installation of the Facility, or to any use, manner of use, or condition of the Facility or any part thereof.
- (b) Notwithstanding the provisions of subsection (a) hereof, the Company may in good faith contest the validity or the applicability of any requirement of the nature referred to in such subsection (a) by appropriate legal proceedings conducted in good faith and with due diligence. If at any time the then-existing use or occupancy of the Facility shall be permitted only so long as such use or occupancy continues, the Company shall, unless it has the prior consent of the Agency otherwise, use its best efforts to maintain and continue such use or occupancy.
- (c) If, because of a breach or violation of the provisions of subsection (a) hereof, either the Agency or any of its members, directors, officers, agents, or employees, shall be threatened with a fine or imprisonment, then, upon notice from the Agency, the Company shall immediately provide at its sole expense legal defense and/or pay amounts necessary and sufficient to remove the threat of such fine or imprisonment.

SECTION 5.05. DISCHARGE OF LIENS AND ENCUMBRANCES.

Except and unless otherwise expressly authorized by this Lease, without the prior consent of the Agency (a) the Company shall not grant or authorize the filing of any lien or encumbrance upon or affecting the Facility or any part of it, (b) the Company shall immediately notify the Agency of any actual or threatened lien filing against the Facility, and (c) the Company shall effect the discharge or removal of any lien or encumbrance of whatever nature filed against the Facility or a part of it within thirty (30) days thereafter or within such shorter period of time as the Agency may require if, in the Agency's sole judgment, the earlier removal of that encumbrance is essential to avert the likelihood of intervening lien enforcement proceedings.

SECTION 5.06 OWNERSHIP OF EQUIPMENT.

All equipment now or hereafter acquired and used or in place at the Facility shall be properly and fully identified in Company records. All such equipment, including additions and replacement parts, shall be presumptively owned by the Agency unless

such item or items (a) were acquired by the Company in its own name and not as agent for the Agency, (b) do not constitute replacements or substitutions for existing equipment, (c) are readily removable without damage to the land and structures comprising the Facility, and (d) have been, since acquisition, properly identified as Company property in Company records.

SECTION 5.07 DEPRECIATION DEDUCTIONS AND INVESTMENT TAX CREDIT.

The parties agree that, as between them, the Company shall be entitled to all depreciation deductions with respect to any depreciable property comprising a part of the Facility pursuant to Section 167 or Section 168 of the Internal Revenue Code and to all other state and/or federal income tax deductions and credits, including, but not limited to, investment and/or production credits, which may be available with respect to the Facility.

SECTION 5.08. AGREEMENT TO PROVIDE INFORMATION

The Company agrees to furnish the Agency such information concerning the Company, its finances, its operations and its affairs as is necessary to enable the Agency to make any report required by law, regulation, agreement or other instrument which is applicable to the Agency.

SECTION 5.09. ENVIRONMENTAL MATTERS.

- (a) The Company agrees that the Agency or its agents or representatives may, at any reasonable time and at Company's expense, inspect the Company's books and records and inspect and conduct any test on the Facility including taking soil samples in order to determine whether Company is in continuing compliance with all environmental laws applicable to the Facility; but such inspection and testing shall be subject to state and federal permits.
- (b) The Company agrees that the Agency may request and require, and the Company shall pay the cost and expense of, an environmental assessment, audit, study or investigation of the Facility if, in the Agency's reasonable judgment, it believes that the Facility has sustained, or is the source of, environmental contamination.
- (c) The Company shall indemnify, defend, and hold harmless the Agency and its members, officers, agents and employees from and against all loss, liability, damage and expense, including without limitation injury or damage to person or property, costs associated with administrative and judicial proceedings and engineering, consulting, legal or other professional fees, which arise from or are attributable to (i) Company's failure to comply with any federal, state, or local environmental law, code, ordinance, rule or regulation, or the common law; (ii) any release of oil or hazardous materials, hazardous substances or hazardous

waste or any other contaminant or pollutant at, on, into or from the Facility; or (iii) the violation or breach of any of the warranties and representations relating to environmental matters which are made or given by the Company in this Lease.

SECTION 5.10. NO RECOURSE: SPECIAL OBLIGATIONS.

- (a) The obligations and agreements of the Agency contained in this Lease and in any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency and not of any member, officer, agent (other than the Company) or employee of the Agency in his or her individual capacity. The members, officers, agents (other than the Company) and employees of the Agency shall not be liable personally for any breach of the obligations and agreements of the Agency contained in this Lease or in any other instrument or document supplemental hereto.
- (b) The obligations and agreements of the Agency contained in this Lease, and in any other instrument or document supplemental thereto or hereto (i) shall not constitute or give rise to an obligation of the State of New York or of the County of Lewis, and neither the State nor the County shall be liable hereon or thereon, and (ii) shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, payable solely from revenues in actual possession of the Agency which derive from this Lease or from the disposition of the Facility.
- (c) No order or decree of specific performance with respect to any of the obligations of the Agency under this Lease shall be sought or enforced against the Agency unless (i) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, (ii) thirty (30) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance by the Agency therewith would reasonably be expected to take longer than thirty (30) days, the Agency shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, and (iii) if the Agency's refusal to comply with such request is based on its reasonable expectation that it will incur fees and expenses, except to the extent such expected fees result from the intentional wrongdoing of the Agency, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses, and (iv) if the Agency's refusal to comply is based on its reasonable expectation that it or any of its members, officers, agents (other than the Company) or employees shall be subject to potential liability, the party seeking such order or decree shall have (A) agreed to indemnify and hold harmless the Agency and its members, officers, agents (other than the Company) and employees against any liability incurred as a result of its compliance with such demand, and (B) if requested by the Agency, shall have furnished to the Agency satisfactory security to protect the Agency

and its officers, agents (other than the Company) and employees against all liability which might reasonably arise as a result of compliance with such request.

ARTICLE VI

ASSIGNMENT AND SUBLEASING; MERGER OF AGENCY

SECTION 6.01. RESTRICTION ON SALE OF FACILITY.

