
LEASE AGREEMENT

Dated as of May 1, 2024

by and between

COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY

and

CHPE LLC

RELATING TO CERTAIN PARCELS OF LAND AS WELL AS
THE LESSEE'S INTERIM PERMIT AND EASEMENT IN
AND TO CERTAIN SUBMERGED STATE OWNED LANDS
LOCATED IN THE TOWNS OF CLARKSTOWN, HAVERSTRAW
AND STONY POINT, AND THE VILLAGES OF HAVERSTRAW
AND WEST HAVERSTRAW, ROCKLAND COUNTY, NEW YORK

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LEASE AGREEMENT

This **LEASE AGREEMENT**, made and entered into as of the 1st day of May, 2024 (this “**Agreement**”), by and between the **COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York (the “**Agency**”), having its principal office at 254 South Main Street, Suite 401, New City, New York 10956, **party of the first part**, and **CHPE LLC** a limited liability company organized and existing under the laws of the State of New York (the “**Lessee**”) having an office for the transaction of business located at 623 Fifth Avenue, 20th Floor, New York, New York 10022, **party of the second part**:

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “**Enabling Act**”) authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and furnish land, any building or other improvement, and all real and personal properties, including but not limited to machinery and equipment, deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, industrial or civic purposes, to the end that such agencies may be able to promote, develop, encourage, assist and advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, the Agency was established by Chapter 564 of the 1980 Laws of New York, as amended (together with the Enabling Act, the “**Act**”) for the benefit of the County of Rockland and the inhabitants thereof; and

WHEREAS, to accomplish the purposes of the Act, the Agency has entered into negotiations with the Lessee for a “project” within the meaning of the Act within the territorial boundaries of the County of Rockland and located on those certain lots, pieces or parcels of land and easement rights generally described in **Exhibit A** attached hereto; and

WHEREAS, on February 16, 2021, the Lessee presented an application, as amended (the “**Application**”) to the Agency, which Application requested that the Agency consider undertaking a project (the “**Project**”) for the benefit of the Lessee, said Project to include the following: (A) (1) the acquisition of a leasehold interest in the Lessee’s interest in certain upland parcels of land and in the Lessee’s interim permit and easement issued by the New York State Office of General Services (“**OGS**”) in relation to submerged State-owned land, such upland and submerged lands located in the Towns of Stony Point, Haverstraw and Clarkstown, and Villages of West Haverstraw

and Haverstraw, Rockland County, New York (collectively, the “**Land**”) as more particularly described in **Exhibit A** hereto, (2) the acquisition of certain machinery and equipment, including two (2) five-inch diameter high-voltage direct current (“**HVDC**”) transmission cables (collectively, the “**Equipment**”), and (3) the construction, installation and equipping on or under the Land of a fully-buried, up to 1,250-megawatt (“**MW**”) HVDC electric transmission line and related infrastructure (collectively, the “**Improvements**”, and together with the Land and the Equipment, the “**Project Facility**”), all of the foregoing to be used and operated by the Lessee as a portion of an electric transmission line from the U.S.-Canada border to New York City; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including an exemption from real property taxes (collectively, the “**Financial Assistance**”); and (C) the lease of the Project Facility to the Lessee; and

WHEREAS, by resolution adopted by the members of the Agency on June 28, 2022, and amended on April 23, 2024 (the “**Approving Resolution**”), the Agency determined to grant the Financial Assistance and to enter into this Agreement and certain other documents related thereto and to the Project (collectively with this Agreement, the “**Project Documents**”); and

WHEREAS, simultaneously with the execution and delivery of this Agreement and the Project Documents, (A) the Lessee and the Agency will execute and deliver a certain head lease agreement dated as of May 1, 2024 (the “**Head Lease**”) by and between the Lessee, as lessor, and the Agency, as lessee, pursuant to which the Lessee will lease to the Agency the Leased Premises (as defined in the Head Lease); (B) the Lessee, the Affected Tax Jurisdictions (as defined in the PILOT Agreement) and the Agency will execute and deliver a payment in lieu of taxes agreement dated as of May 1, 2024 (the “**PILOT Agreement**”) by and between the Lessee, the Agency, and certain Affected Tax Jurisdictions executing the PILOT Agreement, at the time such Affected Tax Jurisdictions execute the PILOT Agreement, pursuant to which the Lessee will agree to pay certain payments in lieu of taxes with respect to the Project Facility; (C) the Agency and the Lessee will execute and deliver a certain indemnity agreement for hazardous materials dated as of May 1, 2024 (the “**Environmental Indemnity**”) by and between the Agency and the Lessee relating to environmental matters; and (D) the Agency will file with the assessor and mail to the chief executive officer of each Affected Tax Jurisdiction a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the “**Real Property Tax Exemption Form**”) relating to the Project Facility and the PILOT Agreement (all of the foregoing are hereafter referred to as the “**Closing**”); and

WHEREAS, the Lessee holds an interest in the Project Facility, which interest has been leased by the Lessee to the Agency on the terms and conditions set forth in the Head Lease; and

WHEREAS, pursuant to this Agreement, the Agency will lease to the Lessee the Agency's interest in the Project Facility; and

WHEREAS, the provision by the Agency of the Financial Assistance to the Lessee through this straight-lease transaction has been determined to be necessary to induce the Lessee to locate and develop the Project within the County of Rockland and make the Project more affordable; and the Lessee has represented that if the Agency does not provide such Financial Assistance, the Lessee could not feasibly proceed with the Project.

NOW, THEREFORE, in consideration of the Leased Premises and the respective representations and agreements hereinafter contained, the parties hereto agree as follows (provided that in the performance of the agreements of the Agency herein contained, any obligation it may incur for the payment of money shall not create a debt of the State of New York or of the County of Rockland, and neither the State of New York nor the County of Rockland shall be liable on any obligation so incurred, but any such obligation shall be payable solely out of the lease rentals, revenues and receipts derived from or in connection with the Project Facility, including moneys received under this Agreement):

ARTICLE I DEFINITIONS AND REPRESENTATIONS

Section 1.1 Definitions. The following terms shall have the following meanings in this Agreement:

Act shall mean, collectively, the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York), as amended, and Chapter 564 of the 1980 Laws of New York, as amended.

Additional Rent shall mean any additional rental payments described in Section 3.3(b) of this Agreement.

Affected Tax Jurisdictions shall have the meaning set forth in the PILOT Agreement.

An **Affiliate** of a Person shall mean a Person which directly or indirectly through one or more intermediaries controls, or is under common control with, or is controlled by, such Person. The term "control" (including the related terms "controlled by" and "under common control with") means (i) the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and (ii) the ownership, either directly or indirectly, of greater than fifty percent (50%) of the voting stock or other equity interest of such Person.

Agency shall mean the **County of Rockland Industrial Development Agency**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State, duly organized and existing under the laws of the State, and any body, board, authority, agency or other governmental agency or instrumentality which shall hereafter succeed to the powers, duties, obligations and functions thereof.

Agreement shall mean this Agreement and shall include any and all amendments hereof and supplements hereto hereafter made in conformity herewith.

Application shall mean the application by the Lessee to the County of Rockland Industrial Development Agency for financial assistance.

Approved Project Facility shall mean a portion of a 339-mile fully buried HVDC electric power transmission line.

Authorized Representative shall mean, (a) in the case of the Agency, the Chairperson, Vice Chairperson, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary or Executive Director of the Agency, or any other member, officer, manager or employee of the Agency who is authorized to perform specific acts or to discharge specific duties hereunder and of whom another Authorized Representative of the Agency has given written notice to the Lessee; and (b) in the case of the Lessee, a Member, Manager, Chief Financial Officer or President of Lessee or any officer or employee thereof who is authorized to perform specific acts or to discharge specific duties hereunder and of whom another Authorized Representative of the Lessee has given written notice to the Agency.

Base Rent shall mean the rental payment described in Section 3.3(a) of this Agreement.

Business Day shall mean any day which shall not be a Saturday, Sunday, legal holiday or a day on which banking institutions in the County are authorized by law or executive order to close.

Closing Date shall mean the date of execution and delivery by the Agency and the Lessee of this Agreement and other Project Documents.

Commencement Date shall mean May 1, 2024, the date as of which this Agreement was executed and delivered by the Agency and the Lessee.

County shall mean the County of Rockland, New York.

Debt Fund Affiliates means (a) any fund or client managed by, or under common management with Blackstone Liquid Credit Strategies LLC, Blackstone Tactical Opportunities Fund L.P. or Blackstone Real Estate Debt Strategies L.P., (b) any fund or client managed by an investment manager within the credit-focused division of The Blackstone Group Inc., (c) any fund managed by Blackstone Alternative Credit Advisors LP, Blackstone Debt Advisors L.P., Blackstone Distressed Securities Advisors L.P., Blackstone Mezzanine Advisors L.P. or Blackstone Mezzanine Advisors II L.P., and (d) any Affiliate of the Lessee other than the Lessee that is, in each case, a bona fide debt fund or an investment vehicle that is engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course that, in each case of clauses (a) through (d), provides Financing to the

Project Facility on terms and conditions that, when considered in the aggregate, are no less favorable to the Lessee than the terms and conditions that would be obtained in a comparable arm's length transaction with a Person that is not an Affiliate of the Lessee; provided, that at any time that the aggregate amount of commitments made by Debt Fund Affiliates under the Financing for the Project Facility constitute less than fifty percent (50%) of the aggregate commitments outstanding thereunder, such commitments shall be deemed to have been made on an arm's length basis for purposes of this definition.

Event of Default shall have the meaning specified in Section 7.1 hereof.

Equipment shall mean that electric cable, power lines, machinery, equipment and other tangible personal property acquired and installed as part of the Project pursuant to Section 2.2 hereof, together with all repairs, replacements, improvements, substitutions and renewals thereof or therefor and all parts, additions and accessories incorporated therein or affixed thereto (but excluding Lessee's Property within the meaning of Section 4.1(c) hereof or Existing Project Facility Property released pursuant to Section 4.2 hereof). "Equipment" shall not include (i) rolling stock, (ii) any item of personality which shall have a useful life of less than one year or which shall not constitute a tangible capital asset, (iii) plants, shrubs, trees, flowers, lawns or plants, or (iv) fine art, *objets d'art* or other similar decorative items.

Financing means each construction, interim, long-term debt or equity financing, refinancing and/or credit support arrangement related to all or a portion of the development, construction or operation of the Project Facility.

Project Facility shall mean, collectively, the Land, the Improvements and the Equipment.

Head Lease shall mean the Head Lease referred to in the recitals to this Agreement.

Improvements shall mean all Project-related electric cable, power lines, buildings, structures, foundations, related facilities, fixtures and other improvements existing on the Commencement Date or at any time made, erected or situated on the Land (including any improvements made as part of the Project pursuant to Section 2.2 hereof) and all replacements, improvements, extensions, substitutions, restorations, repairs or additions thereto.

Investment Grade Rating means, with respect to a Person, that such Person has (whether individually or together with its Affiliates) at least one Long-Term Credit Rating of no less than (as applicable) 'BBB-' from S&P, 'Baa3' from Moody's, or "BBB-" by Fitch.

Land shall mean that all those certain parcels of land as well as the Lessee's interim permit and easement rights in and to certain submerged state owned lands located in the Towns of Clarkstown, Haverstraw, and Stony Point, and the Villages of Haverstraw and West Haverstraw, Rockland County, New York as more particularly described in **Exhibit A** - "Description of the Land" hereto, which is made a part hereof, together with all easements, rights and interests now or

hereafter appurtenant or beneficial thereto; but excluding, however, any real property or interest therein released pursuant to Section 6.4 hereof.

Leased Premises shall mean the Land, including all Project-related improvements thereto, and the Equipment.

Lender any person or entity, including any collateral agent for same, providing financing for the Project.

Lessee shall be CHPE LLC, a limited liability company duly registered and authorized to transact business in the State of New York and its permitted successors and assigns pursuant to Sections 6.1 or 9.2 hereof.

Lessee's Property shall have the meaning specified in Section 4.1(c) hereof.

Liens shall have the meaning specified in Section 6.5(a) hereof.

Loss Event shall have the meaning specified in Section 5.1(a) hereof.

Net Proceeds shall mean, when used with respect to any insurance proceeds or condemnation award, compensation or damages, the gross amount of any such proceeds, award, compensation or damages less all expenses (including reasonable attorneys' fees and any extraordinary expenses of the Agency, the Lessee) incurred in the collection thereof.

OGS shall mean the New York State Office of General Services.

Opinion of Counsel shall mean a written opinion of counsel for the Lessee which shall be reasonably acceptable to the Agency.

Permitted Encumbrances shall mean:

(a) liens for real estate taxes, assessments, PILOT payments, levies and other governmental charges, the payment of which is not yet due and payable;

(b) any mechanic's, workmen's, repairmen's, materialmen's, contractors', carriers', suppliers' or vendors' Lien or right in respect thereof if payment is not yet due and payable, all if and to the extent permitted by Section 6.5 hereof;

(c) any lien, security interest, encumbrance or charge, or any conditional sale or other title retention agreement, that any vendor of Equipment or any contractor hired to perform Project work may place on or with respect to the Project Facility or any part thereof;

(d) utility, access and other easements and rights-of-way restrictions and exceptions that an Authorized Representative of the Lessee certifies to the Agency will not

materially interfere with or impair the Lessee's use and operation of the Project Facility as herein provided;

(e) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to property similar in character to the Project Facility as do not, as set forth in a certificate of an Authorized Representative of the Lessee delivered to the Agency, either singly or in the aggregate, render title to the Project Facility unmarketable or materially impair the property affected thereby for the purpose for which it was acquired and held by the Agency hereunder or purport to impose liabilities or obligations on the Agency;

(f) any mortgage or security interest granted to a Lender at any time prior to or during the term of this Agreement and purchase money security interests and blanket liens;

(g) any lien or encumbrance requested by the Lessee in writing and consented to by the Agency, which consent shall not be unreasonably withheld, conditioned or delayed; and

(h) this Agreement, the Head Lease and all other Project Documents.

Permitted Transferee means (i) an Affiliate of the Lessee (which shall include (x) existing or future portfolio companies of any investment funds or vehicles Affiliated with or managed by Blackstone Capital Partners L.P. or Blackstone Energy Partners L.P. and (y) other investment funds or vehicles managed by Blackstone Capital Partners L.P. or Blackstone Energy Partners L.P. (including, in each such case, Blackstone Capital Partners VIII L.P. and Blackstone Energy Partners III L.P.)), or (ii) any Lender (x) to whom the Lessee collaterally assigns this Agreement or (y) who is exercising its rights and remedies under any documentation related to the Financing at the Lessee or (iii) a Qualified Transferee.

Person shall mean any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or other entity.

PILOT Agreement shall mean that certain payment in lieu of taxes agreement to be entered into between the Agency, Lessee, and certain Affected Tax Jurisdictions.

Project shall have the meaning set forth in the recitals of this Agreement.

