

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

and

MATT BREWING CO., INC.

SECOND AMENDED AND RESTATED LEASEBACK AGREEMENT

Dated as of May 1, 2018

Oneida County Industrial Development Agency
2018 Lease Amendment and Restatement
(Matt Brewing Co., Inc. Capacity Expansion and Brewery Modernization Project)

THIS SECOND AMENDED AND RESTATED LEASEBACK AGREEMENT (the "Second Amended and Restated Leaseback Agreement"), dated as of the 1st day of May 2018, by and between **MATT BREWING CO., INC.**, a corporation duly organized and validly existing under the laws of the State of New York with an address of 811 Edward Street, Utica, New York 13502 (the "Company") and **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices at 584 Phoenix Drive, Rome, New York 13441 (the "Agency").

WITNESSETH:

WHEREAS, Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York (the "State"); and

WHEREAS, the Enabling Act authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, renovate, refurbish, equip, lease, maintain, sell and dispose of land and any building or other improvement, and all real and personal properties, including but not limited to, machinery and equipment deemed necessary in connection therewith, whether now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease any or all of its facilities at such rentals and on such other terms and conditions as it deems advisable; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, Chapter 372 of the Laws of 1970 of the State of New York (hereinafter collectively, the "Act") created the Agency, which is empowered under the Act to undertake the leasing of the facility described below;

WHEREAS, the Company conveyed to the Agency a leasehold interest in a certain industrial development facility consisting of a 15,000± square foot bottling facility and a new 25,000± square foot finished goods warehouse facility (collectively, the "Existing Improvements"), all situated on a 7.1± acre parcel of land located at 811 Edwards Street, City of Utica, Oneida County, New York (the "Existing Land"); and the equipment acquired and installed in the Improvements, excluding all production machinery and equipment (the "Existing Equipment"), all for the purpose of brewing and bottling beers and soft drinks (the Existing Land, the Existing Improvements and the Existing Equipment referred to collectively as the "Existing Facility"); and

WHEREAS, the Agency leased the Existing Facility to the Company pursuant to a Leaseback Agreement dated as of July 1, 2009 (the "Leaseback Agreement"), a memorandum of which was recorded in the Oneida County Clerk's Office on July 9, 2009 at Instrument R2009-001291; and

WHEREAS, the Company conveyed to the Agency a leasehold interest in a second project facility consisting of: (a) construction of a compact Anaerobic Fluidized Bed Digester system (the "AFBD System") for wastewater treatment and on-site energy generation, on a 1± acre parcel of land situated at 828, 830, 832, 834, 900, 904 and 908 Court Street, City of Utica, Oneida County, New York (the "AFBD Land"); (b) construction on the AFBD Land of a small control building (the "AFBD Improvements"); and (c) the acquisition and installation of equipment in the AFBD System and the AFBD Improvements (the "AFBD Equipment"), all used in connection with manufacturing beer and beverage products (the AFBD System, the AFBD Land, the AFBD Improvements and the AFBD Equipment referred to collectively as the "AFBD Facility"); and

WHEREAS, the Agency leases the Existing Facility together with the AFBD Facility to the Company pursuant to a First Amended and Restated Leaseback Agreement dated as of May 1, 2012 (the "First Amended and Restated Leaseback Agreement"), a memorandum of which was recorded in the Oneida County Clerk's Office on May 31, 2012 at Instrument R2012-000648; and

WHEREAS, The Company has requested the Agency provide financial assistance with respect to a capacity expansion and brewery modernization project (the "2018 Project") consisting of (a) construction of a 15,000± square foot fermenting and aging cellar (the "Aging Cellar") situated on a 1± acre vacant parcel of land located at 806 – 832 (consolidated to 814) Edward Street, City of Utica, New York (the "Edward Street Land"); (b) construction on the Existing Land of a two-story, 4,800 square foot addition to the existing brew house (the "Brew House Addition"); (c) construction of an overhead pipe bridge over Edward Street to connect the Aging Cellar with the Existing Facility (the "Pipe Bridge"); (d) removal of a portion of the parking lot and restriping of the parking lot (the "Parking Lot" and together with the Aging Cellar, the Brew House Addition and the Pipe Bridge, the "2018 Improvements"); and (d) acquisition and installation of equipment in the 2018 Improvements and the Existing Improvements, including but not limited to a new centrifuge, pad filter, malt cooker, brew kettle, mash filter, and sixteen vertical fermenting and aging tanks (the "2018 Equipment" and together with the Edward Street Land and the 2018 Improvements, the "2018 Facility"); and

WHEREAS, the Company agreed with the Agency, on behalf of the Agency and as the Agency's agent, to construct, renovate and equip the Existing Facility in accordance with the Plans and Specifications presented to the Agency members (the "Existing Project") and operate the Existing Facility; and

WHEREAS, the Company agreed with the Agency, on behalf of the Agency and as the Agency's agent, to construct, renovate and equip the AFBD Facility in accordance with the Plans and Specifications presented to the Agency members (the "AFBD Project") and operate the AFBD Facility together with the Existing Facility; and

WHEREAS, the Company has agreed with the Agency, on behalf of the Agency and as the Agency's agent, to construct, renovate and equip the 2018 Facility in accordance

with the Plans and Specifications presented to the Agency members (the "2018 Project") and operate the 2018 Facility together with the Existing Facility and the AFBF Facility; and

WHEREAS, in order to induce the Company to develop the 2018 Facility, the Agency is willing to accept a leasehold interest in the Edward Street Land, the 2018 Improvements and the 2018 Equipment comprising the 2018 Facility and lease the 2018 Facility, the AFBF Facility and the Existing Facility back to the Company pursuant to the terms and conditions contained herein; and

WHEREAS, for purposes of this Second Amended and Restated Leaseback Agreement, the Existing Land, the AFBF Land and the Edward Street Land shall be referred to collectively as the "Land," the Existing Improvements, the AFBF Improvements and the 2018 Improvements shall be referred to collectively as the "Improvements," the Existing Equipment, the AFBF Equipment and the 2018 Equipment shall be referred to collectively as the "Equipment," the Existing Project, the AFBF Project and the 2018 Project shall be referred to collectively as the "Project" and the Existing Facility, the AFBF Facility and the 2018 Facility shall be referred to collectively as the "Facility"; and

WHEREAS, the Agency has determined that providing the Facility will accomplish, in part, its public purposes; and

WHEREAS, the Agency proposes to lease the Facility to the Company, and the Company desires to rent the Facility from the Agency, upon the terms and conditions hereinafter set forth in this Second Amended and Restated Leaseback Agreement.

AGREEMENT

NOW THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereby formally covenant, agree and bind themselves as follows:

Section 1.1 Representations and Covenants of Agency.

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

(a) The Agency is duly established and validly existing under the provisions of the Act and has full legal right, power and authority to execute, deliver, and perform each of the Agency Documents and the other documents contemplated thereby. Each of the Agency Documents and the other documents contemplated thereby has been duly authorized, executed and delivered by the Agency.