Except as otherwise specifically provided or contemplated by the provisions of this Lease, the Agency shall not sell, convey, transfer, encumber or otherwise dispose of the Facility or any part thereof or any of its rights therein or under this Lease, other than a sale, conveyance or transfer to the Company, without the prior written consent of the Company.

SECTION 6.02. ASSIGNMENT AND LEASING.

- (a) The Company may not assign its rights under this Lease without the prior written consent of the Agency. Any Agency-approved assignment by the Company shall be on the following conditions and understandings:
 - (i) The assignee shall, in writing, assume the obligations of Company under this Lease to the extent of the interest assigned;
 - (ii) The Company shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Agency a true and complete copy of such assignment and the instrument of assumption;
 - (iii) Such assignment shall not, and shall not purport to, affect, impair, invalidate or render unenforceable any of the provisions of this Lease.
- (b) The Company may only sublet portions of the facility to entities or individuals intending to render on-premises health care or related diagnostic and treatment services to the general public. The Company shall within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Agency a true and complete copy of each such sublease.
- (c) If the Agency shall so request, as of the purported effective date of any assignment or sublease approved by the Agency pursuant to this Section, the Company at its cost shall furnish the Agency with an unqualified opinion of legal counsel, in form and substance satisfactory to the Agency, to the effect that

the conditions to such assignment or sublease as set out in paragraph 6.02 (a) above have been wholly satisfied.

SECTION 6.03. MERGER OF AGENCY.

- (a) Nothing contained in this Lease shall prevent the consolidation of the Agency with, the merger of the Agency into, or transfer of the Agency's title to the entire Facility to, any other public instrumentality or political subdivision which has legal authority to own the Facility, provided that upon any such consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of this Lease to be kept and performed by the Agency shall be expressly assumed in writing by the public instrumentality or political subdivision resulting from such consolidation or surviving such merger or to which the Facility shall be transferred.
- (b) Prior to the consummation of any such consolidation, merger or transfer of title, the Agency shall give notice thereof in reasonable detail to the Company. The Agency promptly shall furnish such additional information with respect to any such transaction as The Company may reasonably request.

SECTION 6.04. BANKRUPTCY OR INSOLVENCY.

In the event that the Agency and/or its successors, assigns or transferees shall file for protection under the U. S. Bankruptcy Code, or otherwise be rendered insolvent, such act of filing or insolvency, in and of itself, shall constitute the Company a secured creditor of the Agency, the security being defined as the entire Facility.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

SECTION 7.01. EVENTS OF DEFAULT DEFINED.

- (a) Each or any of the following shall be an "Event of Default" under this Lease, unless fully remedied by the Company within ten days after notice from the Agency:
 - (i) The failure of the Company to keep or perform any covenant, restriction, or other obligation of performance or payment, imposed upon it or the Facility by this Lease;

- (ii) Any conduct or activity, either on the Company's part or otherwise occurring in relation to the Facility, which is prohibited by the terms of this Lease;
- (iii) The present inaccuracy, or subsequent breach, of any of the representations, covenants or warranties made or given by the Company in this Lease;
- (iv) The voluntary or involuntary institution of legal proceedings or legislative or regulatory action to reorganize, dissolve, declare bankrupt or insolvent, or appoint a receiver or trustee of the assets of, the Company.
- (v) The failure by the Company to release, stay, discharge, lift or bond within thirty (30) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations at the Facility; or the failure by the Company generally to pay its debts as they become due; or an assignment by the Company for the benefit of creditors.
- (vi) Any breach of the PILOT Agreement for which the Agency is entitled to, and does, terminate that PILOT Agreement or the real property tax benefits of the Company under it.

SECTION 7.02. REMEDIES ON DEFAULT

- (a) Whenever any Event of Default shall have occurred, the Agency may take any one or more of the following remedial steps:
 - (i) Remedy the Default and add the costs incurred by it to do so to the next succeeding rental payment due from the Company.
 - (ii) Cancel this Lease and require the Company (A) to make the payments set out in Section 8.02(a) below, and (B) to accept title to the Facility upon the terms and conditions set out in Sections 2.04 and 2.05 of this Lease.
 - (iii) Terminate the PILOT Agreement, or the real property tax benefits of the Company under it, and recover from the Company all sums for which the Company would be liable under the PILOT Agreement in consequence of its default thereunder.
 - (iv) Take any other action at law or in equity which may appear necessary or desirable to (A) collect the payments then due or thereafter to become due hereunder, and (B) enforce the obligations, agreements or covenants of the Company under this Lease.

- (b) In the event the Facility is subleased or leased to another person or entity pursuant to Section 6.02 hereof, the Agency may (but shall be under no obligation to) make such repairs or alterations in or to the Facility as it may deem necessary or desirable for the implementation or continuation of such sublease or lease, and the Company shall be liable and agrees to pay the reasonable costs of such repairs or alterations and the reasonable expenses of the Agency incidental thereto, together with interest on such costs and expense at three (3) percentage point above the prevailing prime rate of lending published in the Wall Street Journal.
- (c) Notwithstanding the provisions of this Article VII, if by reason of "force majeure" (as hereinafter defined) either party hereto shall be unable, in whole or in part, to carry out its obligations under this Lease and if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied upon, the obligations under this Lease of the party giving such notice, so far as they are affected by such force majeure, shall be suspended during the continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The suspension of such obligations for such period pursuant to this subsection (c) shall not be deemed an Event of Default under Section 7.01. The term "force majeure" as used herein shall mean acts or events outside of the control of the party giving notice thereof, including but not limited to acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, orders of any kind of any governmental authority or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, partial or entire failure of utilities, or any other cause or event not reasonably within the control of the party claiming such inability. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the, party having difficulty shall not be required to settle any strike, lockout or other industrial disturbances by acceding to the demands of the opposing party or parties.

SECTION 7.03. REMEDIES CUMULATIVE.

No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Article VII, it shall not be necessary to give any notice, other than such notice as may be herein expressly required in this Lease.

SECTION 7.04. AGREEMENT TO PAY ATTORNEY'S FEES AND EXPENSES.