Project Counsel shall mean Bleakley Platt & Schmidt LLP, selected by the Agency to render legal advice to the Agency in connection with the transactions contemplated by this Agreement.

Project Documents shall mean the Head Lease, this Agreement, the PILOT Agreement, the Indemnification Agreement Regarding Hazardous Materials, and all other documents executed by Lessee in connection with this transaction.

Project Facility shall mean, collectively, the Land, the Improvements and the Equipment.

Qualified Transferee means any Person that has (whether individually or together with its Affiliates) either (a) an Investment Grade Rating, (b) a Total Net Worth of at least One Billion Dollars (\$1,000,000,000) or (c) assets under management of at least Ten Billion Dollars (\$10,000,000,000).

Real Property Tax Exemption Form shall have the meaning ascribed to such term in the recitals.

Rental Payments shall mean, collectively, Base Rent and Additional Rent.

State shall mean the State of New York.

Total Net Worth means, with respect to any Person, the tangible net worth, bona fide capital commitments, fair market value of investments and other assets over which such Person (together with its Affiliates) collectively has supervisory control.

Section 1.2 Construction. In this Agreement, unless the context otherwise requires, any headings preceding the texts of the several Articles and Sections of this Agreement, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

Section 1.3 Representations and Warranties by Agency. The Agency represents and warrants that the Agency (i) is a corporate governmental agency constituting a body corporate and politic and a public benefit corporation duly organized and existing under the laws of the State, (ii) is authorized and empowered to enter into the transactions contemplated by this Agreement and any other Project Documents to which the Agency is a party and to carry out its obligations hereunder and thereunder and (iii) by proper action of its members, has duly authorized the execution and delivery of this Agreement and such other Project Documents to which the Agency is a party.

Section 1.4 Findings by Agency. The Agency, based upon the representations and warranties of the Lessee contained in this Agreement and the information contained in the Application and other materials heretofore submitted by or on behalf of the Lessee to the Agency, hereby affirms its findings and determinations set forth in the Authorizing Resolution, and further finds and determines, that:

(a) the providing of financial assistance (within the meaning of the Act) through the straight-lease transaction (within the meaning of the Act) contemplated by this Agreement is necessary to induce the Lessee to proceed with the Project;

(b) the Project will generate direct, positive economic impacts on the County;

(c) the Project will assist the State in meeting its green energy goals and provide its citizens a more reliable and robust source of electrical power;

(d) the Project will create certain and stable payment in lieu of tax revenue to the Affected Tax Jurisdictions;

(e) the Project will lead to generation of construction employment in the County and the State;

(f) the Project Facility will constitute a “project” under the Act; and

(g) no funds of the Agency shall be used in connection with the transactions contemplated by this Agreement for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given hereunder to any group or organization which is attempting to prevent the establishment of a manufacturing plant within the State.

Section 1.5 Representations and Warranties by the Lessee. The Lessee makes and affirms the following representations and warranties:

(a) The Lessee is a limited liability company duly organized in the State of New York and validly existing and in good standing under the laws of the State of New York. Lessee is not in violation of any provision of its Articles of Organization or Operating Agreement, has the power and authority to own its properties and assets, to carry on its businesses as now being conducted by it and to execute and deliver and perform this Agreement and each other Project Document to which it is or shall be a party.

(b) The execution, delivery and performance of this Agreement and each other Project Document to which it is or shall be a party and the consummation of the transactions herein and therein contemplated have been duly authorized by all requisite action on the part of the Lessee and will not violate any provision of law, any order of any court or agency of government, or any indenture, agreement or other instrument to which the Lessee is a party or by which it or any of its respective property is subject to or bound, or be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument or result in the imposition of any lien, charge or encumbrance of any nature whatsoever other than Permitted Encumbrances.

(c) There is no action or proceeding pending or, to Lessee’s knowledge, threatened by or against the Lessee by or before any court or administrative agency that would adversely affect the ability of the Lessee to perform its obligations under this Agreement and each other Project Document to which it shall be a party and all authorizations, consents and approvals of governmental bodies or agencies required to be obtained by the Lessee as of the date hereof in connection with the execution and delivery of this Agreement and each other Project Document to

which the Lessee shall be a party or in connection with the performance of the obligations of the Lessee hereunder and under each of the Project Documents have been obtained.

(d) Lessee intends to operate the Project Facility, or cause the Project Facility to be operated, in accordance with this Agreement and as an Approved Project Facility and a qualified "project" in accordance with and as defined under the Act.

(e) The Financial Assistance (within the meaning of the Act) provided by the Agency to the Lessee through the straight-lease transaction (within the meaning of the Act) as contemplated by this Agreement is reasonably necessary to induce the Lessee to proceed with the Project.

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

(g) This Agreement and the other Project Documents to which it is a party constitute the legal, valid and binding obligations of the Lessee enforceable against the Lessee in accordance with their respective terms.

(h) Lessee is in material compliance, and will continue to materially comply, with all Federal, State and local laws or ordinances (including rules and regulations) relating to zoning, building, safety and environmental quality applicable to the Project and the operation of the Project Facility.

(i) Lessee represents and warrants that the moneys available to the Lessee, are sufficient to pay all costs in connection with the completion of the Project Facility.

(j) No Person other than the Lessee or a permitted tenant is or will be in use, occupancy or possession of any portion of the Project Facility.

ARTICLE II CONVEYANCE TO THE AGENCY; THE PROJECT

Section 2.1 The Head Lease. The Agency has acquired, for good and valuable consideration therefor, pursuant to the Head Lease, a leasehold interest in and to the Leased Premises as of the date thereof, free and clear of all liens, claims, charges, encumbrances, security interests and servitudes other than Permitted Encumbrances. The Lessee shall, however, be entitled to physical possession and control of the Project Facility and shall be liable at all times for all risk, loss and damage with respect to the Project Facility.

Section 2.2 The Project. (a) The Agency hereby appoints the Lessee its true and lawful agent, and the Lessee hereby accepts such agency, for purposes of undertaking the Project, including, without limitation, (i) renovating and installing the Improvements and the Equipment

thereon or therein, (ii) making, executing, acknowledging and delivering any contracts, orders, receipts, writings and instructions with any other Persons (subject in each case to Section 2.4 hereof), and in general doing all things which may be requisite or proper, all for the purposes of undertaking the Project with the same powers and with the same validity and effect as the Agency could do if acting in its own behalf, (iii) paying all fees, costs and expenses incurred in the installation, and equipping of the Project Facility from funds made available therefor in accordance with or as contemplated by this Agreement and (iv) asking, demanding, suing for, levying, recovering and receiving all such sums of money, debts due and other demands whatsoever which may be due, owing and payable to the Agency under the terms of any contract, order, receipt or writing in connection with the Project and to enforce the provisions of any contract, agreement, obligation, bond or other performance security entered into or obtained in connection with the Project. The Lessee unconditionally represents, warrants, covenants and agrees that they will complete the Project, or cause the Project to be completed; provided, however, the Lessee may revise the scope of the Project, subject to the prior written consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed. In undertaking the Project, the Lessee, as agent of the Agency, shall take such action and institute such proceedings as shall be necessary to cause and require all contractors, manufacturers and suppliers to complete their agreements relating to the Project in accordance with the terms of the contracts therefor including, without limitation, the correction of any defective work. The cost of the Project shall be financed from (i) funds of the Lessee and (ii) other funds of the Lessee to the extent such funds shall be necessary to cover costs of the Project which exceed such other sources of funds.

(b) The Lessee shall pay (i) all of the costs and expenses in connection with the preparation of any instruments of conveyance, the delivery thereof and of any instruments and documents relating thereto and the filing and recording of any such instruments of conveyance or other instruments or documents, if required, (ii) all taxes and charges payable in connection with the conveyance and transfer, or attributable to periods prior to the conveyance and transfer, to the Agency as set forth in Section 2.1 hereof, and (iii) all shipping and delivery charges and other expenses or claims incurred in connection with the Project.

(c) The Lessee unconditionally represents, warrants, covenants and agrees that it will obtain or cause to be obtained all necessary approvals from any and all governmental agencies requisite to the Project and operation of the Project Facility, all of which will be done in compliance with all Federal, State and local laws, ordinances and regulations applicable thereto, and with the conditions and requirements of all policies of insurance with respect to the Project Facility and this Agreement. Promptly upon acquisition of the Project Facility, the Lessee will obtain or cause to be obtained all required permits, authorizations and licenses from appropriate authorities, if any be required, authorizing the, operation and use of the Project Facility for the purposes contemplated by this Agreement and each of the Agency and Lessee agree to execute any documents, agreements and instruments reasonably necessary to permit Lessee to obtain such permits, authorizations and licenses. Lessee shall furnish copies of same to the Agency immediately upon receipt thereof.

(d) The date of completion of the Project shall be evidenced by a certificate of an Authorized Representative of the Lessee, delivered to the Agency, stating, except for any

Project costs not then due and payable or the liability for payment of which is being contested or disputed in good faith by the Lessee, (i) that the Project has been completed substantially in accordance with the plans and specifications therefor and the date of completion of the Project, (ii) that all labor, services, machinery, equipment, materials and supplies used therefor have been paid for, (iii) that all property constituting the Project Facility is subject to this Agreement and the Head Lease, subject only to Permitted Encumbrances, and (iv) that, in accordance with all applicable laws, regulations, ordinances and guidelines, the Project Facility is ready for occupancy, use and operation for its intended purposes.

Notwithstanding the foregoing, such certificate shall state (i) that it is given without prejudice to any rights of the Lessee against third parties which exist at the date of such certificate or which may subsequently come into being and (ii) that no Person other than the Agency may benefit therefrom. Such certificate of the Authorized Representative of the Lessee shall be accompanied by evidence of (i) a permanent certificate of occupancy or temporary certificate of occupancy, if applicable, and any and all permissions, approvals, licenses or consents required of governmental authorities for the occupancy, operation and use of the Project Facility for the purposes contemplated by this Agreement; (ii) a certificate of an Authorized Representative of the Lessee that all costs of the Project have been paid in full, together with evidence of releases of mechanic's liens by the general contractor and by all contractors and materialmen who supplied work, labor, services, machinery, equipment, materials or supplies in connection with the Project; and (iii) evidence satisfactory to the Agency that all real property taxes and assessments, and payments in lieu of taxes, if any, due and payable pursuant to the PILOT Agreement in respect of the Project Facility have been paid in full. Upon request by the Agency, the Lessee shall make available to the Agency copies of any bills, invoices or other evidences of costs as shall have been incurred in the effectuation of the Project.

Section 2.3 RESERVED.

**ARTICLE III
LEASE OF PROJECT FACILITY AND RENTAL PROVISIONS**

Section 3.1 Lease of the Project Facility. (a) The Agency hereby leases to the Lessee, and the Lessee hereby leases from the Agency, subject only to Permitted Encumbrances, the Project Facility, including: (1) the Land described on Exhibit A attached hereto, (2) the Equipment described on Exhibit B attached hereto, and (3) any real property interests necessary for and in furtherance of the Project acquired by the Lessee after the Closing Date ("Supplemental Interests") and described in a Lease Agreement supplement executed by the Agency and the Lessee with respect to such Supplemental Interests ("Lease Supplement"), for and during the term herein and subject to the terms and conditions herein set forth. The Agency hereby delivers to the Lessee, and the Lessee hereby accepts, sole and exclusive possession of the Project Facility (it being understood by the parties hereto that delivery of possession to the Agency of the Project Facility as the same is renovated shall take no further act or deed by the parties hereto).

(b) The Lessee and the Agency understand and recognize that a leasehold interest in the Supplemental Interests will be conveyed by the Lessee to the Agency subsequent to

the Closing Date. The Lessee expects to acquire the Supplemental Interests after the date hereof and desires to subject any such parcels to this Agreement. The Lessee will, and will be permitted by the Agency to, subject such Supplemental Interests to this Agreement by executing and delivering a Lease Supplement with respect thereto. Notwithstanding the foregoing and anything to the contrary contained herein, the Agency shall not be required to enter into a Lease Supplement for such Supplemental Interests unless (1) such Lease Supplement has been presented to the Agency for signature, as contemplated under Section 3.1(a) hereof, and (2) the Agency has been presented with all documents relating to such Supplemental Interests which are required under the Head Lease Supplement. The form of the Lease Supplement is attached hereto as Exhibit C.

(b) The Lessee, hereby unconditionally represents, warrants, covenants and agrees that throughout the term of this Agreement (i) the Lessee will operate the Project Facility in accordance with this Agreement and as a qualified “project” within the meaning of the Act; (ii) the Lessee will not take any action, or suffer or permit any action, if such action would cause the Project Facility not to be an Approved Project Facility or a “project” within the meaning of the Act; and (iii) the Lessee will not fail to take any action, or suffer or permit the failure to take any action, if such failure would cause the Project Facility not to be an Approved Project Facility or a “project” within the meaning of the Act. The Lessee shall not occupy, use or operate the Project Facility, or allow the Project Facility or any part thereof to be occupied, used or operated, for any unlawful purpose or in violation of any certificate of occupancy affecting the Project Facility or for any use which may make void or voidable any insurance then in force with respect thereto.

Section 3.2 Duration of Term. The term of this Agreement shall commence on the Commencement Date and shall expire on the expiration of the PILOT Agreement or such earlier date as this Agreement may be terminated as hereinafter provided.

Section 3.3 Rental Provisions. (a) **Base Rent.** The Lessee shall pay Base Rent to the Agency, without demand or notice, on the Commencement Date in the amount of \$1.00, which shall constitute the entire amount of Base Rent payable hereunder.

(b) **Additional Rent.** Throughout the term of this Agreement the Lessee shall pay to the Agency (except as otherwise provided in the PILOT Agreement) any additional amounts required to be paid by the Lessee to or for the account of the Agency hereunder, including all fire district taxes, special district benefits assessments or user charges, including sewer and water rents relating to the Project, solid waste charges, and other assessments or fees imposed on the Project or which may subsequently be imposed on the Project in the future. Any such additional amounts shall be paid as, and shall represent payment of, Additional Rent.

(c) **Missed Payments.** In the event the Lessee should fail to make or cause to be made any of the Rental Payments required under the foregoing provisions of this Section, the item or installment not so paid shall continue as an obligation of the Lessee until the amount not so paid has been paid in full, together with interest thereon from the date due at the applicable interest rate stated in this Agreement where so provided, or if not so provided, at the lesser of eighteen percent (18%) per annum and the rate permitted by law.

Section 3.4 Rental Payments Payable Absolutely Net. The obligation of the Lessee to pay Rental Payments provided for in this Agreement shall be absolutely net to the Agency without any abatement, recoupment, diminution, reduction, deduction, counterclaim, set-off or offset whatsoever, so that this Agreement shall yield, net, to the Agency, the Rental Payments provided for herein, and all costs, expenses and charges of any kind and nature relating to the Project Facility, arising or becoming due and payable during or after the term of this Agreement, shall be paid by the Lessee and the Agency shall be indemnified by the Lessee for, and the Lessee shall hold the Agency harmless from, any such costs, expenses and charges.