(b) The Agency has a leasehold interest in the Existing Facility and the AFBF Facility and will take title to or a leasehold interest in the 2018 Facility, lease the Facility to the Company pursuant to this Second Amended and Restated Leaseback Agreement and

designate the Company as its agent for purposes of the Project, all for the purpose of promoting the industry, health, welfare, convenience and prosperity of the inhabitants of the State and the County of Oneida and improving their standard of living.

(c) By resolution adopted on August 14, 2008, the Agency determined that, based upon the review by the Agency of the materials submitted and the representation made by the Company relating to the Existing Facility, the Existing Facility would not have a "significant impact" or "significant effect" on the environment within the meaning of the SEQRA Act. By resolutions adopted on June 28, 2011 and September 16, 2011, the Agency determined that, based upon the review by the Agency of the materials submitted and the representation made by the Company relating to the AFB Facility, the AFB Facility would not have a "significant impact" or "significant effect" on the environment within the meaning of the SEQRA Act. By resolution adopted on October 20, 2017, the Agency determined that, based upon the review by the Agency of the materials submitted and the representations made by the Company relating to the 2018 Facility, the 2018 Facility would not have a "significant impact" or "significant effect" on the environment within the meaning of the SEQRA Act.

(d) Neither the execution and delivery of any of the Agency Documents and the other documents contemplated thereby nor the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of any of the Agency Documents and the other documents contemplated thereby, will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of the Act, any other law or ordinance of the State or any political subdivision thereof or of the Agency's Certificate of Establishment or Bylaws, as amended, or of any corporate restriction or any agreement or instrument to which the Agency is a party or by which it is bound, or result in the creation or imposition of any Lien of any nature upon any of the Property of the Agency under the terms of the Act or any such law, ordinance, Certificate of Establishment, Bylaws, restriction, agreement or instrument.

(e) Each of the Agency Documents and the other documents contemplated thereby constitutes a legal, valid and binding obligation of the Agency enforceable against the Agency in accordance with its terms.

(f) The Agency has been induced to enter into this Second Amended and Restated Leaseback Agreement by the undertaking of the Company to construct, renovate equip, maintain and repair the Facility and related jobs in Oneida County, New York.

Section 1.2 Representations and Covenants of Company.

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

(a) The Company is a corporation duly organized and validly existing under the laws of the State of New York and authorized to conduct business in the State of New York, and has full legal right, power and authority to execute, deliver and perform each of the Company Documents and the other documents contemplated thereby. Each of the Company

Documents and the other documents contemplated thereby has been duly authorized, executed and delivered by the Company and each constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its respective terms.

(b) Neither the execution and delivery of any of the Company Documents and the other documents contemplated thereby nor the consummation of the transactions contemplated thereby nor the fulfillment of or compliance with the provisions of any of the Company Documents and the other documents contemplated thereby, will conflict with or result in a breach of or constitute a default under any of the terms, conditions or provisions of the certificate of incorporation of the Company, the Bylaws of the Company, any law or ordinance of the State or any political subdivision thereof, or any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or result in the creation or imposition of any Lien of any nature upon any of the Property of the Company under the terms of any such law, ordinance, restriction, agreement or instrument.

(c) The providing of the Facility by the Agency and the leasing thereof by the Agency to the Company will not result in the removal of an industrial or manufacturing plant, facility or other commercial activity of the Company from one area of the State to another area of the State nor result in the abandonment of one or more commercial or manufacturing plants or facilities of the Company located within the State; and the Agency has found that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

(d) The Facility and the design, demolition, construction, renovation, equipping and operation thereof will conform with all applicable zoning, planning, building and environmental laws, ordinances, rules and regulations of governmental authorities having jurisdiction over the Facility. The Company shall defend, indemnify and hold harmless the Agency for expenses, including attorneys' fees, resulting from any failure of the Company to comply with the provisions of this subsection (d).

(e) The Company has caused to be transferred to the Agency a leasehold interest in all those properties and assets contemplated by this Second Amended and Restated Leaseback Agreement and all documents related hereto.

(f) There is no action, litigation, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending, or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Second Amended and Restated Leaseback Agreement or any of Company Documents or the transactions contemplated therein, except the pending quiet title action relating to 834, 900 and 904 Court Street more particularly described on Exhibit C attached hereto.

(g) The Company covenants that the Facility will comply in all respects with all environmental laws and regulations and, except in compliance with environmental laws and regulations, (i) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist on the Facility except in compliance with all material applicable laws, (ii) the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances onto the Facility or onto any other property, (iii) that no asbestos will be incorporated into or disposed of on the Facility, (iv) that no underground storage tanks will be located on the Facility, and (v) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated or in existence. The Company upon receiving any information or notice contrary to the representations contained in this Section shall immediately notify the Agency in writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend, indemnify, and hold harmless the Agency, its executive director, directors, members, officers, employees, agents (except the Company), representatives, successors and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties and expenses (including reasonable attorneys' fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this Section. In the event the Agency in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Facility, the Company agrees to pay the expenses of same to the Agency upon demand, and agrees that upon failure to do so, its obligation for such expense shall be deemed to be additional rent.

(h) In its Application for Financial Assistance dated October 12, 2017, the Company projected that it will retain no less than one hundred fourteen (114) employees during the Lease Term (the "Employment Obligation").

ARTICLE II

DEMISING CLAUSES AND RENTAL PROVISIONS

Section 2.1 Agreement to Convey to Agency.

The Company has conveyed to the Agency a leasehold interest in real property, including any buildings, structures or improvements thereon, described in Exhibit A attached hereto and the Company has or will convey all of the interest in the Equipment described in Exhibit B. The Company agrees that the Agency's interest in the Facility resulting from said conveyances will be sufficient for the purposes intended by this Second Amended and Restated Leaseback Agreement and agrees that it will defend, indemnify and hold the Agency harmless from any expense or liability arising out of a defect in title or a lien adversely affecting the Facility and will pay all reasonable expenses incurred by the Agency in defending any action with respect to title to or a lien affecting the Facility.

Section 2.2 Construction, Renovation and Equipping of the Facility.

The Company, as agent for the Agency, will undertake the 2018 Project. The Company hereby covenants and agrees to annually file with the Department of Taxation and Finance the statement required by General Municipal Law Section 874(8) concerning the value of sales tax exemptions claimed.

Section 2.3 Demise of Facility.

The Agency hereby demises and leases the Facility to the Company and the Company hereby rents and leases the Facility from the Agency upon the terms and conditions of this Second Amended and Restated Leaseback Agreement.

Section 2.4 Remedies to be Pursued Against Contractors, Subcontractors, Materialmen and their Sureties.

In the event of a default by any contractor, subcontractor, materialman or other person under any contract made by it in connection with the Facility or in the event of a breach of warranty or other liability with respect to any materials, workmanship, or performance guaranty, the Company at its expense, either separately or in conjunction with others, may pursue any and all remedies available to it and the Agency, as appropriate, against the contractor, subcontractor, materialman or other Person so in default and against any surety for the performance of such contract. The Company, in its own name or in the name of the Agency, may prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, materialman or surety or other person which the Company deems reasonably necessary, and in such event the Agency, at the Company's expense, hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the Agency in any such action or proceeding. The Company shall advise the Agency of any actions or proceedings taken hereunder. The Agency may but shall not be obligated to prosecute or defend any action or proceeding or take any other action involving any such contractor, subcontractor, materialman or surety or other person which the Agency deems reasonably necessary, at the Company's expense.