In the event the Company should default under any of the provisions of this Lease, the Company shall, on demand therefor, pay to the Agency any costs incurred by the Agency in exercising any of the remedies expressed in subparagraphs 7.02 (a) and 7.02 (b), including but not limited to the Agency's reasonable attorneys fees. Likewise, should the Agency default in its performance of any of its obligations recited in this Lease and fail to remedy or remove that default within ten (10) days after notice from the Company, the Agency shall, on demand therefor, pay to the Company any costs incurred by the Company in exercising its remedies for such breach, including but not limited to reasonable attorneys fees.

SECTION 7.05. NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.

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

ARTICLE VIII

EARLY TERMINATION OF LEASE

SECTION 8.01. EARLY TERMINATION BY TENANT.

The Company shall have the option at any time to terminate this Lease on not less than thirty (30) days advance notice, such notice to include the exact date proposed by the Company for termination, which notice shall provide that the Company will comply with Section 8.02 below.

SECTION 8.02. OBLIGATIONS UPON EARLY TERMINATION OF LEASE.

In the event the Company exercises its option to terminate this Lease early pursuant to Section 8.01 hereof or in the event that the Agency is authorized to and does terminate this Lease early pursuant to any provision of this Lease, the Company agrees to, and shall, comply with the following requirements:

- (a) The Company shall pay not later than the Lease termination date:
 - (i) Any amounts due the Agency or any other person or entity under the terms of this Lease, including but not limited to fees, costs and expenses incurred by the Agency;
 - (ii) Any amounts due from the Company under the terms of the PILOT Agreement.

- (b) The Company shall, not later than the Lease termination date, furnish such information and execute and deliver such documents as the Agency may reasonably require in conjunction with the termination of the Lease and the satisfaction of the Company's obligations under it.

SECTION 8.03. COMPANY RIGHT TO PURCHASE FACILITY.

- (a) Upon early termination of this Lease pursuant to this Article VIII, and subject to the Company's payment of the sums provided in Section 8.02 above and its performance of the obligations provided in Section 8.03, the Company shall have the right and duty to take title to the Facility in accordance with the provisions of Sections 2.04 and 2.05 above.
- (b) Subject to Article VII and to Section 8.02 upon receipt of the notice set forth in Section 8.01, above, the Agency shall on or before the date stated as the termination date re-convey the Facility to the Company. The Agency shall re-convey the Facility by bargain and sale deed. The Agency shall deliver to the Company all necessary documents (1) to convey to the Company all the Agency's right, title and interest in and to the Facility, as such property then exists, subject only to the following: (a) any liens, encumbrances or title defects to which title to such Facility was subject when conveyed to the Agency, (b) any liens or encumbrances created at the request, or with the consent, of the Company, and (c) any liens or encumbrances resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Lease or arising out of an Event of Default; and (2) release and convey to the Company all of the Agency's rights and interest in and to any rights of action or any net proceeds of insurance settlements with respect to the Facility.

ARTICLE IX

MISCELLANEOUS

SECTION 9.01. NOTICES

Unless otherwise expressly provided in any particular case, all notices, approvals, consents, requests and other communications referred to in this Lease shall be in writing and shall be deemed to have been given when delivered by hand, or mailed, to the proper recipient at its correct address. For purposes of this paragraph, the proper recipients of such notices and their respective addresses are as follows:

To the Agency: County of Lewis Industrial Development Agency
7642 State Street, PO Box 106
Lowville, New York 13367

Attn.: Executive Director

To the Company: Steven Lyndaker and/or Shereen Palmer
Victorian Lake, LLC
7785 N. State St.
Lowville, NY 13367

The Agency and the Company may, by notice given hereafter, designate any further or different addresses to which, or persons to whom subsequent notices, certificates and other communications shall be directed.

SECTION 9.02 BINDING EFFECT.

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

SECTION 9.03 SEVERABILITY.

If any provision hereof 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 9.04 AMENDMENTS, CHANGES AND MODIFICATIONS

This Lease may not be effectively amended except by a dated written instrument executed both by the Company and by the Agency.

SECTION 9.05. COUNTERPARTS.

This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument

SECTION 9.06. CAPTIONS.

The captions and headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions hereof.

SECTION 9.07. LAW GOVERNING CONSTRUCTION OF LEASE.

This Lease shall be governed by, and construed in accordance with, the laws of the State of New York without regard or reference to its conflict of laws principles.

SECTION 9.08. RECORDING AND FILING.

This Lease, or a memorandum thereof, shall be recorded by the Agency in the office of the Lewis County Clerk. All recording expenses due the Lewis County Clerk shall be paid by the Company.

SECTION 9.09. INTERPRETATION.

In this Lease, unless the context otherwise requires:

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

(B) words of masculine gender shall mean and include correlative words of feminine and neuter genders;

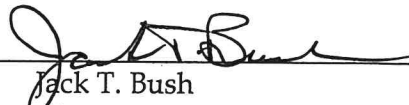
(C) words importing the singular number shall mean and include the plural number, and, vice versa; and

(D) 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.

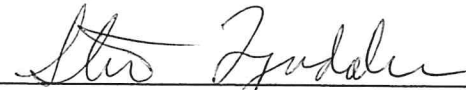
IN WITNESS WHEREOF, the Agency and the Company have executed this Lease as of the date first hereinabove set forth.

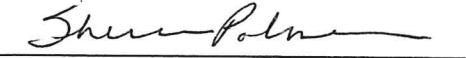
COUNTY OF LEWIS INDUSTRIAL
DEVELOPMENT AGENCY

By:
Name:
Title:


Jack T. Bush
Chairman

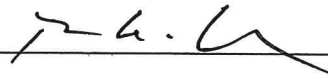
VICTORIAN LAKE, LLC

By: 
Name: Steven Lyndaker
Its: One of two Members

By: 
Name: Shereen Palmer
Its: One of two Members

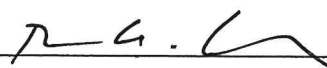
STATE OF NEW YORK)
COUNTY OF LEWIS)

On this 8th day of October, 2013 before me, the undersigned, personally appeared
JACK T. BUSH
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
THOMAS A. CAMPANY
Notary Public in the State of New York
Appointed in Lewis County
My Commission Expires 7/31/2017

STATE OF NEW YORK)
COUNTY OF LEWIS)

On this 8th day of October, 2013 before me, the undersigned, personally appeared
STEVEN LYNDAKER and SHEREEN PALMER
personally known to me or proved to me on the basis of satisfactory evidence to be the
individuals whose names are subscribed to the within instrument and acknowledged to me
that they executed the same in their capacities, and that by their signatures on the
instrument, the individuals, or the person upon behalf of which the individuals acted,
executed the instrument.