Section 3.5 Nature of Lessee's Obligation Unconditional. The Lessee's obligations under this Agreement to pay Rental Payments shall be absolute, unconditional and general obligations, and irrespective of any defense or any rights of set-off, recoupment or counterclaim or deduction and without any rights of suspension, deferment, diminution or reduction it might otherwise have against the Agency or any other Person and the obligation of the Lessee shall arise whether or not the Project has been completed as provided in this Agreement. The Lessee will not suspend or discontinue payment of any Rental Payment due and payable hereunder or performance or observance of any covenant or agreement required on the part of the Lessee hereunder for any cause whatsoever, and the Lessee waive all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction in the Rental Payments hereunder.

Section 3.6 RESERVED.

ARTICLE IV MAINTENANCE, TAXES, PAYMENTS IN LIEU OF TAXES AND INSURANCE

Section 4.1 Maintenance, Alterations and Improvements (a) During the term of this Agreement, the Lessee or its operator will keep the Project Facility in reasonably good and safe operating order and condition as its operations shall permit, ordinary wear and tear excepted, will operate the Project Facility in the manner for which it was intended and contemplated by this Agreement, and will make reasonably necessary replacements, renewals and repairs thereto (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen) to ensure that the operations of the Lessee at the Project Facility shall not be materially impaired or diminished. All replacements, renewals and repairs shall be made and installed in compliance with the requirements of all governmental bodies. The Agency shall be under no obligation to replace, service, test, adjust, erect, maintain or effect replacements, renewals or repairs of the Project Facility, to effect the replacement of any inadequate, obsolete, worn-out or unsuitable parts of the Project Facility, or to furnish any utilities or services for the Project Facility and the Lessee hereby agrees to assume full responsibility therefor.

(b) The Lessee shall have the right to make such alterations of or additions to the Project Facility or any part thereof from time to time as it in its discretion may determine to be desirable for its uses and purposes, provided that

(i) as a result of such alterations or additions, the fair market value of the Project Facility is not materially reduced below its value immediately before such alteration or addition and the usefulness, the structural integrity or operating efficiency of the Project Facility is not materially impaired,

(ii) such additions or alterations are promptly and fully paid for by the Lessee in accordance with the terms of the applicable contract(s) therefor, and in order that the Project Facility shall at all times be free of any mortgage, lien, charge, encumbrance, security interest or claim other than Permitted Encumbrances,

(iii) such additions or alterations do not change the nature of the Project Facility so that it would not constitute an Approved Project Facility and a "project" within the meaning of the Act.

All alterations of and additions to the Project Facility shall constitute a part of the Project Facility, subject to this Agreement, and the Lessee shall deliver or cause to be delivered to the Agency appropriate documents as may be necessary to convey title and/or a leasehold interest to such property to the Agency and to subject such property to this Agreement, free and clear of all liens, charges, encumbrances, security interests or claims other than Permitted Encumbrances.

(c) The Lessee shall have the right to install or permit to be installed at the Project Facility machinery, equipment and other personal property at the Lessee's own cost and expense (the "Lessee's Property") without conveying title to such Lessee's Property to the Agency nor subjecting such Lessee's Property to this Agreement. The Lessee's Property shall not constitute part of the Project Facility leased hereunder. The Agency shall not be responsible for any loss of or damage to the Lessee's Property. The Lessee shall have the right to create or permit to be created any mortgage, encumbrance, lien or charge on, or conditional sale or other title retention agreement with respect to, the Lessee's Property, without the consent of or notice to the Agency.

(d) Except as otherwise provided after the occurrence of an Event of Default hereunder, (1) the Lessee has the exclusive right to possess the Project Facility and make improvements relating thereto, and (2) nothing contained herein shall authorize or permit the Agency to (a) take possession of the Project Facility, (b) have managerial, executive or participating rights with respect to the Project Facility, meaning, without limitation, that the Lessee shall have (i) sole and exclusive discretion, determination rights and decisional control over and with respect to the development, construction and operation of, and the structuring of agreements and relationships relating to, the Project Facility, for any and all purposes (including, without limitation, for financing, for equity investment, for disposition of renewable energy credits and other benefits and proceeds of operation, and for the purposes contemplated by the Lessee's interest in the Land) and (ii) the right to freely enter into amendments, modifications, extensions, restatements and/or replacements of any of its interests in the Land, and/or any other agreement with any underlying landowner of the Land; in each case under clauses (i) and (ii) hereof without the consent of or any notice to the Agency, or (c) exercise operational or managerial control over the Lessee. The Lessee shall be liable at all times for all risk, loss and damage with respect to the Project Facility

Section 4.2 Removal of Property of the Project Facility. (a) The Lessee shall have the right to remove from the Project Facility any fixture constituting part of the Project Facility or any machinery, equipment or other property constituting part of the Equipment (in either case, the “Existing Project Facility Property”), **provided, however**, no such removal shall be effected if such removal would change the nature of the Project Facility as an Approved Project Facility and a “project” within the meaning of the Act.

(b) The removal from the Project Facility of any Existing Project Facility Property pursuant to the provisions of Section 4.2(a) hereof shall not entitle the Lessee to any abatement or reduction in the Rental Payments payable by the Lessee under this Agreement.

Section 4.3 Taxes, Assessments and Charges. The Lessee shall pay when the same shall become due all taxes (other than those taxes for which payments in lieu thereof are being paid pursuant to the PILOT Agreement) and assessments, general and specific, if any, levied and assessed upon or against the Project Facility, this Agreement, any estate or interest of the Agency or the Lessee in the Project Facility, or the Rental Payments or other amounts payable hereunder during the term of this Agreement, and all water and sewer charges, special district charges, assessments and other governmental charges and impositions whatsoever, foreseen or unforeseen, ordinary or extraordinary, under any present or future law, and charges for public or private utilities or other charges incurred in the occupancy, use, operation, maintenance or upkeep of the Project Facility, all of which are herein called “**Impositions**”.

Section 4.4 Insurance. (a) At all times throughout the term of this Agreement, including without limitation during any period of construction or reconstruction of the Project Facility, the Lessee shall maintain or cause to be maintained insurance, with insurance companies licensed to do business in the State, against such risks, loss, damage and liability (including liability to third parties) and for such amounts as are customarily insured against by other enterprises of like size and type as that of the Lessee, including, without limitation:

(i) During any period of construction, renovation, improvement or reconstruction of the Project Facility to the extent not covered by the public liability insurance referred to below, Owners & Contractors Protective Liability insurance for the benefit of the Lessee and the Agency in a minimum amount of \$2,000,000.00 aggregate coverage for personal injury and property damage;

(ii) (A) If procured by the Lessee for the Project Facility, property damage insurance and (B) during any period of construction, renovation, improvement or reconstruction of the Project Facility, Builders' All Risk insurance, whether by endorsement or otherwise, written on one hundred percent (100%) builders' risk completed value, non-reporting form including coverage therein for completion and/or premises occupancy, all of which insurance shall in each case include coverage for removal of debris, insuring the buildings, structures, facilities, machinery, equipment, fixtures and other property constituting a part of the Project Facility against loss or damage to the Project Facility by fire, lightning, vandalism, malicious mischief and other casualties, with standard extended coverage endorsement covering perils of windstorm, hail,

explosion, aircraft, vehicles and smoke (except as limited in the standard form of extended coverage endorsement at the time in use in the State) at all times in an amount such that the proceeds of such insurance shall be sufficient to prevent the Lessee and the Agency from becoming a co-insurer of any loss under the insurance policies but in any event in amounts equal to not less than eighty percent (80%) of the actual replacement value of the Project Facility as determined by a qualified insurance appraiser or insurer (selected by the Lessee and approved by the Agency) not less often than once every year, at the expense of the Lessee; any such insurance may include deductible amounts customarily included in policies of financially sound and reputable insurers with entities of established reputations engaged in the same or similar businesses as Lessee;

(iii) Public liability insurance in accordance with customary insurance practices for similar operations with respect to the Project Facility and the business thereby conducted in a minimum amount of \$10,000,000.00, which insurance (A) will also provide coverage of the Lessee's obligations of indemnity under Section 6.2 hereof (other than the liability pursuant to Section 6.2(a)(i) and (v) hereof, and with respect to Section 6.2(c) hereof, only to the extent such insurance is reasonably available), and (B) may be effected under overall blanket or excess coverage policies of the Lessee or any Affiliate, **provided, however**, that at least \$500,000.00 is effected by a comprehensive liability insurance policy; and

(iv) Workers' compensation insurance, disability benefits insurance and such other forms of insurance which the Lessee or the Agency is required by law to provide.

(b) All insurance required by Section 4.4(a) above shall be procured and maintained in financially sound and generally recognized responsible insurance companies authorized to write such insurance in the State.

(c) Each of the policies or binders evidencing the insurance required above to be obtained shall:

(i) designate (except in the case of workers' compensation insurance) the Agency as an additional insured as its interests may appear;

(ii) provide that there shall be no recourse against the Agency for the payment of premiums or commissions or (if such policies or binders provide for the payment thereof) additional premiums or assessments;

(iii) provide that in respect of the interest of the Agency in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee or any other Person and shall insure the Agency regardless of, and any losses shall be payable notwithstanding, any such action or inaction;

(iv) provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried by the Agency to the extent that such other

insurance provides the Agency with contingent and/or excess liability insurance with respect to its interest in the Project Facility;

(v) provide that if the insurers cancel such insurance for any reason whatsoever, including the insured's failure to pay any accrued premium, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Agency until at least thirty (30) days after receipt by the Agency of written notice by such insurers of such cancellation, lapse, expiration, reduction or change; and

(vi) waive any right of subrogation of the insurers thereunder against any Person insured under such policy, and waive any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any Person insured under such policy.

(d) The Net Proceeds of any insurance received with respect to any loss or damage to the property of the Project Facility shall be applied in accordance with Section 5.1 of this Agreement.

(e) As a condition to the execution and delivery of this Agreement by the Agency, the Lessee, at or prior to the Commencement Date, shall deliver or cause to be delivered to the Agency duplicate copies of the insurance binders or certificates evidencing compliance with the insurance requirements of this Section 4.4. At least seven (7) Business Days prior to the expiration of any such policy, the Lessee shall furnish the Agency with evidence that such policy has been renewed or replaced or is no longer required by this Agreement.

(f) The Lessee, at its own cost and expense, shall make all proofs of loss and take all other steps necessary or reasonably requested by the Agency to collect from insurers for any loss covered by any insurance required to be obtained by this Section 4.4, and shall cause any sublessee, contractor or other insuring party under this Section 4.4 to take similar action with respect to such party's insurance required hereunder. The Lessee shall not do any act, or suffer or permit any act to be done, whereby any insurance required by this Section 4.4 would or might be suspended or impaired.

(g) **THE AGENCY DOES NOT IN ANY WAY REPRESENT THAT THE INSURANCE SPECIFIED HEREIN, WHETHER IN SCOPE OF COVERAGE OR LIMITS OF COVERAGE, IS ADEQUATE OR SUFFICIENT TO PROTECT THE OPERATION OF THE PROJECT FACILITY OR THE BUSINESS, OPERATIONS OR FINANCIAL CONDITION OF THE LESSEE.**

Section 4.5 Compliance with Law. The Lessee agrees that it will, throughout the term of this Agreement and at its sole cost and expense, promptly observe and materially comply with all Federal, State and local statutes, codes, laws, acts, ordinances, orders, judgments, decrees, rules, regulations and authorizations, whether foreseen or unforeseen, ordinary or extraordinary, which shall now or at any time hereafter be binding upon or applicable to the Lessee, the Project Facility,

any occupant, user or operator of the Project Facility or any portion thereof (including, without limitation, those relating to zoning, land use, building codes, environmental protection, air, water and land pollution, toxic wastes, hazardous wastes, solid wastes, wetlands, health, safety, equal opportunity, minimum wages, employment practices) (the “**Legal Requirements**”), and will observe and comply with all conditions, requirements, and schedules necessary to preserve and extend all rights, licenses, permits (including, without limitation, zoning variances, special exception and non-conforming uses), privileges, franchises and concessions. The Lessee shall indemnify and hold harmless the Indemnified Parties (as defined in Section 6.2 hereof) from and against all loss, cost, liability and expense (a) in any manner arising out of or related to any violation of or failure by the Lessee (or any other Person occupying, operating or using the Project Facility or any part thereof) to comply with any Legal Requirement, or (b) imposed upon the Lessee or any of the Indemnified Parties by any Legal Requirement; in case any action or proceeding is brought against any of the Indemnified Parties in respect of any Legal Requirement, the Lessee shall upon notice from any of the Indemnified Parties defend such action or proceeding by counsel reasonably satisfactory to the Indemnified Party.

The Lessee may contest in good faith the validity, existence or applicability of any of the foregoing if (i) such contest shall not result in the Project Facility or any part thereof or interest therein being in any danger of being sold, forfeited or lost, (ii) such contest shall not result in the Lessee or the Agency being in any danger of any civil or any criminal liability for failure to comply therewith, and (iii) the Lessee shall have furnished such security, if any, as may be reasonably requested by the Agency for failure to comply therewith.

ARTICLE V DAMAGE, DESTRUCTION AND CONDEMNATION

Section 5.1 Damage, Destruction and Condemnation. (a) In the event that at any time during the term of this Agreement the whole or part of the Project Facility shall be damaged or destroyed, or taken or condemned by a competent authority for any public use or purpose, or by agreement among the Agency, the Lessee and those authorized to exercise such right, or if the temporary use of the Project Facility shall be so taken by condemnation or agreement (a “**Loss Event**”)

(i) the Agency shall have no obligation to rebuild, replace, repair or restore the Project Facility,

(ii) the Net Proceeds, to be used for restoration of the Project Facility, shall be provided to Lessee in accordance with this Agreement,

(iii) there shall be no abatement, postponement or reduction in the Rental Payments payable by the Lessee under this Agreement or any other Project Document to which it is a party, and

(iv) the Lessee will promptly give written notice of such Loss Event to the Agency, generally describing the nature and extent thereof.

(b) In the event a Loss Event shall occur, the Lessee (i) shall not be obligated to replace, repair, rebuild or restore the Project Facility, (ii) shall be entitled to the net proceeds of the insurance, less obligations required by and not yet paid under this Agreement; and (iii) if the Lessee shall exercise its option to terminate this Agreement pursuant to Section 8.1 hereof, shall not be required to apply net proceeds of the insurance as provided in this subsection.

As soon as practicable but no later than ninety (90) days after the occurrence of the Loss Event, the Lessee shall advise the Agency in writing of the action to be taken by the Lessee under this Section 5.1(b).

(c) All rebuilding, replacements, repairs or restorations of the Project Facility in respect of or occasioned by a Loss Event shall

(i) automatically be deemed a part of the Project Facility and shall be subject to this Agreement,

(ii) be effected only if the Lessee shall deliver to the Agency an Opinion of Counsel acceptable to the Agency to the effect that such rebuilding, replacement, repair or restoration shall not change the nature of the Project Facility as an Approved Project Facility and a qualified "project" as defined in the Act, and

(iii) be effected in compliance with all applicable Legal Requirements and be promptly and fully paid for by the Lessee in accordance with the terms of the applicable contract(s) therefor.