Section 2.5 Duration of Lease Term; Quiet Enjoyment.

(a) The Agency shall deliver to the Company sole and exclusive possession of the Facility (subject to Sections 5.3 and 7.1 hereof) and the leasehold estate created hereby shall commence on the Closing Date and the Company shall accept possession of the Facility on the Closing Date.

(b) Except as provided in Section 7.1 hereof, the leasehold estate created hereby commenced on July 1, 2009 with respect to the Existing Facility, on May 1, 2012 with respect to the AFBF Facility, and shall commence on May 1, 2018 with respect to the 2018 Facility and all shall terminate at 11:59 p.m. on June 30, 2029 or on such earlier date as may be permitted by Section 8.1 hereof.

(c) The period commencing on the earliest date described in Section 2.5(a) herein through the date described in Section 2.5(b) herein shall be herein defined as the Lease Term.

(d) Except as provided in Sections 5.3 and 7.1 hereof, the Agency shall neither take nor suffer or permit any action to prevent the Company during the Lease Term from having quiet and peaceable possession and enjoyment of the Facility and will, at the request of the Company and at the Company's cost, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Facility as hereinabove provided.

Section 2.6 Rents and Other Amounts Payable.

(a) The Company shall pay basic rent for the Facility as follows: Five Hundred Dollars (\$500.00) per year commencing on the Closing Date and on the First Business Day of each and every January thereafter during the term of this Second Amended and Restated Leaseback Agreement.

(b) In addition to the payments of rent pursuant to Section 2.6(a) hereof, throughout the Lease Term, the Company shall pay to the Agency as additional rent, within ten (10) days of receipt of demand therefore, the expenses of the Agency and the members thereof incurred (i) by reason of the Agency's ownership or leasing of the Facility or (ii) in connection with the carrying out of the Agency's duties and obligations under the Agency Documents, the payment of which is not otherwise provided for under this Second Amended and Restated Leaseback Agreement. The foregoing shall not be deemed to include any annual or continuing administrative or management fee beyond any initial administrative fee or fee for services rendered by the Agency.

(c) The Company, under the provisions of this Section 2.6, agrees to make the above-mentioned payments in immediately available funds and without any further notice in lawful money of the United States of America. In the event the Company shall fail to timely make any payment required in Section 2.6(a) or 2.6(b), the Company shall pay the same together with interest on such payment at a rate equal to two percent (2%) plus the prime rate as established by Bank of America, but in no event at a rate higher than the maximum lawful prevailing rate, from the date on which such payment was due until the date on which such payment is made.

Section 2.7 Obligations of Company Hereunder Unconditional. The obligations of the Company to make the payments required in Section 2.6 hereof, and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be general obligations of the Company, and shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment or counterclaim it may otherwise have against the Agency or any other Person. The Company agrees it will not (i) suspend, discontinue or abate any payment required hereunder, (ii) fail to observe any of its other covenants or agreement in this Second Amended and Restated Leaseback Agreement or (iii) terminate this Second

Amended and Restated Leaseback Agreement for any cause whatsoever except as otherwise herein provided.

Subject to the foregoing provisions, nothing contained in this Section 2.7 shall be construed to release the Agency from the performance of any of the agreements on its part contained in this Second Amended and Restated Leaseback Agreement or to affect the right of the Company to seek reimbursement, and in the event the Agency should fail to perform any such agreement, the Company may institute such separate action against the Agency as the Company may deem necessary to compel performance or recover damages for non-performance, and the Agency covenants that it will not, subject to the provisions of Section 5.2 hereof, take, suffer or permit any action which will adversely affect, or create any defect in its title to the Facility or which will otherwise adversely affect the rights or estate of the Company hereunder, except upon written consent of the Company.

Section 2.8 Special Obligation.

(a) The obligations of the Agency under the Agency Documents constitute a special obligation of the Agency, and all charges payable pursuant to or expenses or liabilities incurred thereunder shall be payable solely out of the revenues and other moneys of the Agency derived and to be derived from the leasing of the Facility, any sale or other disposition of the Equipment and as otherwise provided in the Authorizing Resolution, the Lease Agreement, the AFB Lease, the Edward Street Lease, this Second Amended and Restated Leaseback Agreement and the Second Amended and Restated PILOT Agreement. Neither the members, officers, agents (except the Company) or employees of the Agency, nor any person executing the Agency Documents, shall be liable personally or be subject to any personal liability or accountability by reason of the leasing, construction, renovation, equipping or operation of the Facility. The obligations of the Agency under the Agency Documents are not and shall not be an obligation of the State or any municipality of the State and neither the State nor any such municipality (including, without limitation, Oneida County) shall be liable thereon.

(b) All payments made by the Agency or on behalf of the Company pursuant to the Agency Documents shall, to the extent of the sum or sums so paid, satisfy and discharge the liability of the Agency for moneys payable pursuant to the Agency Documents.

ARTICLE III

MAINTENANCE, MODIFICATIONS, TAXES AND INSURANCE

Section 3.1 Maintenance and Modifications of Facility by Company.

(a) The Company shall not abandon the Facility or cause or permit any waste to the Improvements. During the Lease Term, the Company shall not remove any part of the Facility outside of the jurisdiction of the Agency and shall (i) keep the Facility in as reasonably safe condition as its operation shall permit; (ii) make all necessary repairs and replacements to the Facility (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen); and (iii) operate the Facility in a sound and economic manner.

(b) With the written consent of the Agency, which shall not be unreasonably withheld, the Company at its own expense from time to time may make any structural additions, modification or improvements to the Facility or any part hereof, provided such actions do not adversely affect the structural integrity of the Facility. All such additions, modifications or improvements made by the Company shall become a part of the Facility and subject to the leasehold interest of the Agency; provided, however, the Company shall not be qualified for a sales and use tax exemption when making said additions, modifications or improvements except to the extent (i) the Company is acting as agent for the Agency under an Agent Agreement between the Agency and the Company that contemplates said additions, modifications or improvements or (ii) as otherwise provided by law. The Company agrees to deliver to the Agency all documents that may be necessary or appropriate to convey to the Agency a leasehold interest in such Property.

Section 3.2 Installation of Additional Equipment.

The Company or any permitted sublessee of the Company from time to time may install additional machinery, equipment or other personal property in the Facility (which may be attached or affixed to the Facility), and such machinery, equipment or other personal property shall not become, or be deemed to become, a part of the Facility. The Company from time to time may remove or permit the removal of such machinery, equipment and other personal property from the Facility, provided that any such removal of such machinery, equipment or other personal property shall not occur (i) if any Event of Default which has not been cured has occurred; or (ii) if any such removal shall adversely affect the structural integrity of the Facility or impair the overall operating efficiency of the Facility for the purposes for which it is intended, and provided further, that if any damage is occasioned to the Facility by such removal, the Company agrees to promptly repair such damage at its own expense; or (iii) if any such removal results in the Facility to not constitute a "Project" as such term is defined in the Act.

Section 3.3 Taxes, Assessments and Utility Charges.