 Notary Public
THOMAS A. CAMPANY
Notary Public in the State of New York
Appointed in Lewis County
My Commission Expires 7/31/2017

SCHEDULE A

ALL THAT TRACT OR PARCEL OF LAND situate in the Village and Town of Lowville, County of Lewis and State of New York bounded and described as follows:

BEGINNING at the intersection of the southerly street margin of Dayan Street and the easterly street margin of Cascade Avenue at a point 0.30 feet from a N.Y.S.D.O.T. monument found;

THENCE S. $74^{\circ} 13' 23''$ E., along the southerly street margin of Dayan Street, a distance of 86.30 feet to a capped iron rod set;

THENCE S. $67^{\circ} 17' 22''$ E., continuing along the southerly street margin of Dayan Street, a distance of 55.53 feet to a capped iron rod set at the intersection of the southerly street margin of Dayan Street with the westerly street margin of an 18' wide alley way commonly known as Exchange Street;

THENCE S. $05^{\circ} 51' 49''$ W., along the westerly margin of that alley way a distance of 57.42 feet to a capped iron rod set;

THENCE S. $05^{\circ} 17' 56''$ E., continuing along the westerly margin of that alley way, a distance of 57.00 feet to a capped iron rod set at the northeast corner of the parcel of land conveyed to Anthony Meda by deed recorded in the Lewis County Clerk's Office in Liber 489 of Deeds at Page 265;

THENCE N. $76^{\circ} 37' 27''$ W., along the northerly line of the said Meda parcel a distance of 73.09 feet to a capped iron rod set at the northwest corner of that parcel;

THENCE S. $12^{\circ} 44' 35''$ W., along the westerly line of the Meda parcel, a distance of 26.00 feet to an iron pipe found at the southwest corner of that parcel;

THENCE S. $76^{\circ} 37' 27''$ E., along the southerly line of the Meda parcel, a distance of 81.59 feet to an iron pipe found at the westerly margin of the alley way commonly known as Exchange Street;

THENCE S. $05^{\circ} 17' 56''$ E., along the westerly margin of that alley way, a distance of 49.59 feet to an iron pipe found at the northeast corner of the parcel of land conveyed to Anthony Meda by deed recorded in the Lewis County Clerk's Office in Liber 489 of Deeds at Page 265;

THENCE N. $75^{\circ} 07' 53''$ W. along the northerly line of said Meda parcel to, and then along, the northerly line of the parcel of land conveyed to Roy K. Lindley by deed recorded in the Lewis County Clerk's Office as Instrument No. 2007-03455 a distance of 201.10 feet to a capped iron rod set at the easterly street margin of Cascade Avenue;

THENCE N. $32^{\circ} 19' 20''$ E., along the easterly street margin of Cascade Avenue, a distance of 13.68 feet to a capped iron rod set;

THENCE N. $15^{\circ} 01' 44''$ E., continuing along the easterly street margin of Cascade Avenue, a distance of 178.41 feet to the point of beginning.

CONTAINING 0.667 acres of land, more or less, as shown on "Map Showing the Boundary Survey of the Victorian Lake, LLC Property, Dayan Street, Village of Lowville" by R. Stephen Moncrief, Jr., PLS no. 49819, dated April 16, 2013, last revised on September 13, 2013 and filed in the Lewis County Clerk's Office.

TOGETHER WITH the right in common with others to use, and a right of way over and through, the aforementioned 18' wide alley way commonly known as Exchange Street beginning at Dayan Street and running southerly parallel to State Street and in the rear of

the stores facing on State Street and the entire distance of said stores, said alley way and right of way being more particularly mentioned and described in a deed from N.B. Sylvester to John O'Donnell dated July 17, 1858 and recorded in the Lewis County Clerk's Office in Book 18 of Deeds at page 415.

SUBJECT TO a gas line easement from the Village of Lowville to New York State Electric & Gas Corporation recorded in the Lewis County Clerk's Office on November 28, 2003 as Instrument No. 2003-03921.

SUBJECT, ALSO, TO a gas line easement grant from the Village of Lowville to New York State Electric & Gas Corporation recorded in the Lewis County Clerk's Office on June 15, 1998 in Liber 623 at Page 190.

BEING the same premises conveyed to Victorian Lake, LLC by (i) the Village of Lowville by deed recorded in the Lewis County Clerk's Office on March 14, 2013 as Instrument No. 2013-001788, and (ii) Community Bank, N. A. by deed recorded in the Lewis County Clerk's Office on July 24, 2013 as Instrument No. 2013-005435.

MEMORANDUM OF REAL ESTATE LEASE

MEMORANDUM, dated October 8, 2013, between

COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT AGENCY,
7642 State Street, Lowville, NY 13367

("Lessor")

and

VICTORIAN LAKE, LLC,
7785 N. State St., Lowville, NY 13367

("Lessee")

for the purpose of acknowledging and identifying of record an arrangement between the parties for the lease of certain premises, as follows:

A. LEASE AGREEMENT. The lease arrangement is evidenced by a written agreement dated and executed as of October 8, 2013 (the "Lease").

B. PARTIES. The parties to the Lease are Lessor and Lessee, whose addresses are as indicated above.

C. LEASED PREMISES. The premises encompassed by the Lease consists of real property, and the improvements thereon, situate in the Village and Town of Lowville, Lewis County, New York, described on the attached Schedule A (the "Leased Premises").

D. LEASE TERM. The term of the Lease between Lessor and Lessee begins on October 8, 2013 and terminates on February 28, 2024.

E. EXTENSION AND RENEWAL RIGHTS. The Lease contains no provision for extension or renewal of the Lease beyond its original term.