(d) If applicable, the date of completion of the rebuilding, replacement, repair or restoration of the Project Facility after the occurrence of a Loss Event shall be evidenced to the Agency by a certificate of an Authorized Representative of the Lessee stating (i) the date of such completion, (ii) that all labor, services, machinery, equipment, materials and supplies used therefor and all costs and expenses in connection therewith have been paid for, (iii) that to the extent covered by available insurance proceeds, the Project Facility has been rebuilt, replaced, repaired or restored to substantially its condition immediately prior to the Loss Event, or to a condition of at least equivalent value, operating efficiency and function, (iv) that the Agency has good and valid title to all personal property constituting part of the Project Facility and all property of the Project Facility is subject to this Agreement, subject to Permitted Encumbrances, and (v) that the restored Project Facility is ready for, use and operation for its intended purposes. Notwithstanding the foregoing, such certificate shall state (x) that it is given without prejudice to any rights of the Lessee against third parties which exist at the date of such certificate or which may subsequently come into being, (y) that it is given only for the purposes of this Section and (z) that no Person other than the Agency may benefit therefrom. Such certificate shall be accompanied by (i) a certificate of completion, if required, and any and all permissions, licenses or consents required of governmental authorities for the operation of the Project Facility for the purposes contemplated by this Agreement, and (ii) a search prepared by a title company, or other evidence satisfactory to the Agency, indicating that there has not been filed with respect to the Project Facility any

uncontested mechanic's, materialmen's or any other lien in connection with the rebuilding, replacement, repair and restoration of the Project Facility and that there exists no encumbrances on or affecting the Project Facility or any part thereof other than Permitted Encumbrances or those encumbrances consented to by the Agency.

(e) Notwithstanding anything contained herein to the contrary, if all or substantially all of the Project Facility shall be taken or condemned, or if the taking or condemnation renders the Project Facility unsuitable for use by the Lessee as contemplated hereby, the Lessee may exercise its option to terminate this Agreement as provided in Section 8.1 hereof.

(f) The Lessee shall be entitled to any insurance proceeds or condemnation award, compensation or damages attributable to the Lessee's Property.

(g) The Lessee hereby waives the provisions of Section 227 of the New York Real Property Law or any law of like import now or hereafter in effect.

ARTICLE VI PARTICULAR COVENANTS

Section 6.1 Restrictions on Lessee. (a) The Lessee covenants and agrees that at all times during the term of this Agreement, it will (i) maintain its limited liability company existence, (ii) continue to be subject to service of process in the State of New York and organized under the laws of, or qualified to do business in, the State of New York, and (iii) not liquidate, wind-up or dissolve or otherwise dispose of all or substantially all of its property, business or assets remaining after the Commencement Date; provided, however, that, if no Event of Default hereof shall have occurred and be continuing (and if no event exists which with the passage of time or notice or both would become an Event of Default), the Lessee may consolidate with or merge into another domestic entity organized and existing under the laws of one of the states of the United States, or permit one or more such domestic entities to consolidate with or merge into it, or sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter dissolve, provided that (1) the Agency has received notice of such action, (2) the Agency gives its written consent to the proposed transaction, which consent shall not be unreasonably withheld, conditioned or delayed, (3) the surviving, resulting or transferee entity assumes in writing all of the obligations of and restrictions on the Lessee under this Agreement and the other Project Documents, and (4) as of the date of such transaction, the Agency shall be furnished with (1) an opinion of counsel to the Lessee as to compliance with item (3) of this section and (2) a certificate, dated the effective date of such transaction, signed by an Authorized Representative of the Lessee and an authorized officer of the surviving, resulting or transferee entity, as the case may be, or the transferee of its assets, as the case may be, to the effect that immediately after the consummation of the transaction and after giving effect thereto, no Event of Default exists under this Agreement and no event exists which, with notice or lapse of time or both, would become such an Event of Default (unless waived by the Agency in writing).

(b) The Lessee further covenants and agrees that it is and throughout the term of this Agreement will continue to be duly qualified to do business in the State of New York and

that any corporation or entity organized and existing pursuant to the laws of the State of New York succeeding to the rights of the Lessee under this Agreement shall be and continue to be duly qualified to do business in the State.

(c) Notwithstanding the foregoing, nothing in this Agreement or in any other Project Document shall prevent, restrict or limit in any way the right of any member of the Lessee, or any successive transferee of any member, to sell, convey, transfer, encumber or otherwise dispose of its membership interest(s) in the Lessee (or a portion thereof) to one or more persons without the consent of the Agency, or divide its membership interest(s) into different classes and sell, convey, transfer, encumber or otherwise dispose of such divided interest(s) to one or more persons without the consent of the Agency. The Agency acknowledges that nothing in this Agreement or any other Project Document shall prevent, restrict or limit in any way the right of any person or entity that owns an interest, directly or indirectly, in any member of the Lessee, or any successive transferee of such person or entity, to sell, convey, transfer, encumber or otherwise dispose of such interest in such member of the Lessee (or a portion thereof) without consent of the Agency, whether for equity investment purposes or otherwise.

Section 6.2 Indemnity. (a) The Lessee shall at all times protect and hold the Agency and any director, member, officer, employee, servant or agent (other than the Lessee) thereof and persons under the Agency's control or supervision (collectively, the "**Indemnified Parties**" and each an "**Indemnified Party**") harmless of, from and against any and all claims (whether in tort, contract or otherwise), demands, expenses and liabilities for losses, damage, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), other than, with respect to each Indemnified Party, losses arising from the gross negligence or willful misconduct of such Indemnified Party, arising upon or at the Project Facility or resulting from, arising out of, or in any way connected with (i) the Financial Assistance and the participation of the Agency in the transactions contemplated by this Agreement and the other Project Documents, (ii) the planning, design, acquisition, site preparation, construction, renovation, equipping, installation or completion of the Project or any part thereof or the effecting of any work done in or about the Project Facility, (iii) any defects (whether latent or patent) in the Project Facility, (iv) the maintenance, repair, replacement, restoration, rebuilding, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Project Facility or any portion thereof, or (v) the execution and delivery by the Indemnified Party or the Lessee of, or the performance by the Indemnified Party or the Lessee, as the case may be, of any of its obligations under this Agreement or any other Project Document. The Indemnified Parties, jointly or severally, shall not be liable for any damage or injury to the person or property of the Lessee or their respective managers, members, partners, employees, agents (other than the Lessee) or servants or persons under the control or supervision of the Lessee or any other Person who may be at the Project Facility, due to any act or negligence of any Person other than, with respect to any Indemnified Party, the gross negligence or willful misconduct of such Indemnified Party.

(b) Lessee releases the Indemnified Parties from, and agrees that the Indemnified Parties shall not be liable for and the Lessee agrees to indemnify and hold the Indemnified Parties harmless against any expense, loss, damage, injury or liability incurred because of any lawsuit commenced as a result of action taken by any Indemnified Party with

respect to any of the matters set forth in subdivision (i) through (v) of Section 6.2(a) hereof or at the direction of the Lessee with respect to any of such matters above referred to. Each Indemnified Party, as the case may be, shall promptly notify the Lessee in writing of any claim or action brought against such Indemnified Party in which indemnity may be sought against the Lessee pursuant to this Section 6.2; such notice shall be given in sufficient time to allow the Lessee to defend or participate in such claim or action, but the failure to give such notice in sufficient time shall not constitute a defense hereunder nor in any way impair the obligations of the Lessee under this Section 6.2.

(c) To effectuate the purposes of this Section 6.2, the Lessee will provide for and insure, in the public liability policies required in Section 4.4 hereof, not only its own liability in respect of the matters therein mentioned but also the liability pursuant to this Section 6.2 (other than the liability pursuant to Section 6.2(a)(i) and (v) hereof). Anything to the contrary in this Agreement notwithstanding, the covenants of the Lessee contained in this Section 6.2 shall remain in full force and effect after the termination of this Agreement until the later of (i) the expiration of the period stated in the applicable statute of limitations during which a claim or cause of action may be brought and (ii) payment in full or the satisfaction of such claim or cause of action and of all expenses and charges incurred by the Agency relating to the enforcement of the provisions herein specified.

(d) For the purposes of this Section 6.2, the Lessee shall not be deemed an employee, agent or servant of the Agency or a person under the Agency's control or supervision.

Section 6.3 Compensation and Expenses of the Agency. (a) The Lessee shall pay the fees, costs and expenses of the Agency together with any reasonable and necessary fees and disbursements incurred by the Agency's Project Counsel and the Agency's general counsel in performing services for the Agency in connection with this Agreement or any other Project Document.

(b) The Lessee shall pay an administrative fee to the Agency in the amount of **\$400,000.00** by the Commencement Date.

(c) The Lessee further agrees to pay, as an annual administrative servicing fee to the Agency, the amount of **\$500.00** payable upon the Commencement Date and on every January 31 thereafter until the termination of this Agreement.

Section 6.4 Retention of Title to Project Facility; Grant of Easements; Release of Project Facility. (a) The Agency shall not sell, assign, encumber (other than for Permitted Encumbrances), convey or otherwise dispose of the Project Facility or any part thereof or interest therein during the term of this Agreement, except as set forth in Sections 4.2, 5.1 and 7.2 hereof, without the prior written consent of the Lessee and any purported disposition without such consent shall be void.

Notwithstanding the foregoing paragraph, the Agency will, at the written request of an Authorized Representative of the Lessee, so long as there exists no continuing material Event of Default hereunder, grant such rights of way or easements over, across, or under, the Project Facility, or grant such permits or licenses in respect to the use thereof, free from the leasehold estate of this Agreement, as shall be necessary or convenient for the operation or use of the Project Facility, provided that such leases, rights of way, easements, permits or licenses shall not materially adversely affect the use or operation of the Project Facility. The Agency agrees, at the sole cost and expense of the Lessee, to execute and deliver any and all instruments necessary or appropriate to confirm and grant any such right of way or easement or any such permit or license and to release the same from the leasehold estate of this Agreement.

(b) No conveyance or release affected under the provisions of this Section 6.4 shall entitle the Lessee to any abatement or diminution of the Rental Payments payable under Section 3.3 hereof required to be made by the Lessee under this Agreement or any other Project Document to which it shall be a party.

Section 6.5 Discharge of Liens. (a) If any lien, encumbrance or charge is filed or asserted (including, without limitation, any lien for the performance of any labor or services or the furnishing of materials), or any judgment, decree, order, levy or process of any court or governmental body is entered, made or issued or any claim (such liens, encumbrances, charges, judgments, decrees, orders, levies, processes and claims being herein collectively called “**Liens**”), whether or not valid, is made against the Project Facility or any part thereof or the interest therein of the Agency or the Lessee or against any of the Rental Payments payable under this Agreement or the interest of the Agency or the Lessee under this Agreement, other than Liens for Impositions (as defined in Section 4.3 hereof) not yet payable, Permitted Encumbrances, or Liens being contested as permitted by Section 6.5(b) hereof, the Lessee forthwith upon receipt of notice of the filing, assertion, entry or issuance of such Lien (regardless of the source of such notice) shall give written notice to the Agency and take all commercially reasonable action (including the payment of money and/or the securing of a bond) at its own cost and expense as may be necessary or appropriate to obtain the discharge in full thereof and to remove or nullify the basis therefor. Nothing contained in this Agreement shall be construed as constituting the express or implied consent to or permission of the Agency for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien against the Agency's interest in the Project Facility.

(b) The Lessee may at its sole expense contest (after prior written notice to the Agency), by appropriate action conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Lien, if (1) such proceeding shall suspend the execution or enforcement of such Lien against the Project Facility or any part thereof or interest therein, or in this Agreement, of the Agency or the Lessee or against any of the Rental Payments payable under this Agreement, (2) neither the Project Facility nor any part thereof or interest therein would be in any danger of being sold, forfeited or lost, and (3) neither the Lessee nor the Agency would be in any danger of any civil or any criminal liability, for failure to comply therewith.

Section 6.6 No Warranty of Condition or Suitability. THE AGENCY HAS MADE AND MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, FITNESS, DESIGN, OPERATION OR WORKMANSHIP OF ANY PART OF THE PROJECT FACILITY, ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OR CAPACITY OF THE MATERIALS IN THE PROJECT FACILITY, OR THE SUITABILITY OF THE PROJECT FACILITY FOR THE PURPOSES OR NEEDS OF THE LESSEE OR ANY SUBLESSEE OR THE EXTENT TO WHICH FUNDS AVAILABLE TO THE LESSEE WILL BE SUFFICIENT TO PAY THE COST OF COMPLETION OF THE PROJECT. LESSEE ACKNOWLEDGES THAT THE AGENCY IS NOT THE MANUFACTURER OF THE EQUIPMENT NOR THE MANUFACTURER'S AGENT NOR A DEALER THEREIN. THE LESSEE IS SATISFIED THAT THE PROJECT FACILITY IS SUITABLE AND FIT FOR PURPOSES OF THE LESSEE. THE AGENCY SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER TO THE LESSEE OR ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED, DIRECTLY OR INDIRECTLY, BY THE PROPERTY OF THE PROJECT FACILITY OR THE USE OR MAINTENANCE THEREOF OR THE FAILURE OF OPERATION THEREOF, OR THE REPAIR, SERVICE OR ADJUSTMENT THEREOF, OR BY ANY DELAY OR FAILURE TO PROVIDE ANY SUCH MAINTENANCE, REPAIRS, SERVICE OR ADJUSTMENT, OR BY ANY INTERRUPTION OF SERVICE OR LOSS OF USE THEREOF OR FOR ANY LOSS OF BUSINESS HOWSOEVER CAUSED.

Section 6.7 Books and Records. The Lessee at all times agrees to maintain proper accounts, records and books in which full and correct entries shall be made, in accordance with generally accepted accounting principles and practices, of all business and affairs of the Lessee relating to the Project Facility.

Section 6.8 Employment Information, Opportunities and Guidelines. (a) The Agency acknowledges that it is unlikely that the Lessee will have any employees in the County during the term of this Agreement. In the event the Lessee has employees in the County during the term of this Agreement, by October 1 of each year in which Lessee has employees in the County until the termination of this Agreement, the Lessee shall submit to the Agency an employment report relating to the period commencing July 1 of the previous year and ending June 30 of the year of the obligation of the filing of such report, in the form required by the Agency and/or the State, certified as to accuracy by the chief financial or accounting officer of the Lessee.

(b) The Lessee shall ensure that all employees and applicants for employment by the Lessee or its Affiliates with regard to the Project Facility are afforded equal employment opportunities without discrimination and shall comply New York General Municipal Law §858-b. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of the Project shall be listed with the New York State Department of Labor Community Services Division, and with the administrative entity of the service delivery area created by the Federal Job Training Partnership Act (P.L. No. 97-300) in which the Project Facility is located. Except as is otherwise provided by collective bargaining

contracts or agreements, the Lessee agrees, where practicable, to first consider, and cause each of its Affiliates at the Project Facility to first consider, persons eligible to participate in the Federal Job Training Partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the Community Services Division of the New York State Department of Labor for such new employment opportunities.