(a) The Company agrees to pay, as the same become due and before any fine, penalty, interest (except interest which is payable in connection with legally permissible installment payments) or other cost may be added thereto or become due or be imposed by operation of law for the non-payment thereof, (i) all taxes, payments in lieu of taxes and governmental charges of any kind whatsoever which may at anytime be lawfully assessed or levied against or with respect to the Facility and any machinery, equipment or other Property installed or brought by the Company therein or thereon, including, without limiting the generality of the foregoing, any sales or use taxes imposed with respect to the Facility or any part or component thereof, or the rental or sale of the Facility or any part thereof and any taxes levied upon or with respect to the income or revenues of the Agency from the Facility; (ii) all utility and other charges, including service charges, incurred or imposed for or with respect to the operation, maintenance, use, occupancy, upkeep and improvement of the Facility; (iii) all assessments and charges of any kind whatsoever lawfully made by any governmental body for public improvements; and (iv) all payments under the Second Amended and Restated PILOT Agreement; provided that, with respect to special assessments or other governmental charges

that may lawfully be paid in installments over a period of years, the Company shall be obligated under this Second Amended and Restated Leaseback Agreement to pay only such installments as are required to be paid during the Lease Term.

(b) The Company, at its own expense and in its own name and on behalf of or in the name of the Agency but with notice to the Agency, may in good faith contest any such taxes, assessments and other charges. In the event of any such proceedings, the Company may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such proceedings and any appeal therefrom, provided, however, that (i) neither the Facility nor any part thereof or interest therein would be in any immediate danger of being sold, forfeited or lost by reason of such proceedings and (ii) the Company shall have set aside on its books adequate reserves with respect thereto and shall have furnished such security, if any, as may be required in such proceedings or requested by the Agency.

(c) The Agency agrees that if it or the Company contests any taxes, assessments or other charges provided for in paragraph (b) hereof, all sums returned, as a result thereof, will be promptly transmitted by the Agency to the Company and that the Company shall be entitled to retain all such amounts.

(d) Within thirty (30) days of receipt of written request therefor, the Company shall deliver to the Agency official receipts of the appropriate taxing authorities or other proof reasonably satisfactory to the Agency evidencing payment of any tax.

Section 3.4 Insurance Required.

At all times throughout the Lease Term, including, when indicated herein, during the Construction Period, the Company shall, at its sole cost and expense, maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type and shall pay, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(a) Insurance against loss or damage by fire, lightning and other casualties customarily insured against, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the completed Improvements, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Company. During the Construction Period, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" and shall contain a provision granting the insured permission to complete and/or occupy.

(b) Workers' compensation insurance, disability benefits insurance and each other form of insurance that the Company or any permitted sublessee is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company or any permitted sublessee who are located at or assigned to the Facility. This coverage shall be in effect from and after the Completion Date or on such earlier date as any employees of the Company, any permitted sublessee, any contractor or subcontractor first occupy the Facility.

(c) Insurance protecting the Agency and the Company against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 5.2 hereof) and arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or occurrence with a limit of liability of not less than \$3,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage), comprehensive automobile liability including all owned, non-owned and hired autos with a limit of liability of not less than \$3,000,000 (combined single limit or equivalent for personal injury, including bodily injury or death, and property damage) protecting the Agency and the Company against any loss or liability or damage for personal injury, including bodily injury or death, or property damage. This coverage shall also be in effect during the Construction Period.

(d) During the Construction Period (and for at least one year thereafter in the case of Products and Completed Operations as set forth below), the Company shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

(i) Workers' compensation and employer's liability with limits in accordance with applicable law.

(ii) Comprehensive general liability providing coverage for:
Premises and Operations
Products and Completed Operations
Owners Protective
Contractors Protective
Contractual Liability
Personal Injury Liability
Broad Form Property Damage
(including completed operations)
Explosion Hazard
Collapse Hazard
Underground Property Damage Hazard

Such insurance shall have a limit of liability of not less than \$3,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

(iii) Comprehensive auto liability, including all owned, non-owned and hired autos, with a limit of liability of not less than \$3,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

(e) A policy or policies of flood insurance in the maximum amount of flood insurance available with respect to the Facility under the Flood Disaster Protection Act of 1973, as amended, whichever is less. This requirement will be waived upon presentation of evidence satisfactory to the Agency that no portion of the Land is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards.

Section 3.5 Additional Provisions Respecting Insurance.

(a) All insurance required by Section 3.4 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All policies evidencing the insurance required by Section 3.4 hereof shall provide for at least thirty (30) day's prior written notice of the restriction, cancellation or modification thereof to the Agency. The policy evidencing the insurance required by Section 3.4(c) hereof shall name the Agency as an additional named insured. All policies evidencing the insurance required by Sections 3.4(d)(ii) and (iii) shall name the Agency as additional named insureds. The policies under Section 3.4(a) shall contain appropriate waivers of subrogation.

(b) All policies or certificates (or binders) of insurance required by Sections 3.4 hereof shall be submitted to the Agency on or before the Closing Date. The Company shall deliver to the Agency before the renewal date of each policy a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance of the types and in the amounts required by Section 3.4 hereof and complying with the additional requirements of Section 3.5(a) hereof. Prior to the expiration of each such policy, the Company shall furnish the Agency with evidence that such policy has been renewed or replaced or is no longer required by this Second Amended and Restated Leaseback Agreement. The Company shall provide such further information with respect to the insurance coverage required by this Second Amended and Restated Leaseback Agreement as the Agency may from time to time reasonably require.

Section 3.6 Application of Net Proceeds of Insurance. The net proceeds of the insurance carried pursuant to the provisions of Section 3.4 hereof shall be applied as set forth in the mortgage, if any, and in any event shall continue to protect the Agency from any liability whatsoever. Once the mortgage has been released, the net proceeds shall be applied as follows: (i) the net proceeds of the insurance required by Sections 3.4(a) and (e) hereof shall be applied as provided in Section 4.1 hereof, and (ii) the net proceeds of the insurance required by Sections 3.4(b), (c), and (d) hereof shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds may be paid.

Section 3.7 Right of Agency to Pay Taxes, Insurance Premiums and Other Charges.