F. POSSESSION. The Lessee is entitled to possession of the Leased Premises under the terms of the Lease.

G. PURPOSE. This memorandum is executed and intended to be recorded for the purpose of complying with Sections 291-c and 294 of the Real Property Law of the State of New York.

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the date first hereinabove indicated.

COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT AGENCY

By: Jack T. Bush
Name: Jack T. Bush
Its: Chairman

VICTORIAN LAKE, LLC
By: Steven Lyndaker
Name: Steven Lyndaker
Its: One of two members

By: Shereen Palmer
Name: Shereen Palmer
Its: One of two members

STATE OF NEW YORK)
COUNTY OF LEWIS)

On this 8th day of October, 2013 before me, the undersigned, personally appeared JACK T. BUSH 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.

Thomas A. Campany
Notary Public

THOMAS A. CAMPANY
Notary Public in the State of New York
Appointed in Lewis County
My Commission Expires 7/31/2017

STATE OF NEW YORK)
COUNTY OF LEWIS)

On this 8th day of October, 2013 before me, the undersigned, personally appeared STEVEN LYNDAKER and SHEREEN PALMER personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose name are subscribed to the within instrument and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

Thomas A. Campany
Notary Public

THOMAS A. CAMPANY
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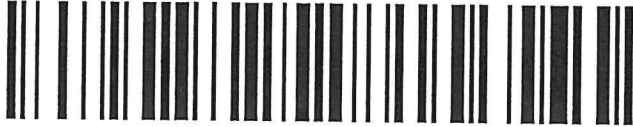
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LEWIS COUNTY - STATE OF NEW YORK
 DOUGLAS P. HANNO, LEWIS COUNTY CLERK
 P.O. BOX 232, LOWVILLE, NEW YORK 13367

COUNTY CLERK'S RECORDING PAGE
 THIS PAGE IS PART OF THE DOCUMENT - DO NOT DETACH



Recording:

Cover Page	5.00
Recording Fee	40.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00

Sub Total: 70.00

Transfer Tax	
Transfer Tax	0.00

Sub Total: 0.00

Total: 70.00

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****
 Transfer Tax #: 314
 Transfer Tax
 Consideration: 0.00

Total: 0.00

INSTRUMENT #: 2013-007067

Receipt#: 2013093313
 Clerk: PS
 Rec Date: 10/09/2013 11:08:04 AM
 Doc Grp: RP
 Descrip: LEASE
 Num Pgs: 5

Party1: COUNTY OF LEWIS INDUSTRIAL
 DEVELOPMENT AGENCY
 Party2: VICTORIAN LAKE LLC
 Town: LOWVILLE

Record and Return To:

CAMPANY & YOUNG PLLC
 PO BOX 311
 LOWVILLE NY 13367

Douglas P. Hanno
 Lewis County Clerk

CONSTRUCTION MORTGAGE

THIS MORTGAGE, made the 8th day of October, 2013

BETWEEN

VICTORIAN LAKE, LLC,

a New York corporation, having an address at 7785 N. State, Lowville, NY 13367
(herein, "Borrower"), and

COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT AGENCY,

a New York public benefit corporation, having as address at 7642 State St.,
Lowville, NY 13367

(herein, "Agency", and collectively with Borrower, "Mortgagor")

and

COMMUNITY BANK, NATIONAL ASSOCIATION,

a national banking association with an office and place of business at 64-70 Market
St., PO Box 5165, Potsdam, NY 13676

(herein, "Mortgagee")

is in the amount of ONE MILLION TWO HUNDRED NINETY FIVE THOUSAND TWO HUNDRED FIFTY
SIX and 00/100 Dollars (\$1,295,256.00)

and is given by Mortgagor and accepted by Mortgagee upon the following terms, covenants and
understandings:

A. DEFINITIONS.

For purposes of this instrument, the quoted words which follow shall have the meanings indicated:

- "Building Loan Agreement": The written contract between Mortgagee and Mortgagor, dated today and recorded concurrently with this instrument, providing for Mortgagee, upon and subject to certain conditions, to make loan advances for the purpose of paying for the cost of constructing an improvement on real estate more particularly identified in paragraph B below.
- "Debt": The principal sum of \$1,295,256.00, loaned or to be loaned by Mortgagee to Borrower pursuant to the terms of the Building Loan Agreement, and any sums expended by Mortgagee for which Borrower has a reimbursement obligation under this Mortgage, together with interest thereon.
- "Note": The promissory note executed by Borrower which evidences the Debt and Borrower's promise to repay it, and which is to be dated October 8, 2013, and any subsequent renewals, modifications, extensions or replacement of or to it.

- “Collateral Documents”: Any other written instruments containing promises or commitments of Borrower in connection with the Debt and Note, including but not limited to the Building Loan Agreement and the loan agreement between Mortgagee and Borrower dated August 20, 2013.

B. MORTGAGED PROPERTY.

For the purpose of securing payment of the Debt, Mortgagor hereby mortgages to Mortgagee all of its right, title and interest in and to the following (collectively, herein, “Property”):

Those premises more particularly described on the attached Schedule A.

TOGETHER ALSO WITH

- (1) The buildings and other improvements now or hereafter situate on the described premises;
- (2) All fixtures and articles of personal property now or hereafter attached to said premises, buildings or other improvements;
- (3) Any and all appurtenances, easements, covenants, conditions, restrictions or reservations, of record or otherwise, benefiting the premises;
- (4) The proceeds of any award or other consideration due in consequence of the appropriation of rights in the described premises for public or quasi-public purposes by any entity having eminent domain, or condemnation, authority.