(c) The Lessee agrees, whenever requested by the Agency, to provide and certify or cause to be provided and certified, without delay, such information concerning the Lessee, the Lessee's employment history in the County and statistics related thereto, the Project Facility and other topics necessary to enable the Agency to make any report required by law or governmental regulation or as otherwise reasonably requested by the Agency.

(d) Nothing in this Section shall be construed to require the Lessee to violate any existing collective bargaining agreement with respect to hiring new employees.

(e) The Lessee shall comply with New York State Labor Law Article 8, Section 220 et seq. regarding prevailing wages during the term of this Agreement and shall ensure that not less than the prevailing rate of wages as determined by the New York Department of Labor shall be paid to all laborers, workers and mechanics performing work on, at or for the Project, except as permitted by collective bargaining contracts or labor peace agreements relating to the Project. All contracts and contractor's bonds if required, shall include a provision to guarantee the faithful performance of New York State Labor Law Article 8, Section 220 et seq. regarding prevailing wages.

Section 6.9 Further Assurances. The Lessee shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered such further acts, instruments, conveyances, transfers and assurances, including Uniform Commercial Code financing statements, if applicable, at the sole cost and expense of the Lessee, as the Agency deems necessary or advisable for the implementation, effectuation, correction, confirmation or perfection of this Agreement and any rights of the Agency hereunder.

Section 6.10 Recording and Filing. A memorandum of this Agreement shall be recorded by the Agency in the appropriate office of the Clerk of the County of Rockland, or in such other office as may at the time be provided by law as the proper place for the recordation thereof.

Section 6.11 Further Encumbrances. The Lessee shall not create, permit or suffer to exist any mortgage, encumbrance, lien, security interest, claim or charge against the Project Facility or any part thereof, or the interest of the Lessee in the Project Facility or this Agreement, except for Permitted Encumbrances.

ARTICLE VII
EVENTS OF DEFAULT; REMEDIES

Section 7.1 Events of Default. Any one or more of the following events shall constitute an “Event of Default” hereunder:

(a) Failure of the Lessee to pay any amount (including Rental Payment, fee or charge or PILOT Payments) when due, and the continuation thereof for a period of thirty (30) days after written notice thereof is given by the Agency or an Affected Tax Jurisdiction (as defined in the PILOT Agreement) to the Lessee;

(b) Failure of the Lessee to observe and perform any covenant, condition or agreement on its part to be performed under this Agreement and (i) continuance of such failure for a period of thirty (30) days after receipt by the Lessee of written notice specifying the nature of such default from the Agency, or (ii) if by reason of the nature of such default the same can be remedied, but not within the said thirty (30) days, the Lessee fails to proceed within thirty (30) days after receipt of said notice to cure the same or fails to continue with reasonable diligence its efforts to cure the same;

(c) The Lessee shall (i) apply for or consent to the appointment of or the taking of possession by a receiver, liquidator, custodian or trustee of itself or of all or a substantial part of its property, (ii) admit in writing its inability, or be generally unable, to pay its debts as such debts generally become due, (iii) make a general assignment for the benefit of its creditors, (iv) commence a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against itself in an involuntary case under the Federal Bankruptcy Code, (vii) take any action for the purpose of effecting any of the foregoing, or (viii) be adjudicated a bankrupt or insolvent by any court;

(d) A proceeding or case shall be commenced, without the application or consent of the Lessee, in any court of competent jurisdiction, seeking, (i) liquidation, reorganization, dissolution, winding-up or composition or adjustment of debts, (ii) the appointment of a trustee, receiver, liquidator, custodian or the like of the Lessee or of all or any substantial part of their respective assets, or (iii) similar relief under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) days; or any order for relief against the Lessee shall be entered in an involuntary case under the Federal Bankruptcy Code; the terms “dissolution” or “liquidation” of the Lessee as used above shall not be construed to prohibit any action otherwise permitted by Section 6.1 hereof;

(e) Any representation or warranty made (i) by the Lessee in the Application and related materials submitted to the Agency for approval of the Project or the transactions contemplated by this Agreement, or (ii) by the Lessee herein or by the Lessee in any other Project

Document, or (iii) in any report, certificate, financial statement or other instrument furnished pursuant hereto or any of the foregoing, shall prove to be false, misleading or incorrect in any material respect as of the date made;

(f) The commencement of proceedings to foreclose the lien of any mortgage or lien on the Project Facility;

(g) Any loss by the Agency of its leasehold rights to the Project Facility, except as otherwise permitted herein;

(h) The Lessee shall have transferred all or substantially all of its employees to a location outside of the County;

(i) The failure of the Lessee to: (i) comply with the Agency's Labor Policy (attached hereto as Appendix A); or (ii) provide required reports to the State or the Agency; or

(j) The Lessee shall have sold, leased, transferred or otherwise disposed of all or substantially all of the Equipment, except as otherwise permitted herein.

Section 7.2 Remedies on Default. Whenever any Event of Default referred to in Section 7.1 hereof shall have occurred and be continuing, the Agency may take any one or more of the following remedial steps:

(a) The Agency may terminate this Agreement (with the effect that the term of this Agreement shall be deemed to have expired on such date of termination as if such date were the original expiration date of this Agreement) in which case this Agreement and all of the estate, right, title and interest herein granted or vested in the Lessee shall cease and terminate, and convey all of the Agency's right, title and interest in the Project Facility to the Lessee, which the Agency may accomplish by executing, at the sole cost and expense of the Lessee, a termination of the Head Lease therefor as required by law, and the Lessee hereby waives delivery and acceptance of such termination of Head Lease as a condition to its validity, and appoints the Agency its true and lawful agent and attorney-in-fact (which appointment shall be deemed to be an agency coupled with an interest) with full power of substitution to file on its behalf all affidavits, questionnaires and other documentation necessary to accomplish the recording of such termination of Head Lease or a memorandum thereof, provided however, that if the Lender obtains a Judgment of Foreclosure, this Agreement shall terminate upon the Agency's receipt of notice of same; or

(b) The Agency may bring an action for damages, injunction or specific performance; or

(c) The Agency may require the Lessee to make payments in lieu of real estate taxes under and pursuant to the PILOT Agreement with respect to the Project Facility in an amount equal to that amount which the Lessee would otherwise be required to pay if it were the owner of the Project Facility without the Agency's financial assistance in an amount determined pursuant to Article 8, Section 8.5 "Recapture of Benefits"; or

(d) The Agency may take whatever action at law or in equity as may appear necessary or desirable to collect the Rental Payments then due, or to enforce performance or observance of any obligations, agreements or covenants of the Lessee under this Agreement.

No action taken pursuant to this Section 7.2 (including termination of this Agreement pursuant to this Section 7.2 or by operation of law or otherwise) shall, except as expressly provided herein, relieve the Lessee from its obligations hereunder, including without limitation, the obligations of the Lessee under and pursuant to the PILOT Agreement (until such time as the Lessee shall again pay taxes as the record owner of the Project Facility), and under Sections 6.2, 8.5, 9.12 and 9.14 hereof all of which shall survive any such action.

Section 7.3 Remedies Cumulative. The rights and remedies of the Agency under this Agreement shall be cumulative and shall not exclude any other rights and remedies of the Agency allowed by law with respect to any default under this Agreement. Failure by the Agency to insist upon the strict performance of any of the covenants and agreements herein set forth or to exercise any rights or remedies upon default by the Lessee hereunder shall not be considered or taken as a waiver or relinquishment for the future of the right to insist upon and to enforce by mandatory injunction, specific performance or other appropriate legal remedy a strict compliance by the Lessee with all of the covenants and conditions hereof, or of the rights to exercise any such rights or remedies, if such default by the Lessee be continued or repeated.

Section 7.4 No Additional Waiver Implied by One Waiver. In the event any covenant or agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by the party making such waiver. No course of dealing between the Agency and the Lessee or any delay or omission on the part of the Agency in exercising any rights hereunder or under any other Project Document shall operate as a waiver.

Section 7.5 Effect on Discontinuance of Proceedings. In case any proceeding taken by the Agency under this Agreement or under any other Project Document on account of any Event of Default hereunder or thereunder shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Agency, then, and in every such case, the Agency shall be restored to its former position and rights hereunder and thereunder, and all rights, remedies, powers and duties of the Agency shall continue as in effect prior to the commencement of such proceedings.

Section 7.6 Agreement to Pay Attorneys' Fees and Expenses. In the event the Lessee should default under any of the provisions of this Agreement and the Agency should employ attorneys or incur other reasonable and necessary expenses for the collection of the Rental Payments payable hereunder or the enforcement of performance or observance of any obligation or agreement on the part of the Lessee herein contained, the Lessee agrees that it will on demand therefor pay to the Agency the reasonable fees and disbursements of such attorneys and such other expenses so incurred.

Section 7.7 Right to Cure. Prior to the exercise of any remedy by the Agency hereunder following an Event of Default, the Lessee, any Successor, and any Lender shall have an absolute right to cure such Event of Default during the time period allowed for curing same. If the Lessee at any time during the term of this Agreement prior to the occurrence of an Event of Default provides a written request to the Agency that notices hereunder be provided to any Lender, any such Lender shall be afforded an additional thirty (30) days (beyond the time period allowed for the Lessee to cure) within which to cure an Event of Default on behalf of the Lessee.

ARTICLE VIII OPTION TO TERMINATE AGREEMENT; RECAPTURE OF BENEFITS

Section 8.1 Option to Terminate Agreement.

(a) The Lessee shall have the option to terminate this Agreement on any date during the term hereof by paying, or causing to be paid, all Rental Payments then due and without acceleration of any Rental Payments not yet payable. The Lessee shall exercise such option by delivering to the Agency a written notice of an Authorized Representative of the Lessee to an Authorized Representative of the Agency stating that the Lessee has elected to exercise its option under this Section 8.1(a) and the date on which such termination is to be made. In addition, if this Agreement is not earlier terminated, on the scheduled expiration date of this Agreement the Lessee shall pay to the Agency any and all Rental Payments then due hereunder.

(b) The Lessee, in terminating this Agreement pursuant to Section 8.1(a) hereof, shall pay to the Agency, as the termination fee, in legal tender, an amount equal to all Rental Payments due hereunder, plus one dollar (\$1.00).

(c) Except to the extent permitted under Section 3.2 hereof, the Lessee shall not, at any time, assign or transfer its option to terminate as contained in this Section 8.1 separate and apart from a permitted assignment of this Agreement pursuant to the terms of Section 9.2 hereof without the prior written consent of the Agency.

Section 8.2 Conveyance on Exercise of Option to Terminate. At the closing of any termination of this Agreement pursuant to Section 8.1 hereof, the Agency will, upon payment of the termination fee, deliver or cause to be delivered to the Lessee (i) a termination of the Head Lease, and all other necessary documents conveying to the Lessee all of the Agency's right and interest in and to the Project Facility and terminating this Agreement; and (ii) all necessary documents releasing and conveying to the Lessee all of the Agency's rights and interests in and to any rights of action (other than as against the Lessee or any insurer of the insurance policies under Section 4.4(a)(iii) hereof), or any insurance proceeds (other than liability insurance proceeds for the benefit of the Agency) or condemnation awards, with respect to the Project Facility or any portion thereof.

Upon conveyance of the Agency's interest in the Project Facility pursuant to this Section 8.2, this Agreement and all obligations of the Lessee hereunder shall be terminated except the

obligations of the Lessee under and pursuant to the PILOT Agreement (until such time as the Lessee shall again pay taxes as the record owner of the Project Facility) and under Sections 6.2, 8.5, 9.12 and 9.14 hereof shall survive such termination.

Section 8.3 [Reserved].

Section 8.4 [Reserved].

Section 8.5 Recapture of Agency Benefits. It is understood and agreed by the parties to this Agreement that the Agency is entering into this Agreement in order to provide financial assistance to the Lessee for the Project and to accomplish the public purposes of the Act. In consideration therefor, the Lessee hereby agrees that if there shall occur a Recapture Event (as defined below) at any time during the term of this Agreement the Lessee shall pay to the Agency as a return of public benefits conferred by the Agency the following amounts:

(a) one hundred percent (100%) of the Benefits (as defined below) if the Recapture Event occurs within the twelve (12) years after the Commencement Date; and

(b) eighty percent (80%) of the Benefits if the Recapture Event occurs during the 13th through 18th year after the Commencement Date; and

(c) sixty percent (60%) of the Benefits if the Recapture Event occurs during the 19th through 24th year after the Commencement Date; and

(d) forty percent (40%) of the Benefits if the Recapture Event occurs during the 25th through 29th year after the Commencement Date; and

(e) zero percent (0%) of the Benefits if the Recapture Event occurs during the 30th year or thereafter after the Commencement Date.

The term “**Benefits**” shall mean, collectively:

All real estate tax benefits which have accrued to the benefit of the Lessee during such time as the Agency was the Head Lessee of the Project Facility, such tax benefits to be computed by subtracting the payments in lieu of taxes paid under and pursuant to the PILOT Agreement from those payments which the Lessee would have been required to pay during the term of this Agreement (within the meaning of Section 3.2 hereof) together with interest at the rate of one percent (1%) per month on the amount calculated due hereunder from the Commencement Date of this Agreement to the date of recapture of benefits are paid. Said payment to include the expenses, costs and disbursements, and reasonable attorneys’ fees necessary to collect the amounts due hereunder. Notwithstanding anything herein to the contrary, for purposes of calculating Benefits, the real property payments which the Lessee would have been required to pay during the term of this Agreement shall be equal to the payments in lieu of taxes agreed upon with each respective Affected Tax Jurisdiction executing the PILOT Agreement.

The term “**Recapture Event**” shall mean any of the following events:

(a) The Lessee shall have liquidated its operations and/or assets at the Project Facility (absent a showing of extreme hardship as determined by the Agency in its reasonable discretion);

(b) The Lessee shall have ceased all or substantially all of its operations involving the Project Facility (whether by relocation to another Project Facility, or otherwise, or whether to another location either within, or outside of the County);

(c) The Lessee shall have transferred all or substantially all of its employees to a location outside of the County;

(d) The Lessee shall have effected a substantial change in the scope and nature of the operations at the Project Facility as determined by the Agency in its reasonable discretion;

(e) The Lessee shall have subleased all or any portion of the Project Facility in violation of the limitations imposed by Section 9.2 hereof, without the prior written consent of the Agency;

(f) The Lessee shall have sold, leased, transferred or otherwise disposed of all or substantially all of its interest in the Project Facility, except (i) in connection with a transfer or other disposition to any corporation or other entity into or with which the Lessee may be merged or consolidated or to any corporation or other entity which shall be an affiliate, subsidiary, parent or successor of the Lessee or (ii) as permitted under Section 9.2 hereof; or

(g) An Event of Default shall have occurred and is continuing past applicable grace and cure periods pursuant to the provisions of Section 7.1.