If the Company fails (i) to pay any tax, together with any fine, penalty, interest or cost which may have been added thereto or become due or been imposed by operation of law for nonpayment thereof, or payments-in-lieu-of-taxes pursuant to the Second Amended and Restated PILOT Agreement, assessment or other governmental charge required to be paid by Section 3.3 hereof, (ii) to maintain any insurance required to be maintained by Section 3.4 hereof, (iii) to pay any amount required to be paid by any law or ordinance relating to the use or

occupancy of the Facility or by any requirement, order or notice of violation thereof issued by any governmental person, (iv) to pay any mechanic's Lien which is recorded or filed against the Facility or any part thereof (unless contested in accordance with the provision of Section 5.7(b) hereof), (v) to pay any real property transfer gains tax, together with any interest and penalties thereon, which is due and payable by reason of a conveyance of the leasehold estate in and to the Facility pursuant to a judicial sale in any foreclosure action or by deed and/or assignment in lieu of foreclosure or (vi) to pay any other amount or perform any act hereunder required to be paid or performed by the Company hereunder, the Agency may but shall not be obligated to pay or cause to be paid such tax or payments-in-lieu-of-tax pursuant to the Second Amended and Restated PILOT Agreement, assessment or other governmental charge or the premium for such insurance or any such other payment or may perform any such act. No such payment shall be made or act performed by the Agency until at least ten (10) days shall have elapsed since notice shall have been given by the Agency to the Company, and in the case of any tax, assessment or governmental charge or the amounts specified in paragraphs (iii), (v) and (vi) hereof, no such payment shall be made in any event if the Company is contesting the same in good faith to the extent and as permitted by this Second Amended and Restated Leaseback Agreement unless an Event of Default hereunder shall have occurred and be continuing. Notwithstanding the provisions of this Section 3.7, if, because of the Company's failure to make payments as described in this Section 3.7, either the Agency, or any of its respective members, directors, officers, agents (except the Company), or employees, shall be threatened with a fine, liability, expense or imprisonment, then the Agency may immediately make payment on behalf of the Company in avoidance thereof. No such payment by the Agency shall affect or impair any rights of the Agency hereunder arising in consequence of such failure by the Company. The Company shall, on demand, reimburse the Agency for any amount so paid or for expenses or costs incurred in the performance of any such act by the Agency pursuant to this Section (which shall include all legal fees and disbursements), together with interest thereon from the date of payment of such amount, expense or cost by the Agency at one percent above the prime rate as established by Bank of America, but in no event more than to the extent permitted by law.

ARTICLE IV

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 4.1 Damage or Destruction of the Facility.

(a) If the Facility or any part or component shall be damaged or destroyed (in whole or in part) at any time during the Lease Term:

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

(ii) there shall be no abatement or reduction in the amounts payable by the Company under this Second Amended and Restated Leaseback

Agreement (whether or not the Facility is replaced, repaired, rebuilt, restored or relocated); and

(iii) upon the occurrence of such damage or destruction, the Net Proceeds derived from the insurance shall be paid in accordance with the terms of the mortgage, if any, so long as the mortgage is in effect. After the release of the mortgage, the Net Proceeds derived from the insurance shall be paid to the Company, except as otherwise provided in Section 8.1 and subsection (d) hereof.

(b) Any replacements, repairs, rebuilding, restorations or relocations of the Facility by the Company after the occurrence of such damages or destruction shall be subject to the following conditions:

(i) the Facility shall be in substantially the same condition and value as an operating entity as existed prior to the damage or destruction;

(ii) the Facility shall continue to constitute a "project" as such term is defined in the Act; and

(iii) the Facility will be subject to no Liens, other than Permitted Encumbrances.

(c) All such repair, replacement, rebuilding, restoration or relocation of the Facility shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements, shall be promptly and fully paid for by the Company in accordance with the terms of the applicable contracts, and shall automatically become a part of the Facility as if the same were specifically provided herein.

(d) If the Company shall exercise its option to terminate this Second Amended and Restated Leaseback Agreement pursuant to Section 8.1 hereof such Net Proceeds shall be applied to the payment of the amounts required to be paid by Section 8.2 hereof. If an Event of Default hereunder shall have occurred and the Agency shall have exercised its remedies under Section 7.2 hereof such Net Proceeds shall be applied to the payment of the amounts required to be paid by Section 7.2 and Section 7.4 hereof.

Section 4.2 Condemnation.

(a) If title to or use of the Facility shall be taken by Condemnation (in whole or in part) at any time during the Lease Term:

(i) the Agency shall have no obligation to replace, repair, rebuild, restore or relocate the Facility or acquire, by construction or otherwise, facilities of substantially the same nature as the Facility ("Substitute Facilities"); and

(ii) there shall be no abatement or reduction in the amounts payable by the Company under this Second Amended and Restated Leaseback Agreement (whether or not the Facility is replaced, repaired, rebuilt, restored or relocated or Substitute Facilities acquired); and

(iii) upon the occurrence of such Condemnation, the Net Proceeds derived therefrom shall be paid in accordance with the terms of the mortgage, if any, so long as the mortgage is in effect. After the release of the mortgage, the Net Proceeds derived therefrom shall be paid to the Company except as otherwise provided in Section 8.1 and subsection (d) hereof.

(b) Any replacements, repairs, rebuilding, restorations, relocations of the Facility by the Company after the occurrence of such Condemnation or acquisitions by the Company of Substitute Facilities shall be subject to the following conditions:

(i) the Facility or the Substitute Facilities shall be in substantially the same condition and value as an operating entity as existed prior to the Condemnation;

(ii) the Facility or the Substitute Facilities shall continue to constitute a "project" as such term is defined in the Act; and

(iii) the Facility or the Substitute Facilities will be subject to no Liens, other than Permitted Encumbrances.

(c) All such repair, replacement, rebuilding, restoration or relocation of the Facility shall be effected with due diligence in a good and workmanlike manner in compliance with all applicable legal requirements, shall be promptly and fully paid for by the Company in accordance with the terms of the applicable contracts, and shall automatically become a part of the Facility as if the same were specifically described herein.

(d) If the Company shall exercise its option to terminate this Second Amended and Restated Leaseback Agreement pursuant to Section 8.1 hereof such Net Proceeds shall be applied to the Payment of the amounts required to be paid by Section 8.2 hereof. If any Event of Default hereunder shall have occurred and the Agency shall have exercised its remedies under Section 7.2 hereof such Net Proceeds shall be applied to the payment of the amounts required to be paid by Section 7.2 and Section 7.4 hereof.

Section 4.3 Condemnation of Company-Owned Property. The Company shall be entitled to the proceeds of any Condemnation award or portion thereof made for damage to or taking of any Property, which, at the time of such damage or taking, is not part of the Facility.

ARTICLE V

SPECIAL COVENANTS

Section 5.1 No Warranty of Condition or Suitability by Agency.

THE AGENCY MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE CONDITION, TITLE, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS OF THE FACILITY OR THAT IT IS OR WILL BE SUITABLE FOR THE COMPANY'S PURPOSES OR NEEDS.

Section 5.2 Hold Harmless Provisions.

(a) The Company agrees that the Agency, its directors, members, officers, agents (except the Company) and employees shall not be liable for and agree to defend, indemnify, release and hold the Agency, its directors, members, officers, agents (except the Company) and employees harmless from and against any and all (i) liability for loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Facility or the Land or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, demolishing, constructing, renovating, equipping, owning and leasing of the Facility, including without limiting the generality of the foregoing, all claims arising from the breach by the Company of any of its covenants contained herein, and all causes of action and attorneys' fees and any other expenses incurred in defending any claims, suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Agency are not incurred or do not result from the negligence or intentional or willful wrongdoing of the Agency, or any of its directors, members, agents (except the Company) or employees.

(b) Notwithstanding any other provisions of this Second Amended and Restated Leaseback Agreement, the obligations of the Company pursuant to this Section 5.2 shall remain in full force and effect after the termination of this Second Amended and Restated Leaseback Agreement until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all expenses and charges incurred by the Agency, or its respective members, directors, officers, agents and employees, relating to the enforcement of the provisions herein specified.

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

Section 5.3 Right to Inspect Facility.