C. MORTGAGOR COVENANTS.

Borrower hereby covenants with Mortgagee and agrees that:

1. Debt. Borrower will pay the Debt in accordance with the terms of the Note.
2. Construction. Borrower will comply in all respects with the obligations, restrictions and commitments imposed by the terms of the Building Loan Agreement.
3. Maintenance. Borrower will at all times keep the Property in good order and repair, and will allow Mortgagee or its agents access to inspect the Property on reasonable notice.
4. Usage. Borrower will comply with all applicable local, state and federal statutes, regulations, ordinances or orders relating to the condition, occupation and use of the Property. Without the Mortgagee’s prior consent, (a) no material change shall be made in the Property’s function and purpose, except as contemplated by the Building Loan Agreement, and (b) Borrower may not relinquish or abandon its occupancy of the Property.
5. Alterations. Without the prior consent of Mortgagee, buildings now or hereafter located on the Property may not be demolished, removed or structurally altered. The Mortgagee may not unreasonably withhold such consent, however, provided Borrower can demonstrate that the value of the Property will not be adversely affected by the change and, in the case of structural alterations, that Borrower has adequate cash reserves to fund the project.
6. Taxes. Borrower will pay all taxes, water and sewer rents, and other assessments imposed on the Property as they come due and before the incurral of interest, penalties or late charges. Copies of receipts for payment of these charges shall be furnished to Mortgagee on request.

7. Insurance. Borrower will keep the Property insured to its replacement value against fire and such other risks of loss as are (a) ordinarily encompassed by standard extended coverage casualty insurance in New York State on improvements like those from time to time located on the Property, or are (b) designated by Mortgagee as unique risks to which the Property is exposed, provided such additional insurance coverage is available. Borrower will, additionally, maintain standard builders' risk casualty insurance to the full replacement value of any and all improvements while under construction on the Property. All such policies shall expressly identify Mortgagee as first mortgagee and shall accord it all of the rights standardly granted by that status, including but not limited to the right to prior notice of intended policy cancellation for non-payment of premium. In the event of an insured loss, Mortgagee shall have the right to require that insurance proceeds be applied in whole or partial payment of the Debt.
8. Environmental. Toxic, hazardous, or regulated substances shall not be stored on the Property, except those recognized as customary and appropriate for the Property's intended commercial function and character as described in the Building Loan Agreement, and then only in compliance with applicable environmental, safety and health laws, regulations and orders. The manner of storage, handling, use, and disposition of all such substances shall, likewise, satisfy all applicable regulatory standards. In no event shall the Property be used as a waste storage, disposal or incineration site. Borrower shall immediately notify Mortgagee of (a) any actual or threatened investigation or lawsuit involving potential environmental, health or safety violations or contamination on, or originating at, the Property, or (b) any incident within Borrower's knowledge which could result in such an inquiry or claim. Borrower shall promptly take all actions required by law, regulation, governmental agency or tribunal to eliminate or remediate adverse environmental, health or safety conditions on, or originating at, the Property. Should Mortgagee have reason to suspect the existence of such an adverse condition, it may require Borrower (a) to engage an independent, qualified engineering or other professional firm to conduct pertinent studies, and (b) to undertake appropriate remedial actions, if warranted by those studies.
9. Title Warranty. Agency is the owner of the Property and Borrower holds a leasehold interest in the Property, free from any and all liens, encumbrances, restrictions or conditions other than those, if any, specifically identified in paragraph B above. Mortgagor will not, voluntarily or otherwise, permit any individual or entity to obtain such an interest in the Property without the prior consent of Mortgagee. Should any judgment be taken, or other lien filed, against Mortgagor, however, Mortgagor shall have the right to contest that obligation by timely judicial or administrative proceedings, including appeals. If, at the conclusion of those proceedings, the judgment or lien is not canceled, Mortgagor shall satisfy the underlying obligation in full within thirty days thereafter.
10. Sale. Unless Mortgagee gives its prior consent otherwise, the entire Debt shall become immediately due and payable in the event of Mortgagor's sale of all or any portion of the Property.
11. Lease. Neither Agency nor Borrower may lease, or grant use or occupancy rights in, the Property to any person or entity other than Borrower without the prior consent of Mortgagee, except that Borrower may sublease portions of the Property at fair rental value to individuals or entities who provide health care services or health care-related diagnostic or treatment services. The use or occupancy of the Property by a third party, with or without Mortgagee's consent, shall not release the Property from the application of, or Mortgagor from accountability for the breach of, any affirmative or negative covenant set out in this Mortgage. The rents accruing to Borrower from any present or future Property sublease arrangement are hereby assigned to Mortgagee as additional security for the Debt, and may not be further or otherwise assigned. This assignment is absolute and unconditional, and it may be enforced by Mortgagee without prior resort to any other or different property acting as collateral for the Debt. However, unless and until Mortgagee notifies it otherwise, Borrower shall be entitled to collect and receive the assigned rents from a tenant as they come due. At the request of Mortgagee, Borrower will promptly execute any and all other documents Mortgagee deems appropriate to evidence the assignment of the rents of any particular tenancy. The costs of recording such documents in the office of the applicable county clerk shall be paid by Borrower.

12. Trust. Borrower covenants that it will receive and hold the loan advances secured by this Mortgage, and the right to those advances, as a trust fund to be applied first for the purpose of paying the cost of improvements on the Property, and that it will apply those advances to payment of the cost of improvement before using any part of them for any other purpose.
13. Protecting Mortgage. Mortgagee may do whatever it deems necessary to protect or preserve the value of the Property and its rights in the Property in the event of (a) Borrower's failure to keep or perform any promise made by it in this Mortgage, or (b) the commencement of a legal proceeding, involving Mortgagor and/or Mortgagee as a party, which could adversely affect those mortgage rights. If it elects to take such action and expends money as a result, Mortgagee shall be entitled to immediate and full reimbursement from Borrower, with interest from the date of expenditure at the rate provided in the Note. Such expenditures, until paid, shall become part of the Debt secured by this Mortgage.
14. Costs. Borrower shall be liable for Mortgagee's expenses in pursuing or defending any legal action or proceeding premised upon (a) Borrower's default in performance of any provision of this Mortgage, the Note, or the Collateral Documents, or (b) the inaccuracy or breach of any representation or covenant made by Borrower in this Mortgage, the Note, or the Collateral Documents. The recoverable expenses shall include court costs, disbursements, and reasonable attorney fees incurred by Mortgagee. Mortgagee may add those expenses to the Debt, and their payment shall be secured by this Mortgage.