Notwithstanding the foregoing, a Recapture Event shall not be deemed to have occurred if the Recapture Event shall have arisen as a direct, immediate result of (i) a taking or condemnation by governmental authority of all or substantially all of the Project Facility, or (ii) the election of the Lessee to terminate this Agreement after the occurrence of a Loss Event.

(a) The Lessee covenants and agrees to furnish the Agency with written notification upon any Recapture Event or disposition of the Project Facility or any portion thereof during the term of this Agreement, which notification shall set forth the terms of such Recapture Event and/or disposition.

(b) The Agency, in its sole discretion, may waive all or any portion of any payment owing by the Lessee under this Section 8.5.

(c) The Lessee covenants and agrees to furnish the Agency with written notification upon any such disposition of the Project Facility or any portion thereof made within ten (10) years of its completion, which notification shall set forth the terms of such sale.

(d) The provisions of this Section 8.5 shall survive the termination of this Agreement for any reason whatsoever, notwithstanding any provision of this Agreement to the contrary.

Section 8.6 Agency Termination Fee. In the event a Recapture of Benefits event shall occur under Section 8.5, the Lessee shall pay to the Agency a sum equal to one percent (1%) of the Benefits Recaptured as a result of the early termination of this Agreement.

ARTICLE IX MISCELLANEOUS

Section 9.1 Force Majeure. In case by reason of *force majeure* the Agency or the Lessee shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then except as otherwise expressly provided in this Agreement, if such party shall give notice and full particulars of such *force majeure* in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligations of the party giving such notice (other than the obligations of the Lessee to make the Rental Payments required under the terms hereof, or to comply with Sections 4.4 or 6.2 hereof), so far as they are affected by such *force majeure*, shall be suspended during the continuance of the inability then claimed, which shall include a reasonable time for the removal of the effect thereof, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "*force majeure*", as employed herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States or of the State or any civil or military authority, insurrections, riots, epidemics, pandemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrest, restraining of government and people, civil disturbances, explosions, partial or entire failure of utilities, shortages of labor, material, supplies or transportation, or any other similar or different cause not reasonably within the control of the party claiming such inability. It is understood and agreed that the requirements that any *force majeure* shall be reasonably beyond the control of the party and shall be remedied with all reasonable dispatch shall be deemed to be satisfied in the event of a strike or other industrial disturbance even though existing or impending strikes or other industrial disturbances could have been settled by the party claiming a *force majeure* hereunder by acceding to the demands of the opposing person or persons.

The Lessee shall promptly notify the Agency upon the occurrence of each *force majeure*, describing such *force majeure* and its effects in reasonable detail. The Lessee shall also promptly notify the Agency upon the termination of each such *force majeure*. The information set forth in any such notice shall not be binding upon the Agency, and the Agency shall be entitled to dispute the existence of any *force majeure* and any of the contentions contained in any such notice received from the Lessee.

Section 9.2 Assignment or Sublease. (a) Except as provided in Section 9.2(g) hereof, Lessee shall not at any time, (i) assign or transfer this Agreement or the PILOT Agreement or (ii)

sublet the whole or any part of the Project Facility without the prior written consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed and provided that

(i) the Lessee shall deliver to the Agency an Opinion of Counsel acceptable to the Agency to the effect that the assignment or sublease shall not cause the Project Facility to cease being an Approved Project Facility and a "project" under the Act;

(ii) the Lessee shall remain primarily liable to the Agency for the payment of all Rental Payments hereunder and for the full performance of all of the terms, covenants and conditions of this Agreement and of any other Project Document to which it shall be a party to the extent such obligations are not assumed by the assignee or transferee;

(iii) any assignee or transferee of the Lessee in whole of the Project Facility shall have assumed in writing (and shall have executed and delivered to the Agency an instrument in form for recording) and have agreed to keep and perform all of the terms of this Agreement on the part of the Lessee to be kept and performed for the performance thereof, shall be subject to service of process in the State, and, if a corporation, shall be qualified to do business in the State;

(iv) any assignee, transferee or sublessee shall utilize the Project Facility as an Approved Project Facility and a qualified "project" within the meaning of the Act;

(v) such assignment, transfer or sublease shall not violate any provision of this Agreement or any other Project Document;

(vi) with respect to any subletting in part, the term of each such sublease does not exceed the term of this Agreement;

(vii) the Lessee shall deliver to the Agency an Opinion of Counsel acceptable to the Agency to the effect that the such assignment, transfer or sublease shall not legally impair in any respect the obligations of the Lessee for the payment of all Rental Payments nor for the full performance of all of the terms, covenants and conditions of this Agreement which Lessee is obligated to perform or of any other Project Document to which the Lessee shall be a party; and

(viii) such assignment, transfer or sublease shall in no way diminish or impair the Lessee's obligation to carry the insurance required under Section 4.4 of this Agreement and the Lessee shall furnish written evidence satisfactory to the Agency that such insurance coverage shall in no manner be limited by reason of such assignment, transfer or sublease.

The Lessee shall furnish or cause to be furnished to the Agency a copy of any such assignment, transfer or sublease in substantially final form at least ten (10) days prior to the date of execution thereof and the parties hereto agree that such assignment, transfer or sublease shall not be effective until the Agency has granted its consent to same in accordance with the provisions of this Section 9.2.

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

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

(d) Lessee covenants and agrees that it shall not, without the prior written consent of the Agency, amend, modify, terminate or assign, or suffer any amendment, modification, termination or assignment of any sublease entered into in accordance with this Section.

(e) The limitations in this Section 9.2 on assignment or transfer of this Agreement and subletting in whole or in part of the Project Facility shall have equal application to any sub-subletting in whole or in part of the Project Facility.

(f) Promptly after receipt from the Agency of any subtenant survey and questionnaire pertaining to the Project Facility, the Lessee shall complete and execute such survey and questionnaire and return the same to the Agency.

(g) Notwithstanding anything in this Agreement to the contrary, but subject to all other requirements of this Section 9.2:

(i) (1) The Lessee may, upon reasonable prior written notice to the Agency, without the consent of the Agency, (a) assign this Agreement and the other Basic Documents to a Permitted Transferee, provided (i) provided at the time of any proposed assignment that an Event of Default has not occurred and is continuing and (ii) such Permitted Transferee assumes and agrees to be bound by this Agreement and the other Basic Documents pursuant to the terms and conditions of an assignment and assumption agreement, in form and substance reasonably satisfactory to the Agency, and (b) pledge, mortgage, grant a security interest in and collaterally assign this Agreement and the other Basic Documents to a Lender, including a collateral agent acting on behalf of any such Lender (subject to the Agency's Unassigned Rights). The Agency shall, at the Lessee's sole cost and expense and subject to the Agency's policies and procedures cooperate with the Lessee, any Permitted Transferee, and any Lender from time to time, including, without limitation, by entering into a consent or other agreements with such

Lender and the Lessee in connection with any collateral assignment on such terms as may be customary under the circumstances and shall reasonably be required by such Lender; provided, however, that those agreements shall not expose the Agency to any duty or liability other than to perform the obligations of the Agency as contained in this Agreement or the other Basic Documents. In the event this Agreement and the other Basic Documents are assigned to a Permitted Transferee, the Lessee shall have no further obligations hereunder or thereunder that accrue on or after the date of such assignment. (2) In connection with the foregoing, the Lessee shall have the absolute right at any time, upon reasonable prior written notice to the Agency, without the consent of the Agency, to: (a) sell, convey, transfer, encumber or otherwise dispose of the Project Facility or any part thereof to any Permitted Transferee, (b) (i) sublease, or grant an easement, subeasement, license or security interest in, or otherwise transfer all or any portion of its right, title or interest in the Project Facility to any person or entity, and/or (ii) encumber, hypothecate, mortgage or pledge (including by mortgage, deed of trust or personal property security agreement) all or any portion of its right, title or interest in the Project Facility to any Lender as security for the repayment of any indebtedness and/or the performance of any obligation, regardless of whether such obligation is related to any indebtedness, and the Agency agrees to join in such security instruments to subject its interest in the Project Facility for such purposes (subject to the Agency's Unassigned Rights).

(ii) With respect to any assignment pursuant to Section 9.2(g)(i) hereof:

(1) the assignee shall be qualified to transact business in the State of New York and shall assume the obligations of the Lessee hereunder to the extent of the interest assigned;

(2) the Lessee shall, within ten (10) business 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;

(3) the Project Facility shall continue to constitute a "project" as such quoted term is defined in the Act;

(4) the assignee shall have been previously determined by the Public Service Commission of the State (or its successor agency) to be a qualified owner and operator of the Project Facility (including a determination of financial capability) pursuant to Article 4 and Article VII of the New York Public Service Law; and

(5) the Lessee or the assignee shall furnish or cause to be furnished to the Agency a certificate, dated as of the effective date of the transaction, signed by an Authorized Representative of the Lessee or the assignee, as the case may be, to the effect that immediately after the consummation of the transaction and after giving effect thereto, (a) no Event of Default exists under this Agreement and no event exists which, with notice or lapse of time or both, would become such an Event of Default (unless waived by the Agency in writing), and (b) the assignee is a Permitted Transferee.

Section 9.3 Amendments. This Agreement may be amended by a written instrument executed and delivered by the parties hereto.

Section 9.4 Notices. All notices, certificates or other communications hereunder shall be sufficient if sent (a) by registered or certified United States mail, postage prepaid, (b) by a nationally recognized overnight delivery service, charges prepaid or (c) by hand delivery, addressed, as follows:

If to the Agency:
County of Rockland Industrial Development Agency
254 South Main Street, Suite 401
New City, New York 10956
Attn: Chairperson

With a copy to the Executive Director of the Agency at the same address, with an additional copy to:

Bleakley Platt & Schmidt LLP
One Blue Hill Plaza, 3rd Floor
Pearl River, New York 109654
Attention: Brian J. Quinn, Esq.

If to Lessee:
CHPE LLC
623 Fifth Avenue, 20th Floor
New York, New York 10022
Attention: Todd Singer

CHPE LLC
623 Fifth Avenue, 20th Floor
New York, New York 10022
Attention: Jeremiah Sheehan, Esq.

Collateral Agent:
Mizuho Bank (USA), as Collateral Agent
1271 Avenue of the Americas
New York, NY 10020
Attention: Peter Li / Portfolio Management
Telephone: +1 212 282 3519
Email: Peter.Li@MizuhoGroup.com /
Projectfinance.pm@mizuhogroup.com

With a copy to:
Barclay Damon LLP,
125 East Jefferson Street,

Syracuse, New York 13202
Attention: Matthew S. Moses, Esq.

The Agency and the Lessee may, by like notice, designate any further or different addresses to which, or the manner by which, subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been delivered or given (i) three (3) Business Days following posting if transmitted by mail, (ii) one (1) Business Day following sending if transmitted by a nationally recognized overnight delivery service, or (iii) upon delivery if given by hand delivery, with refusal by an Authorized Representative of the intended recipient party to accept delivery of a notice given as prescribed above to constitute delivery hereunder. Notices may also be given in compliance with this Agreement by telecopy (including electronic mail), provided that the recipient party consents to the use of telecopy transmissions for giving of notices hereunder and receipt of any such telecopy transmission is confirmed by the transmitting party. A copy of all notices to the Lessee hereunder shall also be served on any Lender identified by the Lessee of which a written notice has been provided to the Agency, and no such notice or other communication to the Lessee shall be deemed received unless a copy is so served upon any such Lender in the manner provided herein for the giving of notice.

Section 9.5 Prior Agreements Superseded. This Agreement, together with the Head Lease, the PILOT Agreement and other Project Documents shall completely and fully supersede the Application and all other prior understandings or agreements, both written and oral, between the Agency and the Lessee relating to the Project Facility.

Section 9.6 Severability. If any clause, provision or section of this Agreement be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

Section 9.7 Inspection of Project Facility. The Lessee will permit the Agency, or its duly authorized agent, at all reasonable times and upon reasonable notice, to inspect the Project Facility, provided that such access will not interfere with the business conducted at the Facility and solely for the purpose of assuring that the Lessee is operating the Project Facility, or is causing the Project Facility to be operated, as an Approved Project Facility and a qualified "project" within the meaning of the Act consistent with the purposes set forth in the recitals to this Agreement and with the public purposes of the Agency..

Section 9.8 Effective Date; Counterparts. This Agreement shall become effective upon its delivery on the Commencement Date. It may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.9 Binding Effect. This Agreement shall inure to the benefit of, and shall be binding upon, the Agency and the Lessee and their respective successors and assigns.

Section 9.10 Third Party Beneficiaries. It is the intention of the parties hereto that nothing contained herein is intended to be for, or to inure to, the benefit of any Person other than the parties hereto.

Section 9.11 Law Governing. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD OR GIVING EFFECT TO THE PRINCIPLES OF CONFLICTS OF LAWS THEREOF.

Section 9.12 Waiver of Trial by Jury. The parties do hereby expressly waive all rights to trial by jury on any cause of action directly or indirectly involving the terms, covenants or conditions of this Agreement or the Project Facility or any matters whatsoever arising out of or in any way connected with this Agreement.

The provision of this Agreement relating to waiver of a jury trial and the right of re-entry or re-possession shall survive the termination or expiration of this Agreement.

Section 9.13 Non-Discrimination. (a) At all times during the maintenance and operation of the Project Facility, the Lessee shall not discriminate against any employee or applicant for employment because of race, color, creed, age, sex or national origin. The Lessee shall use its best efforts to ensure that employees and applicants for employment with the Lessee or any subtenant of the Project Facility are treated without regard to their race, color, creed, age, sex or national origin. As used herein, the term "treated" shall mean and include, without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; downgraded; demoted; transferred; laid off; and terminated.

(b) The Lessee shall, in all solicitations or advertisements for employees placed by or on behalf of the Lessee, state that all qualified applicants will be considered for employment without regard to race, color, creed or national origin, age or sex.

(c) The Lessee shall furnish to the Agency all information required by the Agency pursuant to this Section and will cooperate with the Agency for the purposes of investigation to ascertain compliance with this Section.

(d) The Agency and the Lessee shall, from time to time, mutually agree upon goals for the employment, training, or employment and training of members of minority groups in connection with performing work with respect to the Project Facility.

Section 9.14 Recourse under This Agreement. All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Agreement shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent (other than the Lessee) of the Agency in such person's individual capacity, and no recourse shall be had for any reason whatsoever hereunder against any member, director, officer, employee or agent (other than the Lessee) of the Agency or any natural

person executing this Agreement on behalf of the Agency. In addition, in the performance of the agreements of the Agency herein contained, any obligation the Agency may incur for the payment of money shall not create a debt of the State or the County and neither the State nor the County shall be liable on any obligation so incurred, by any such obligation shall be payable solely out of amounts payable to the Agency by the Lessee hereunder.

Section 9.15 Date of Agreement for Reference Purposes Only. The date of this Agreement shall be for reference purposes only and shall not be construed to imply that this Agreement was executed on the date first above written.