The Agency and the duly authorized agents of the Agency shall have the right at all reasonable times to inspect the Facility. The Agency shall honor and comply with any restricted access policy of the Company relating to the Facility.

Section 5.4 Company to Maintain Its Existence.

The Company agrees that during the Lease Term it will maintain its existence, will not dissolve, liquidate or otherwise dispose of substantially all of its assets and will not consolidate with or merge into another corporation or permit one or more corporations to consolidate with or merge into it, except as otherwise provided for in the Second Amended and Restated Leaseback Agreement.

Section 5.5 Qualification in State.

The Company throughout the Lease Term shall continue to be duly authorized to do business in the State.

Section 5.6 Agreement to File Annual Statements and Provide Information.

The Company shall file with the New York State Department of Taxation and Finance an annual statement of the value of all sales and use tax exemptions claimed in connection with the Facility in compliance with Section 874(8) of the New York State General Municipal Law. The Company further agrees whenever requested by the Agency to provide and certify or cause to be provided and certified such information concerning the Company, their finances, their operations and their affairs necessary to enable the Agency to make any report required by law, governmental regulation or any of the Agency Documents.

Section 5.7 Books of Record and Account; Financial Statements.

The Company at all times agrees to maintain proper accounts, records and book in which full and correct entries shall be made, in accordance with generally accepted accounting principles, of all transactions and events relating to the business and affairs of the Company.

Section 5.8 Compliance With Orders, Ordinances, Etc.

(a) The Company, throughout the Lease Term, agrees that it will promptly comply, and cause any sublessee or occupant of the Facility to comply, with all statutes, codes, laws, acts, ordinances, orders, judgments, authorizations, directions and requirements, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Facility or any part thereof or to the acquisition, construction, renovation and equipping thereof, or to any use, manner of use or condition of the Facility or any part thereof, of all federal, state, county, municipal and other governments, departments, commissions, boards, courts, authorities, officials and officers and companies or associations insuring the premises having jurisdiction of

the Facility or any part thereof, or to the acquisition, construction, renovation and equipping thereof, or to any use, manner of use or condition of the Facility or any part thereof.

(b) The Company shall construct, equip, use, operate and manage the Facility, in accordance with all applicable Environmental Laws and Environmental Permits (as such terms are defined in the Environmental Compliance and Indemnification Agreement), and shall cause all operators, tenants, subtenants, licensees and occupants of the Facility to demolish, construct, equip, use, operate and manage the Facility in accordance with any applicable Environmental Laws and Environmental Permits, and shall not cause, allow or permit the Facility or any part thereof to be operated or used for the storage, treatment, generation, transportation, processing, handling, production, management or disposal of any Hazardous Substances other than in accordance with all applicable Environmental Laws and Environmental Permits. The Company shall obtain and comply with, and shall cause all contractors, subcontractors, operators, tenants, subtenants, licensees and occupants of the Facility to obtain and comply with, all Environmental Permits. The Company shall not cause or permit any change to be made in the present or intended construction, renovation, equipping, use or operation of the Facility which would (i) involve the storage, treatment, generation, transportation, processing, handling, management, production or disposal of any Hazardous Substance other than in accordance with any applicable Environmental Law, or the demolition, construction, equipping, use or operation of the Facility as a landfill or waste management or disposal site or for manufacturing or industrial purposes or for the storage of petroleum or petroleum based products other than in accordance with any applicable Environmental Law, (ii) violate any applicable Environmental Laws, (iii) constitute a violation or non-compliance with any Environmental Permit or (iv) increase the risk of a Release of any Hazardous Substance (as such terms are defined in the Environmental Compliance and Indemnification Agreement). The Company shall promptly provide the Agency with a copy of all notifications which the Company gives or receives with respect to environmental conditions at or in the vicinity of the Facility, any past or present Release or the threat of a Release of any Hazardous Substance on, at or from the Facility or any property adjacent to or within the immediate vicinity of the Facility. If the Company receives or becomes aware of any such notification that is not in writing or otherwise capable of being copied, the Company shall promptly advise the Agency of such verbal, telephonic or electronic notification and confirm such notice in writing. The Company shall undertake and complete all investigations, studies, sampling and testing and all removal or remedial actions necessary to contain, remove and clean up all Hazardous Substances that are or may become present at the Facility and are required to be removed and/or remediated in accordance with all applicable Environmental Laws and all Environmental Permits. The Company shall allow the Agency, its officers, members, employees, agents, representatives, contractors and subcontractors reasonable access to the Facility during regular business hours of the Company for the purposes of ascertaining the environmental conditions at, on or in the vicinity of the Facility, including, but not limited to, subsurface conditions. If at any time the Agency obtains any notice or information that the Company or the Facility or the demolition, construction, renovation, equipping, use or operation of the Facility may be in violation of an Environmental Law or in non-compliance with any Environmental Permit or standard, the Agency may require that a full or supplemental environmental inspection and audit report with respect to the Facility of a scope and level of detail reasonably satisfactory to the Agency be prepared by a professional environmental engineer or other qualified environmental scientist

acceptable to the Agency, at the Company's sole cost and expense. Said audit may, but is not required to or limited to, include a physical inspection of the Facility, a records search, a visual inspection of any property adjacent to or within the immediate vicinity of the Facility, personnel interviews, review of all Environmental Permits and the conduct of a scientific testing. If necessary to determine whether a violation of an Environmental Law exists, such inspection shall also include subsurface testing for the presence of Hazardous Substances in the soil, subsoil, bedrock, surface water and/or groundwater. If said audit report indicates the presence of any Hazardous Substance or a Release or Disposal (as such terms are defined in the Second Amended and Restated Environmental Compliance and Indemnification Agreement) or the threat of a Release or Disposal of any Hazardous Substance on, at or from the Facility, the Company shall promptly undertake and diligently pursue to completion all necessary, appropriate investigative, containment, removal, clean up and other remedial actions required by any Environmental Law, using methods recommended by the professional engineer or other environmental scientist who prepared said audit report and acceptable to the appropriate federal, state and local agencies or authorities. For purposes of this Section, "Hazardous Materials" includes, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Superfund Amendments and Reauthorization Act of 1986 (Pub.L. No. 99-499, 100 stat. 1613 (1986), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule, or regulation. The provisions of this Section shall be in addition to any and all other obligations and liabilities the Company may have to the Agency at common law or otherwise, and shall survive the transactions contemplated herein.