D. DEFAULT.

Each of the following shall constitute a default on the part of Mortgagor, entitling Mortgagee, at its option, to declare the entire Debt immediately due and payable:

1. Omissions. The failure of Borrower to keep or perform any covenant, restriction, or other obligation of performance or payment, imposed upon it or the Property by this Mortgage, the Note, the Building Loan Agreement or other Collateral Documents;
2. Acts. Any conduct or activity, either on Mortgagor's part or otherwise occurring in relation to the Property, which is prohibited by the terms of this Mortgage, the Note, the Building Loan Agreement or other Collateral Documents;
3. Representations. The present inaccuracy, or subsequent breach, of any of the representations, covenants or warranties made or given by Mortgagor in this Mortgage, the Note, the Building Loan Agreement or other Collateral Documents;
4. Bankruptcy. The voluntary or involuntary institution of legal proceedings or legislative or regulatory action to reorganize, dissolve, declare bankrupt or insolvent, or appoint a receiver or trustee of the assets of, the Borrower.

E. ADDITIONAL REMEDIES.

In addition to any other rights and remedies which may be available to Mortgagee in the indicated circumstances, Mortgagor covenants and agrees that:

1. Possession. If Mortgagee demands payment in full of the Debt because of a default, Mortgagee may assume control of the Property. In that event, (a) Mortgagor shall surrender possession of the Property to Mortgagee and vacate the premises, upon request, and may be evicted by summary proceedings if it fails to comply, or (b) Mortgagee may require Borrower to pay a reasonable monthly rental, in advance, in order to remain in occupation of the Property, such rental to be applied against the Debt.

2. Receiver. If proceedings are instituted to foreclose this Mortgage because of a default, the Mortgagee shall be entitled to the appointment of a receiver of the Property. That appointee shall have the rights and authority granted generally by law to a receiver in foreclosure, and as well (a) the rights and options accorded Mortgagee pursuant to subparagraph 1 above, and (b) the right, if the Property is vacant, to lease same in order to generate revenues to pay Property expenses and to reduce the Debt.
3. Foreclosure. Upon default of this Mortgage and unless such relief is not available because of the character of the Property, Mortgagee shall have the right to sell the Property pursuant to and in the manner prescribed by Article 14 of the Real Property Actions and Proceedings Law of the State of New York, which allows for non-judicial foreclosure by power of sale. If proceedings are instituted to foreclose this Mortgage because of a default, the Property may be sold as a single parcel at foreclosure sale.
4. Waiver. Mortgagee's intentional or unintentional disregard of a particular default by Mortgagor shall not constitute a waiver of any right or remedy which would otherwise be available to Mortgagee in consequence of a later default.

F. COLLATERAL MATTERS.

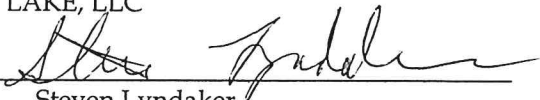
Mortgagor acknowledges and affirms that:


1. Modification. The specific content and application of this Mortgage may not be amended, altered or nullified in any respect except by a written instrument which is dated and signed both by Mortgagor and Mortgagee. Should any provision of the Mortgage be rendered unenforceable by judicial, statutory or regulatory construction or law, (a) the remaining provisions of it shall not be affected or impaired, and (b) Mortgagee may, if such action negates a substantial right and expectation of Mortgagee, elect to declare the Debt immediately due and payable.
2. References. Should there be more than one individual or entity hereinabove identified as Mortgagor, all references to Mortgagor appearing in this document shall be deemed to refer to each and all of those individuals and entities. And, every covenant, representation or other obligation of the Mortgagor set forth in this Mortgage shall, except where otherwise specifically stated, constitute the joint and several commitment and promise of each individual and entity.
3. Notices. Except and unless otherwise specifically stated in this instrument, (a) any notice, consent, demand or permission referred to in it shall not be effective unless in writing and delivered to the proper recipient either personally or by mail, and (b) the prior consent or permission from Mortgagee which may be required by any provision of this Mortgage may be granted or withheld by Mortgagee in its sole and exclusive discretion.
4. Obligations of the Agency. This Mortgage is a special obligation of the Agency and it is understood and agreed (a) that the Mortgagee as against the Agency shall look exclusively to the mortgaged Property, the Mortgage, the Collateral Documents and such other security as may from time to time be given for payment or obligations arising out of the Note and the Mortgage, (b) that any judgment rendered on the Note or this Mortgage or other security given for payment of the Debt shall be limited insofar as its enforcement against the Agency to the mortgaged Property and such other security if given for the satisfaction thereof, and (c) that no deficiency or personal judgment shall be sought or rendered against the Agency, its successors or assigns (except the Borrower) or its members, officers, agents or employees in any action or proceeding brought on this Mortgage, or any judgment, order or decree rendered pursuant to any such action or proceeding; provided, however, that nothing herein shall impair or limit the rights of the Mortgagee under other security which may from time to time be acquired by the Mortgagee to secure the repayment of the Note or the Debt.

5. Governing Law. Except to the extent federal law may apply by virtue of Mortgagee's status as a federally-chartered bank, this Mortgage, and the respective rights and obligation of the parties under it, shall be interpreted and construed in accordance with the internal laws of the State of New York.
6. Captions. The captions appearing in this Mortgage are for the sake of convenience only and do not qualify the content, scope, meaning, application or intent of the specific provisions of this document which they introduce and precede.
7. Capacity. By executing this Mortgage, Mortgagor, if a corporation, partnership or other entity, warrants and affirms that (a) it is validly in existence and in good standing in the State of New York, (b) it has the requisite power and authority to give a mortgage on the Property, and (c) all of the prerequisite formalities to its entry into this Mortgage transaction, as prescribed by law and by applicable internal policies or agreements, have been duly undertaken and observed.