Section 9.16 Depreciation Deductions and Tax Credits. The parties agree that as between them the Lessee shall be entitled to all depreciation deductions and accelerated cost recovery system deductions with respect to any depreciable property in the Project Facility pursuant to Sections 167 and 168 of the Internal Revenue Code, to any credits under the Internal Revenue Code with respect to any portion of the Project Facility, and to any other federal or State tax benefits or attributes associated with the ownership, construction, or operation of the Project Facility. Further, notwithstanding anything to the contrary herein or in any of the Project Documents, each of the Agency and the Lessee hereby agrees that (1) the Lessee is the owner of the Project Facility and entitled to the economic benefits of ownership (including, but not limited to, any profits, income and gain from the Project) and bears the economic burdens of ownership of the Project Facility (including, but not limited to, any losses from and risk of loss with respect to the Project Facility), (2) the Agency has no incidents or indicia of ownership other than a bare leasehold interest in the Project Facility, (3) the Agency intends that the Lessee is and will be considered the owner of the Project Facility for federal income tax purposes, and will not take any position inconsistent with such intention, (4) the Lessee is the legal owner of the Project Facility for purposes of any tax credits pursuant to the Internal Revenue Code, and (5) the sole purpose for the Agency's acquisition of an interest in the Project Facility by this Agreement is to encourage and facilitate development, acquisition, construction, installation, and equipping of the Project Facility.

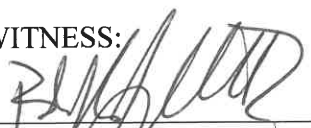
Section 9.17 Subordination of Lease Agreement and Project Documents to Mortgage(s) and Security Interest(s). This Agreement and the other Project Documents, and any and all modifications, amendments, renewals and extensions thereof and thereto, are subject and subordinate (except with respect to the Agency's rights under Sections 6.2, 8.5, 9.12 and 9.14 hereof) to any other mortgage or mortgages, or other security interests, that may be granted by the Agency and/or the Lessee on the Project Facility or any portion thereof and to any and all refinancings, modifications, amendments, consolidations, extensions, renewals, replacements and increases thereof. The Agency shall, at the expense of the Lessee, cooperate fully with the Lessee in securing any such mortgage or mortgages, or other security interests, and any and all refinancings, modifications, amendments, consolidations, extensions, renewals, replacements and increases thereof, including entry into a collateral assignment of the Project Documents for the benefit of a Lender; provided that the Agency shall not agree to any assignment to the Lender of the Agency's rights under Sections 6.2, 8.5, 9.12 and 9.14 hereof.

(Signature Page to Follow)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written in their respective names and by their duly authorized representatives.

**COUNTY OF ROCKLAND
INDUSTRIAL DEVELOPMENT
AGENCY**

WITNESS:



Name: Rudolph O. Zodda
Title: Agency Counsel

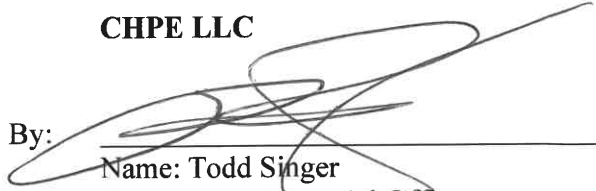
By:



Name: Steven H. Porath
Title: Executive Director

CHPE LLC

By:



Name: Todd Singer
Title: Chief Financial Officer

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

On the 23rd day of July in the year 2024 before me, the undersigned, a notary public in and for said state, personally appeared **STEVEN PORATH** 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

RUDOLPH O. ZODDA III
Notary Public, State of New York
No. 02ZO5087989
Qualified in Rockland County
Commission Expires Nov. 10, 2025

STATE OF New York)
) ss.:
COUNTY OF Queens)

On the 4th day of May in the year 2024 before me, the undersigned, a notary public in and for said state, personally appeared, **TODD SINGER** 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.

BLESSETTE TAYLOR
NOTARY PUBLIC-STATE OF NEW YORK
No. 01TA0023092
Qualified in Queens County
My Commission Expires 04-02-2028


Notary Public

EXHIBIT A

DESCRIPTION OF THE LAND

(See Attached)

Schedule A

Description of the Land

EASEMENT AGREEMENTS:

Town of Stony Point, New York:

CHPE Parcel No: 091.000
Underlying Landowner: Tilcon Inc.
Stony Point Tax ID: 15.02-4-59

Permanent and temporary easement from Tilcon Inc., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Declaration and Deed of Easement dated June 27, 2023 and recorded on August 2, 2023, at instrument number 2023-00023530, in the official records of Rockland County, New York, and that certain Declaration and Deed of Easement dated March 16, 2022 and recorded on December 26, 2023, at instrument number 2023-00038292, in the official records of Rockland County, New York.

CHPE Parcel No: 091.010
Underlying Landowner: Palisades Interstate Park Commission
Stony Point Tax ID: 15.02-4-50

Work permit from Palisades Interstate Park Commission and OGS), as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Work Permit dated August 8, 2023. *A Permanent Easement to be granted upon completion of construction and installation of the project.*

CHPE Parcel No: 091.050
Underlying Landowner: Peter J. McHugh
Stony Point Tax ID: 15.04-3-19

Permanent easement from Peter J. McHugh, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated January 31, 2024, and recorded on April 3, 2024, at instrument number 2024-00009354, in the official records of Rockland County, New York.

CHPE Parcel No: 091.060
Underlying Landowner: Nancy L. Pasternack and John H. Evans, Jr., as Co-Administrators of the Estate of Gretchen S. Pasternack Evans, deceased, as to 1/2 Interest, and George H. Schumacher, Jr., as to 1/2 Interest
Stony Point Tax ID: 15.04-3-20

Permanent and temporary easement from Nancy L. Pasternack and John H. Evans, Jr., as Co-Administrators of the Estate of Gretchen S. Pasternack Evans, deceased, as to 1/2 Interest, and George H. Schumacher, Jr., as to 1/2 Interest, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated April 5, 2024, and

recorded on May 17, 2024, at instrument number 2024-00013548, in the official records of Rockland County, New York.

CHPE Parcel No: 091.070
Underlying Landowner: Nancy L. Pasternack and John H. Evans, Jr., as Co-Administrators of the Estate of Gretchen S. Pasternack Evans, deceased, as to 1/2 Interest, and George H. Schumacher, Jr., as to 1/2 Interest
Stony Point Tax ID: 15.04-3-21

Permanent and temporary easement from Nancy L. Pasternack and John H. Evans, Jr., as Co-Administrators of the Estate of Gretchen S. Pasternack Evans, deceased, as to 1/2 Interest, and George H. Schumacher, Jr., as to 1/2 Interest, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated April 5, 2024, and recorded on recorded on May 17, 2024, at instrument number 2024-00013548, in the official records of Rockland County, New York.

CHPE Parcel No: 091.080
Underlying Landowner: Nancy L. Pasternack and John H. Evans, Jr., as Co-Administrators of the Estate of Gretchen S. Pasternack Evans, deceased, as to 1/2 Interest, and George H. Schumacher, Jr., as to 1/2 Interest
Stony Point Tax ID: 15.04-3-22

Permanent and temporary easement from Nancy L. Pasternack and John H. Evans, Jr., as Co-Administrators of the Estate of Gretchen S. Pasternack Evans, deceased, as to 1/2 Interest, and George H. Schumacher, Jr., as to 1/2 Interest, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated April 5, 2024, and recorded on May 17, 2024, at instrument number 2024-00013548 in the official records of Rockland County, New York.

CHPE Parcel No: 091.120
Underlying Landowner: SCI Funeral Services of New York, Inc. d/b/a Michael J. Higgins Funeral Service
Stony Point Tax ID: 15.19-2-45

Permanent and temporary easement from SCI Funeral Services of New York, Inc. d/b/a Michael J. Higgins Funeral Service, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated July 11, 2023, and recorded on October 4, 2023, at instrument number 2023-00029165, in the official records of Rockland County, New York.

CHPE Parcel No: 091.265
Underlying Landowner: 52 Church St 2002 LLC
Stony Point Tax ID: 20.07-3-65

Permanent and temporary easement from 52 Church St 2002 LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated

March 4, 2024, and recorded on May 6, 2024, at instrument number 2024-00012476, in the official records of Rockland County, New York and that certain Grant of Temporary Easement dated March 4, 2024.

CHPE Parcel No: 091.275
Underlying Landowner: 52 Church St 2002 LLC
Stony Point Tax ID: 20.07-3-66

Permanent and temporary easement from 52 Church St 2002 LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated March 4, 2024, and recorded on May 6, 2024, at instrument number 2024-00012476, in the official records of Rockland County, New York and that certain Grant of Temporary Easement dated March 4, 2024.

CHPE Parcel No: 091.280
Underlying Landowner: 52 Church St 2002 LLC
Stony Point Tax ID: 20.07-3-67

Permanent and temporary easement from 52 Church St 2002 LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated March 4, 2024, and recorded on May 6, 2024, at instrument number 2024-00012476, in the official records of Rockland County, New York and that certain Grant of Temporary Easement dated March 4, 2024.

CHPE Parcel No: 091.920
Underlying Landowner: 52 Church St 2002 LLC
Stony Point Tax ID: 20.07-3-64

Permanent and temporary easement from 52 Church St 2002 LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated March 4, 2024, and recorded on May 6, 2024, at instrument number 2024-00012476, in the official records of Rockland County, New York and that certain Grant of Temporary Easement dated March 4, 2024.

CHPE Parcel No: 091.300
Underlying Landowner: 44 South Liberty Drive Associates LLC
Stony Point Tax ID: 20.07-3-63

Permanent and temporary easement from 44 South Liberty Drive Associates LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated March 02, 2024, and recorded on April 3, 2024, at instrument number 2024-00009355, in the official records of Rockland County, New York and that certain Grant of Temporary Easement dated March 15, 2024.

CHPE Parcel No: 091.285
Underlying Landowner: Trustee under the Patsy J. Duncan Revocable Living Trust dated October 7, 2021
Stony Point Tax ID: 20.07-3-68

Permanent easement from Trustee under the Patsy J. Duncan Revocable Living Trust dated October 7, 2021, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated February 23, 2023 and recorded on April 25, 2024, at instrument number 2024-00011319, in the official records of Rockland County, New York.

CHPE Parcel No: 091.311
Underlying Landowner: DC Liberty LLC
Stony Point Tax ID: 20.11-2-18

Permanent easement from DC Liberty LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated November 21, 2023, and recorded on March 7, 2024, at instrument number 2024-0006221, in the official records of Rockland County, New York.

CHPE Parcel No: 091.312
Underlying Landowner: James M. and Melinda J. Trimble
Stony Point Tax ID: 20.11-2-19

Permanent easement from James M. and Melinda J. Trimble, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated November 7, 2023, and recorded on January 25, 2024, at instrument number 2024-00002369, in the official records of Rockland County, New York.

CHPE Parcel No: 091.313
Underlying Landowner: David P. Carver
Stony Point Tax ID: 20.11-2-20

Permanent easement from David P. Carver, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated November 7, 2023, and recorded on January 25, 2024, at instrument number 2024-00002370, in the official records of Rockland County, New York.

CHPE Parcel No: 091.314
Underlying Landowner: LWA Management LLC
Stony Point Tax ID: 20.11-2-21

Permanent easement from LWA Management LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated December 15, 2023, and recorded on February 29, 2024, at instrument number 2024-00005614, in the official records of Rockland County, New York.

CHPE Parcel No: 091.315
Underlying Landowner: Bee Lee Realty Corp.
Stony Point Tax ID: 20.11-2-22

Permanent easement from Bee Lee Realty Corp., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated November 7, 2023, and recorded on May 6, 2024, at instrument number 2024-00012417, in the official records of Rockland County, New York.

CHPE Parcel No: 091.316
Underlying Landowner: 77 South Liberty Dr. LLC
Stony Point Tax ID: 20.11-2-23

Permanent easement from 77 South Liberty Dr. LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated September 11, 2023, and recorded on December 26, 2023, at instrument number 2023-0038293, in the official records of Rockland County, New York.

CHPE Parcel No: 091.317
Underlying Landowner: Tip 9W Realty Corp.
Stony Point Tax ID: 20.11-2-24

Permanent easement from Tip 9W Realty Corp., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated May 22, 2023, and recorded on July 7, 2023, at instrument number 2023-00020532, in the official records of Rockland County, New York.

CHPE Parcel No: 091.318
Underlying Landowner: Stony Point Realty Corp.
Stony Point Tax ID: 20.11-2-25

Permanent easement from Stony Point Realty Corp., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated December 11, 2023, and recorded on February 29, 2023, at instrument number 2024-00005615, in the official records of Rockland County, New York.

CHPE Parcel No: 091.355
Underlying Landowner: Barmart Development Corp.
Stony Point Tax ID: 20.11-3-1

Permanent and temporary easement from Barmart Development Corp., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated May 18, 2023, and recorded on July 7, 2023, at instrument number 2023-00020615, in the official records of Rockland County, New York.

CHPE Parcel No: 091.360
Underlying Landowner: The Liberty Ridge Condominium Association
Stony Point Tax ID: 20.02-11-31

Permanent and temporary easement from The Liberty Ridge Condominium Association, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated August 31, 2023, and recorded on November 8, 2023, at instrument number 2023-00033893, in the official records of Rockland County, New York.

CHPE Parcel No: 091.370
Underlying Landowner: Anthony Tortorello
Stony Point Tax ID: 20.02-11-30

Permanent and temporary easement from Anthony Tortorello, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated May 5, 2023, and recorded on July 7, 2023, at instrument number 2023-00020615, in the official records of Rockland County, New York.

CHPE Parcel No: 091.450
Underlying Landowner: 163 Liberty Inc.
Stony Point Tax ID: 20.15-2-18

Permanent and temporary easement from 163 Liberty Inc., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Temporary Easement dated June 8, 2023, and recorded on November 2, 2023, at instrument number 2023-00033341, in the official records of Rockland County, New York.

CHPE Parcel No: 091.455
Underlying Landowner: Kinsley Corner LLC
Stony Point Tax ID: 20.15-2-19

Permanent and temporary easement from Victor P. Zugibe, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated January 4, 2024, and recorded on March 7, 2024, at instrument number 2024-00006222, in the official records of Rockland County, New York.