(c) The Company hereby covenants and agrees, at its sole cost and expense, to indemnify, protect, defend, save and hold harmless the Agency, its officers, directors, members, employees, agents and representatives acting in their official capacity, from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements or expenses (including, without limitation, attorneys' and experts' fees, expenses and disbursements, and attorneys' fees incurred to enforce the terms, conditions and provisions of this agreement) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against the Agency, its officers, members, employees, agents (except the Company), representatives, contractors and subcontractors relating to, resulting from or arising out of (i) the environmental conditions at, on or in the vicinity of the Facility, (ii) the demolition, construction, renovation, equipping, operation or use of the Facility in violation of any applicable Environmental Law for the storage, treatment, generation, transportation, processing, handling, management, production or disposal of any Hazardous Substance or as a landfill or other waste disposal site, or for military, manufacturing or industrial purposes or for the commercial storage of petroleum or petroleum based products, (iii) the presence of any Hazardous Substance or a Release or Disposal or the threat of a Release or Disposal of any Hazardous Substance or waste on, at or from the Facility, (iv) the failure to promptly undertake and diligently pursue to completion all necessary, appropriate and legally authorized investigative, containment, removal, clean up and other remedial actions with respect to a Release or the threat of a

Release of any Hazardous Substance on, at or from the Facility, required by any Environmental Law, (v) human exposure to any Hazardous Substance, noises, vibrations or nuisances of whatever kind to the extent the same arise from the condition of the Facility or the construction, equipping, ownership, use, sale, operation, conveyance or operation thereof in violation of any Environmental Law, (vi) a violation of any applicable Environmental Law, (vii) non-compliance with any Environmental Permit or (viii) a material misrepresentation or inaccuracy in any representation or warranty or a material breach of or failure to perform any covenant made by the Company in the Second Amended and Restated Environmental Compliance and Indemnification Agreement (collectively, the "Indemnified Matters").

(d) Notwithstanding the provisions of subsections (a), (b) and (c) hereof, the Company may in good faith contest the validity or the applicability of any requirement of the nature referred to in such subsections (a) and (b) by appropriate legal proceedings conducted in good faith and with due diligence. In such event, the Company may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom, unless the Agency shall notify the Company that by failure to comply with such requirement or requirements, the Facility or any part thereof may be subject to loss, penalty or forfeiture, in which event the Company shall promptly take such action with respect thereto or provide such security as shall be satisfactory to the Agency. If at any time the then existing use or occupancy of the Facility shall, pursuant to any zoning or other law, ordinance or regulation, be permitted only so long as such use or occupancy shall continue, the Company shall use its best efforts to not cause or permit such use or occupancy to be discontinued without the prior written consent of the Agency.

(e) Notwithstanding the provisions of this Section 5.8, if, because of a breach or violation of the provisions of subsections (a), (b) or (c) hereof (without giving effect to subsection (d) hereof), the Agency or any of its members, directors, officers, agents, or employees, shall be threatened with a fine, liability, expense or imprisonment, then, upon notice from the Agency, the Company shall immediately provide legal protection and/or pay amounts necessary in the opinion of the Agency and its members, directors, officers, agents and employees deem sufficient, to the extent permitted by applicable law, to remove the threat of such fine, liability, expense or imprisonment.

(f) Notwithstanding any provisions of this Section, the Agency retains the right to defend itself in any action or actions which are based upon or in any way related to such Hazardous Materials and Hazardous Substances. In any such defense of itself, the Agency shall select its own counsel, and any and all reasonably incurred costs of such defense, including, without limitation, attorney fees, court costs, and litigation expenses, shall be paid by the Company.

Section 5.9 Discharge of Liens and Encumbrances.

(a) The Company, throughout the Lease Term, shall not permit or create or suffer to be permitted or created any Lien, except for Permitted Encumbrances, upon the Facility or any part thereof by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied with respect to the Facility or any part thereof.

(b) Notwithstanding the provisions of subsection (a) hereof, the Company may in good faith contest any such Lien. In such event, the Company may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Agency shall notify the Company that by nonpayment of any such item or items, the Facility or any part thereof may be subject to loss or forfeiture, in which event the Company shall promptly secure payment of all such unpaid items by filing a bond, in form and substance satisfactory to the Agency, thereby causing such Lien to be removed or by taking such other actions as may be satisfactory to the Agency to protect their respective interests. Mechanics' Liens shall be discharged or bonded within thirty (30) days of the filing or perfection thereof.

Section 5.10 Depreciation Deductions and Investment Tax Credit.

The parties agree that, as between them, the Company shall be entitled to all depreciation deductions with respect to any depreciable property comprising a part of the Facility and to any investment credit with respect to any part of the Facility.

Section 5.11 Employment Opportunities, Notice of Jobs.

The Company covenants and agrees that, in consideration of the participation of the Agency in the transactions contemplated herein, it will, except as otherwise provided by collective bargaining contracts or agreements to which it is a party, cause any new employment opportunities created in connection with the Facility to be listed with the New York State Department of Labor, Community Services Division and with the administrative entity of the service delivery area created pursuant to the Job Training Partnership Act (PL 97-300) in which the Facility is located (collectively the "Referral Agencies"). The Company also agrees that it will, except as otherwise provided by collective bargaining contracts or agreements to which it is a party, first consider for such new employment opportunities persons eligible to participate in federal job training partnership (PL 97-300) programs who shall be referred by the Referral Agencies.

Section 5.12 Limitation of Liability of the Agency.

The liability of the Agency to the Company under this Second Amended and Restated Leaseback Agreement shall be enforceable only out of the Agency's interest under this Second Amended and Restated Leaseback Agreement, and there shall be no other recourse against the Agency, its officers, members, agents and employees, past, present or future, or any of the property now or hereafter owned by it or them.

ARTICLE VI

RELEASE OF CERTAIN LAND; ASSIGNMENTS AND SUBLEASING; PLEDGE OF INTERESTS

Section 6.1 Restriction on Sale of Facility; Release of Certain Land.

(a) Except as otherwise specifically provided in this Article VI and in Article VII hereof, the Agency shall not sell, convey, transfer, encumber or otherwise dispose of the Facility or any part thereof or any of its rights under this Second Amended and Restated Leaseback Agreement, without the prior written consent of the Company.

(b) The Agency and the Company from time to time may release from the provisions of this Second Amended and Restated Leaseback Agreement and the leasehold estate created hereby any part of, or interest in, the Land which is not necessary, desirable or useful for the Facility. In such event, the Agency, at the Company's sole cost and expense, shall execute and deliver, any and all instruments necessary or appropriate to so release such part of, or interest in, the Land and convey such title thereto or interest therein to the Company or such other Person as the Company may designate.

(c) No conveyance of any part of, or interest in the Land affected under the provisions of this Section 6.1 shall entitle the Company to any abatement or diminution of the rents payable by it under this Second Amended and Restated Leaseback Agreement.

Section 6.2 Removal of Equipment.

(a) The Agency shall not be under any obligation to remove, repair or replace any inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary item of Equipment. In any instance where the Company determines that any item of Equipment (except for the fixtures) has become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary, the Company with the prior written consent of the Agency (which consent may not be unreasonably withheld but may be subject to such conditions as the Agency may deem appropriate), may remove such items from the Facility and may sell, trade-in, exchange or otherwise dispose of the same, as a whole or in part, provided that such removal will not materially impair the operation of the Facility for the purpose for which it is intended or change the nature of the Facility so that it does not constitute a "project" under the Act.

(b) The Agency shall execute and deliver to the Company all instruments necessary or appropriate to enable the Company to sell or otherwise dispose of any such item of Equipment. The Company shall pay any costs (including counsel fees) incurred in transferring title to any item of Equipment removed pursuant to this Section 6.2.

(c) The removal of any item of Equipment pursuant to this Section shall not entitle the Company to any abatement or diminution of the rents payable by it under this Second Amended and Restated Leaseback Agreement.