IN WITNESS WHEREOF, the Mortgagor has executed this instrument as of the date and year first hereinabove indicated

VICTORIAN LAKE, LLC

By: 
 Name: Steven Lyndaker
 As: One of two members


By: 
 Name: Shereen Palmer
 As: One of two members

COUNTY OF LEWIS INDUSTRIAL DEVELOPMENT
 AGENCY

By: 
 Name: Jack T. Bush
 As: President

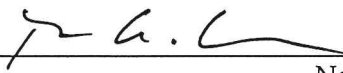
STATE OF NEW YORK)
 COUNTY OF LEWIS)

On October 8, 2013, before me, the undersigned, personally appeared STEVEN LYNDAKER and SHEREEN PALMER personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose name are subscribed to the within instrument and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

 Notary Public
 THOMAS A. CAMPANY
 Notary Public in the State of New York
 Appointed in Lewis County
 My Commission Expires 7/31/2017

STATE OF NEW YORK)
COUNTY OF LEWIS)

On October 8, 2013, before me, the undersigned, personally appeared JACK T. BUSH 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

THOMAS A. COMPANY
Notary Public in the State of New York
Appointed in Lewis County
My Commission Expires 7/31/2017

SCHEDULE A

ALL THAT TRACT OR PARCEL OF LAND situate in the Village and Town of Lowville, County of Lewis and State of New York bounded and described as follows:

BEGINNING at the intersection of the southerly street margin of Dayan Street and the easterly street margin of Cascade Avenue at a point 0.30 feet from a N.Y.S.D.O.T. monument found;

THENCE S. 74° 13' 23" E., along the southerly street margin of Dayan Street, a distance of 86.30 feet to a capped iron rod set;

THENCE S. 67° 17' 22" E., continuing along the southerly street margin of Dayan Street, a distance of 55.53 feet to a capped iron rod set at the intersection of the southerly street margin of Dayan Street with the westerly street margin of an 18' wide alley way commonly known as Exchange Street;

THENCE S. 05° 51' 49" W., along the westerly margin of that alley way a distance of 57.42 feet to a capped iron rod set;

THENCE S. 05° 17' 56" E., continuing along the westerly margin of that alley way, a distance of 57.00 feet to a capped iron rod set at the northeast corner of the parcel of land conveyed to Anthony Meda by deed recorded in the Lewis County Clerk's Office in Liber 489 of Deeds at Page 265;

THENCE N. 76° 37' 27" W., along the northerly line of the said Meda parcel a distance of 73.09 feet to a capped iron rod set at the northwest corner of that parcel;

THENCE S. 12° 44' 35" W., along the westerly line of the Meda parcel, a distance of 26.00 feet to an iron pipe found at the southwest corner of that parcel;

THENCE S. 76° 37' 27" E., along the southerly line of the Meda parcel, a distance of 81.59 feet to an iron pipe found at the westerly margin of the alley way commonly known as Exchange Street;

THENCE S. 05° 17' 56" E., along the westerly margin of that alley way, a distance of 49.59 feet to an iron pipe found at the northeast corner of the parcel of land conveyed to Anthony Meda by deed recorded in the Lewis County Clerk's Office in Liber 489 of Deeds at Page 265;

THENCE N. 75° 07' 53" W. along the northerly line of said Meda parcel to, and then along, the northerly line of the parcel of land conveyed to Roy K. Lindley by deed recorded in the Lewis County Clerk's Office as Instrument No. 2007-03455 a distance of 201.10 feet to a capped iron rod set at the easterly street margin of Cascade Avenue;

THENCE N. 32° 19' 20" E., along the easterly street margin of Cascade Avenue, a distance of 13.68 feet to a capped iron rod set;

THENCE N. 15° 01' 44" E., continuing along the easterly street margin of Cascade Avenue, a distance of 178.41 feet to the point of beginning.

CONTAINING 0.667 acres of land, more or less, as shown on "Map Showing the Boundary Survey of the Victorian Lake, LLC Property, Dayan Street, Village of Lowville" by R. Stephen Moncrief, Jr., PLS no. 49819, dated April 16, 2013, last revised on September 13, 2013 and filed in the Lewis County Clerk's Office.

TOGETHER WITH the right in common with others to use, and a right of way over and through, the aforementioned 18' wide alley way commonly known as Exchange Street beginning at Dayan Street and running southerly parallel to State Street and in the rear of the stores facing on State Street and the entire distance of said stores, said alley way and right of way being more particularly mentioned and described in a deed from N.B. Sylvester to John O'Donnell dated July 17, 1858 and recorded in the Lewis County Clerk's Office in Book 18 of Deeds at page 415.

SUBJECT TO a gas line easement from the Village of Lowville to New York State Electric & Gas Corporation recorded in the Lewis County Clerk's Office on November 28, 2003 as Instrument No. 2003-03921.

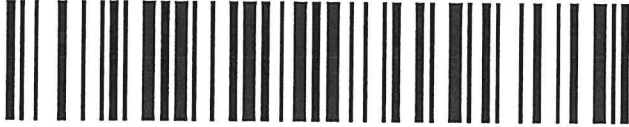
SUBJECT, ALSO, TO a gas line easement grant from the Village of Lowville to New York State Electric & Gas Corporation recorded in the Lewis County Clerk's Office on June 15, 1998 in Liber 623 at Page 190.



LEWIS COUNTY - STATE OF NEW YORK
 DOUGLAS P. HANNO, LEWIS COUNTY CLERK
 P.O. BOX 232, LOWVILLE, NEW YORK 13367

COUNTY CLERK'S RECORDING PAGE

THIS PAGE IS PART OF THE DOCUMENT - DO NOT DETACH



Recording:

Cover Page	5.00
Recording Fee	65.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
Notations	0.50
255 Affidavit	5.00

Sub Total: 95.50

Mortgage Tax	
Basic	0.00
SONYMA	0.00
Additional	0.00
Local	0.00

Sub Total: 0.00

Total: 95.50

**** NOTICE: THIS IS NOT A BILL ****

***** Mortgage Tax *****

Serial #: DE-0646
 Exempt
 Mtg Amt: 1295256.00

Total: 0.00

INSTRUMENT #: 2013-007068

Receipt#: 2013093313
 Clerk: PS
 Rec Date: 10/09/2013 11:08:04 AM
 Doc Grp: RP
 Descrip: MORTGAGE
 Num Pgs: 10

Party1: VICTORIAN LAKE LLC
 Party2: COMMUNITY BANK NA
 Town: LOWVILLE

Douglas P. Hanno
 Lewis County Clerk

Record and Return To:

CAMPANY & YOUNG PLLC
 PO BOX 311
 LOWVILLE NY 13367