CHPE Parcel No: 091.555
Underlying Landowner: The People of the State of New York / Helen Hayes Hospital
Stony Point Tax ID: 20.15-2-20.2

Work permit from NYS Department of Health Bureau of Management Services (Hellen Hayes Hospital and OGS), as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Work Permit dated August 8, 2023. *A Permanent Easement to be granted upon completion of construction and installation of the project.*

Town of Haverstraw, New York:

CHPE Parcel No: 091.500

Underlying Landowner: New York State (“NYS”) Department of Health Bureau of Management Services (Hellen Hayes Hospital and NYS Office of General Services (“OGS”))
Haverstraw Tax ID: 20.15-3-1

Work permit from NYS Department of Health Bureau of Management Services (Hellen Hayes Hospital and OGS), as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Work Permit dated August 8, 2023. *A Permanent Easement to be granted upon completion of construction and installation of the project.*

CHPE Parcel No: 091.530
Underlying Landowner: NYS Department of Health (Hellen Hayes Hospital and OGS)
Haverstraw Tax ID: 20.19-1-1

Permanent and temporary easement from NYS Department of Health Bureau of Management Services (Hellen Hayes Hospital and OGS), as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Work Permit dated August 8, 2023. *A Permanent Easement to be granted upon completion of construction and installation of the project.*

CHPE Parcel No: 091.727
Underlying Landowner: Marilyn M. Barry
Haverstraw Tax ID: 26.42-1-11

Permanent easement from Marilyn M. Barry, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated June 7, 2023, and recorded on August 2, 2023, at instrument number 2023-00023531, in the official records of Rockland County, New York.

CHPE Parcel No: 091.780
Underlying Landowner: 198 Route 9W Inc.
Haverstraw Tax ID: 26.50-1-65

Permanent easement from 198 Route 9W Inc., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated March 14, 2024, and recorded on May 6, 2024, at instrument number 2024-00012408, in the official records of Rockland County, New York.

CHPE Parcel No: 091.856
Underlying Landowner: Rory. S. Tinston; Amy M. Greene
Haverstraw Tax ID: 26.51-1-46

Permanent easement from Rory S. Tinston and Amy M. Greene, as grantors, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated April 28, 2023, and recorded on July 7, 2023, at instrument number 2023-00020617, in the official records of Rockland County, New York.

CHPE Parcel No: 091.857
Underlying Landowner: Michael A. Periano
Haverstraw Tax ID: 26.51-1-47

Permanent easement from Michael A. Periano, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated May 16, 2023, and recorded on July 7, 2023, at instrument number 2023-00020533, in the official records of Rockland County, New York.

CHPE Parcel No: 091.858
Underlying Landowner: Kreindy Gestetner
Haverstraw Tax ID: 26.51-1-48

Permanent easement from Kreindy Gestetner, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated August 13, 2023, and recorded on October 4, 2023 at instrument number 2023-00030125, in the official records of Rockland County, New York.

CHPE Parcel No: 091.859
Underlying Landowner: Blanca M. Esquivel
Haverstraw Tax ID: 26.51-1-49

Permanent and temporary easement from Blanca M. Esquivel, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated May 16, 2023, and recorded on July 7, 2023, at instrument number 2023-00020534, in the official records of Rockland County, New York.

CHPE Parcel No: 091.865
Underlying Landowner: Jack Straw 147 LLC
Haverstraw Tax ID: 26.51-1-51

Permanent and temporary easement from Jack Straw 147 LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated July 11, 2023, and recorded on October 4, 2023, at instrument number 2023-00029166, in the official records of Rockland County, New York.

CHPE Parcel No: 091.960
Underlying Landowner: 72 Brigada Realty, LLC
Haverstraw Tax ID: 27.17-1-16

Permanent and temporary easement from 72 Brigada Realty, LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated July 17, 2023, and recorded on November 2, 2023, at instrument number 2023-00033897, in the official records of Rockland County, New York.

CHPE Parcel No: 091.970
Underlying Landowner: 80 Brigada Realty LLC
Haverstraw Tax ID: 27.17-1-15

Permanent and temporary easement from 80 Brigada Realty LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated July 17, 2023, and recorded on November 2, 2023, at instrument number 2023-00033348, in the official records of Rockland County, New York.

CHPE Parcel No: 093.000
Underlying Landowner: Palisades Interstate Park Commission Administration Building
Haverstraw Tax ID: 44.8-1-8

Permanent easement from Palisades Interstate Park Commission Administration Building, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Easement dated September 9, 2022, and recorded on September 27, 2022, at instrument number 2022-00034870, in the official records of Rockland County, New York.

Village of West Haverstraw:

CHPE Parcel No: 091.550
Underlying Landowner: Mary E. Donovan
West Haverstraw Tax ID: 20.19-1-3

Permanent easement from Mary E. Donovan, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated July 28, 2023, and recorded on November 8, 2023, at instrument number 2023-00033894, in the official records of Rockland County, New York.

CHPE Parcel No: 091.560
Underlying Landowner: BSM134 Enterprises, Inc.
West Haverstraw Tax ID: 20.19-1-5

Permanent easement from BSM134 Enterprises, Inc., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated September 5, 2023, and recorded on November 8, 2023, at instrument number 2023-00033895, in the official records of Rockland County, New York.

CHPE Parcel No: 091.640
Underlying Landowner: Luigi and Maria Savone
West Haverstraw Tax ID: 20.19-4-16

Permanent and temporary easement from Luigi and Maria Savone, as grantors, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary

Easement dated July 14, 2023, and recorded on November 2, 2023, at instrument number 2023-00033346, in the official records of Rockland County, New York.

CHPE Parcel No: 091.656
Underlying Landowner: Nanuet Capital LLC
West Haverstraw Tax ID: 26.07-3-25

Permanent easement from Nanuet Capital LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent Easement dated August 25, 2023, and recorded on November 8, 2023, at instrument number 2023-00033896, in the official records of Rockland County, New York.

Town of Clarkstown

CHPE Parcel No: 092.100
Underlying Landowner: Isabella Rose Realty, LLC
Clarkstown Tax ID: 44.12-2-44

Permanent and temporary easement from Isabella Rose Realty, LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated June 8, 2023, and recorded on November 2, 2023, at instrument number 2023-00033342, in the official records of Rockland County, New York.

Town of Clarkstown

CHPE Parcel No: 091.985
Underlying Landowner: Congers Storage LLC
Clarkstown Tax ID: 35.20-1-6

Permanent and temporary easement from Congers Storage LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain Grant of Permanent and Temporary Easement dated December 8, 2023, and recorded on February 29, 2024, at instrument number 2024-00005616, in the official records of Rockland County, New York.

SUBMARINE INTERESTS:

Interim Permit No. LUW01626 for Use of State-Owned Property (“Interim Permit”) granted by the State of New York Office of General Services to CHPE LLC and CHPE Properties, Inc. dated August 31, 2022 for the installation, use and maintenance of two, solid, dielectric cables approximately six (6) inches in diameter, along with a fiber optic cable, which such Interim Permit shall be converted to a permanent easement by the Office of General Services following cable installation.

INTERESTS TO BE ACQUIRED (AS SUCH LIST MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME):

EASEMENT AGREEMENTS:

Town of Haverstraw, New York:

CHPE Parcel No: 091.652
Underlying Landowner: Sweet Nine LLC
Haverstraw Tax ID: 20.19-7-40

Permanent easement from Sweet Nine LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain _____ dated June 10, 2024, and recorded on _____, at instrument number _____, in the official records of Rockland County, New York.

CHPE Parcel No: 091.860
Underlying Landowner: LOW Tor Plaza Inc.
Haverstraw Tax ID: 26.51-1-50

Permanent and temporary easement from LOW Tor Plaza Inc., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain _____ dated _____ and recorded on _____, at instrument number _____, in the official records of Rockland County, New York.

CHPE Parcel No: 091.950
Underlying Landowner: DHB Realty Corp.
Haverstraw Tax ID: 27.17-1-17

Permanent and temporary easement from DHB Realty Corp., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain _____ dated April 24, 2024, and recorded on _____, at instrument number _____, in the official records of Rockland County, New York.

CHPE Parcel No: 091.975
Underlying Landowner: Eagle Crest Realty LLC
Haverstraw Tax ID: 27.61-1-3.1

Permanent and temporary easement from Eagle Crest Realty LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain _____ dated May 28, 2024, and recorded on _____, at instrument number _____, in the official records of Rockland County, New York.

CHPE Parcel No: 091.979
Underlying Landowner: Tilcon Minerals Inc.; Tilcon New York, Inc.
Haverstraw Tax ID: 35.10-1-1

Permanent and temporary easement from Tilcon Minerals Inc. and Tilcon New York, Inc., as grantors, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain

_____ dated _____ and recorded on _____, at instrument number _____, in the official records of Rockland County, New York.

CHPE Parcel No: 091.980
Underlying Landowner: [New York State Palisades Commission]
Haverstraw Tax ID: 35.11-1-8

Work Permit from the New York State, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain _____ dated _____ and recorded on _____, at instrument number _____, in the official records of Rockland County, New York. *A Permanent Easement to be granted upon completion of construction and installation of the project.*

Village of West Haverstraw:

CHPE Parcel No: 091.540
Underlying Landowner: West Haverstraw Realty LLC
West Haverstraw Tax ID: 20.19-1-4

Permanent easement from West Haverstraw Realty LLC, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain _____ dated _____ and recorded on _____, at instrument number _____, in the official records of Rockland County, New York.

CHPE Parcel No: 091.650
Underlying Landowner: Rose M. Barberis
West Haverstraw Tax ID: 20.19-4-17

Permanent and temporary easement from Rose M. Barberis, as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain _____ dated _____ and recorded on _____, at instrument number _____, in the official records of Rockland County, New York.

CHPE Parcel No: 091.660
Underlying Landowner: Mallside Partners BH LLC; NECG 5040 BH LLC
West Haverstraw Tax ID: 26.07-5-70

Permanent and temporary easement from Mallside Partners BH LLC and NECG 5040 BH LLC, as grantors, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain _____ dated _____ and recorded on _____, at instrument number _____, in the official records of Rockland County, New York.

CHPE Parcel No: 091.700
Underlying Landowner: Double Wings Realty Corp.
West Haverstraw Tax ID: 26.11-1-12.3

Permanent and temporary easement from Double Wings Realty Corp., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain _____ dated _____

_____ and recorded on _____, at instrument number _____, in the official records of Rockland County, New York.

CHPE Parcel No: 091.703
Underlying Landowner: Double Wings Realty Corp.
West Haverstraw Tax ID: 26.11-1-12.4

Permanent and temporary easement from Double Wings Realty Corp., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain _____ dated _____ and recorded on _____, at instrument number _____, in the official records of Rockland County, New York.

CHPE Parcel No: 091.720
Underlying Landowner: Double Wings Realty Corp.
West Haverstraw Tax ID: 26.11-1-12.2

Permanent and temporary easement from Double Wings Realty Corp., as grantor, to CHPE LLC, a New York limited liability company, as grantee, as memorialized by that certain _____ dated _____ and recorded on _____, at instrument number _____, in the official records of Rockland County, New York.

SUBMARINE INTERESTS:

Permanent Easement No. _____ (*to be issued when construction is complete and as-builts are provided*) for Use of State-Owned Property (“OGS Easement”) granted by OGS to CHPE LLC and CHPE Properties, Inc. (Obtained Interim Permit No. LUW01626, dated August 31, 2022, for the installation, use and maintenance of two, solid, dielectric cables approximately six (6) inches in diameter, along with a fiber optic cable.)

EXHIBIT B

DESCRIPTION OF THE EQUIPMENT

All equipment, fixtures, machinery, building materials and items of personal property and all appurtenances (A) acquired, constructed, installed or equipped and to be acquired, constructed, installed or equipped in connection with the acquisition, construction, installation and equipping of the Project Facility, said Project Facility to be acquired, constructed, installed and equipped by the Lessee, as agent of the Agency, or by contractors or subcontractors appointed by the Lessee as indirect agents of the Agency, and (B) now or hereafter attached to, contained in or used in connection with the Project Facility or placed on any part thereof, though not attached thereto, together with any and all products of any of the above, all substitutions, replacements, additions or accessions therefor and any and all cash proceeds or non-cash proceeds realized from the sale, transfer or conversion of any of the above.

EXHIBIT C

FORM OF LEASE SUPPLEMENT

THIS LEASE SUPPLEMENT (the "Lease Supplement") dated as of _____, by and between **COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York (the "Agency"), having its principal office at 254 South Main Street, Suite 410, New City, New York 10956, and **CHPE LLC**, a limited liability company organized and existing under the laws of the State of New York (the "Lessee"), having an office for the transaction of business located at 623 Fifth Avenue, 20th Floor, New York, New York 10022.

WITNESSETH:

WHEREAS, the Lessee, as lessee, and the Agency, as lessor, entered into a lease agreement dated as of May 1, 2024 (the "Lease Agreement") pursuant to which, among other things, the Agency leased the Project Facility (as defined in the Lease Agreement) to the Lessee; and

WHEREAS, the Lease Agreement provides for the execution and delivery by the Lessee and the Agency of a Lease Supplement, substantially in the form hereof, for the purpose of describing the supplemental interests leased from the Agency to the Lessee pursuant to and in accordance with the terms of the Lease Agreement ("Supplemental Interests"); and

WHEREAS, the Lessee and the Agency have entered into a Head Lease Supplement with respect to the Supplemental Interests and now desire to enter into this Lease Supplement;

NOW, THEREFORE, in consideration of the promises and other good and sufficient consideration, the Lessee and the Agency hereby agree as follows:

1. Unless otherwise defined herein, capitalized terms used herein shall have the meanings specified in the Lease Agreement.

2. Pursuant to Section 3.1(a) of the Lease Agreement, the Agency hereby leases to the Lessee, and the Lessee hereby rents and leases from the Agency, the Agency's interest in the parcels of real property described in Exhibit A attached hereto, together with any and all Project-related improvements now or hereafter located thereon or therein for the term of the Lease Agreement.

3. The Agency shall file with the assessor for and mail to the chief executive officer of each "Affected Tax Jurisdiction" (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a relating to the Supplemental Interests, together with any and all Project-related improvements now or hereafter located thereon or therein, conveyed pursuant to this Lease Supplement.

4. This Lease Supplement shall be construed in connection with and as part of the Lease Agreement, and all terms, conditions and covenants contained in the Lease Agreement shall be and remain in full force and effect and are incorporated herein by reference with the same force and effect as if fully set forth herein. The Land shall include the Supplemental Interests for all purposes under the Lease Agreement.

5. This Lease Supplement may be executed in any number of counterparts, each executed counterpart constituting an original but all together one and the same instrument.

6. This Lease Supplement is being delivered in the State of New York and shall in all respects be governed by, and construed in accordance with, the laws of the State of New York, including all matters of construction, validity and performance.

7. This Lease Supplement, or a memorandum thereof, shall be recorded by the Agency in the Office of the Clerk of the County of Rockland, New York, or in such other office as may at the time be provided by law as the proper place for the recordation thereof.

IN WITNESS WHEREOF, the Lessee and the Agency have caused this Lease Supplement to be duly executed and delivered on the day and year first above written.

**COUNTY OF ROCKLAND INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
Name: _____
Title: _____

CHPE LLC

By: _____
Name: _____
Title: _____

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

On the _____ day of _____, in the year 20__ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of whom the individual acted, executed the instrument.

Notary Public

STATE OF)
) ss:
COUNTY OF)

On the _____ day of _____, in the year 20__ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of whom the individual acted, executed the instrument.

Notary Public