Section 6.3 Assignment and Subleasing.

(a) This Second Amended and Restated Leaseback Agreement may not be assigned, in whole or in part, and the Facility may not be subleased, in whole or in part, without the prior written consent of the Agency in each instance. A transfer in excess of 50% of the equity voting interests of the Company shall be deemed an assignment and require the prior written consent of the Agency. Any assignment or sublease shall be on the following conditions, as of the time of such assignment or sublease:

(i) no assignment or sublease shall relieve the Company from primary liability for any of its obligations hereunder;

(ii) the assignee or sublessee shall assume the obligations of the Company hereunder to the extent of the interest assigned or subleased;

(iii) the Company shall, within (10) days after the delivery thereof, furnish or cause to be furnished to the Agency a true and complete copy of such assignment or sublease and the instrument of assumption;

(iv) neither the validity nor the enforceability of this Second Amended and Restated Leaseback Agreement shall be adversely affected thereby; and

(v) the Facility shall continue to constitute a "project" as such quoted term is defined in the Act.

(b) If the Agency shall so request, as of the purported effective date of any assignment or sublease pursuant to subsection (a) of this Section 6.3, the Company at its cost shall furnish the Agency, with an opinion, in form and substance satisfactory to the Agency, (i) of Transaction Counsel as to item (v) above, and (ii) of Independent Counsel as to item (iv) above.

Section 6.4 Pledge of Agency's Interests to Bank.

The Agency may be requested to pledge and assign its rights to and interest in this Second Amended and Restated Leaseback Agreement and in all amounts payable by the Company pursuant to Section 2.3 hereof and all other provisions of this Second Amended and Restated Leaseback Agreement (other than Unassigned Rights), to a lending institution. The Agency shall not unreasonably withhold its consent to such mortgage, pledge and assignment by the Agency. Notwithstanding the foregoing, all indemnities herein contained shall subsequent to such pledge and assignment continue to run to the Agency for its benefit.

Section 6.6 Merger of Agency.

(a) Nothing contained in this Second Amended and Restated Leaseback Agreement shall prevent the consolidation of the Agency with, or merger of the Agency into, or transfer of title to the entire Facility to any other public benefit corporation or political subdivision which has the legal authority to own and lease the Facility, provided that upon any such

consolidation, merger or transfer, the due and punctual performance and observance of all the agreements and conditions of this Second Amended and Restated Leaseback Agreement to be kept and performed by the Agency shall be expressly assumed in writing by the public benefit corporation or political subdivision resulting from such consolidation or surviving such merger or to which the Facility shall be transferred.

(b) Within thirty (30) days after the consummation of any such consolidation, merger or transfer of title, the Agency shall give notice thereof in reasonable detail to the Company and shall furnish to the Company, at the sole cost and expense of the Company, a favorable opinion of Independent Counsel as to compliance with the provisions of Section 6.6(a) hereof. The Agency promptly shall furnish such additional information with respect to any such transaction as the Company may reasonably request.

ARTICLE VII

EVENTS OF DEFAULTS AND REMEDIES

Section 7.1 Events of Default Defined.

(a) The following shall be "Events of Default" under this Lease Agreement:

(i) the failure by the Company to pay or cause to be paid on the date due, the amount specified to be paid pursuant to Section 2.6(a) and (b) hereof and upon failure to cure such default within five (5) days of receipt of notice as herein provided;

(ii) the failure by the Company to observe and perform any covenant contained in Sections 5.6 and 6.3 hereof;

(iii) any representation or warranty of the Company herein or in any of the Company's Documents shall prove to have been false or misleading in any material respect;

(iv) the failure by the Company to observe and perform any covenant, condition or agreement hereunder on their part to be observed or performed (except obligations referred to in 7.1(a)(i), (ii), and (iii)) for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, given to the Company by the Agency;

(v) the failure by the Company to release, stay, discharge, lift or bond within thirty (30) days any execution, garnishment, judgment or attachment of such consequence as may impair its ability to carry on its operations; or the failure by the Company generally to pay its debts as they become due; or an assignment by the Company for the benefit of creditors; the commencement by the Company (as the debtor) of a case in Bankruptcy or any proceeding under

any other insolvency law; or the commencement of a case in Bankruptcy or any proceeding under any other insolvency law against the Company (as the debtor) and a court having jurisdiction in the premises enters a decree or order for relief against the Company as the debtor in such case or proceeding, or such case or proceeding is consented to by the Company or remains undismissed for forty (40) days, or the Company consents to or admits the material allegations against it in any such case or proceeding; or a trustee, receiver or agent (however named) is appointed or authorized to take charge of substantially all of the property of the Company for the purpose of enforcing a lien against such Property or for the purpose of general administration of such Property for the benefit of creditors;

(vi) the invalidity, illegality or unenforceability of the Second Amended and Restated PILOT Agreement or the failure of the Company to make payments thereunder when due;

(vii) a breach of any covenant or representation contained in Section 5.8 hereof with respect to environmental matters; or

(viii) failure to maintain insurance as provided for in Section 3.4 and Section 3.5 herein.

(b) Notwithstanding the provisions of Section 7.1(a), if by reason of force majeure any party hereto shall be unable in whole or in part to carry out its obligations under Sections 2.2 and 3.1 of this Second Amended and Restated Leaseback Agreement and if such party shall give notice and full particulars of such force majeure in writing to the other party, within a reasonable time after the occurrence of the event or cause relied upon, such obligations under this Second Amended and Restated Leaseback Agreement of the party giving such notice (and only such obligations), so far as they are affected by such force majeure, shall be suspended during continuance of the inability, which shall include a reasonable time for the removal of the effect thereof. The term "force majeure" as used herein shall include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, acts, priorities or orders of any kind of the government of the United States of America or of the State or any of their departments, agencies, governmental subdivisions, or officials, any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fire, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accident to machinery, transmission pipes or canals, shortages of labor or materials or delays of carriers, partial or entire failure of utilities, shortage of energy or any other cause or event not reasonably within the control of the party claiming such inability and not due to its fault. The party claiming such inability shall remove the cause for the same with all reasonable promptness. It is agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the party having difficulty, and the party having difficulty shall not be required to settle any strike, lockout and other industrial disturbances by acceding to the demands of the opposing party or parties.

Section 7.2 Remedies on Default.

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

(i) declare, by written notice to the Company, to be immediately due and payable, whereupon the same shall become immediately due and payable: (A) all unpaid installments of rent payable pursuant to Section 2.6(a) and (b) hereof and (B) all other payments due under this Second Amended and Restated Leaseback Agreement; provided, however, that if an Event of Default specified in Section 7.1(a)(v) hereof shall have occurred, such installments of rent and other payments due under this Second Amended and Restated Leaseback Agreement shall become immediately due and payable without notice to the Company or the taking of any other action by the Agency;

(ii) terminate the leasehold interest in the Facility and terminate the Second Amended and Restated PILOT Agreement. The Agency shall have the right to execute an appropriate termination of this Second Amended and Restated Leaseback Agreement with respect to the Facility and to place the same on record in the Oneida County Clerk's Office, at the expense of the Company, and in such event the Company waives delivery and acceptance of such termination of this Second Amended and Restated Leaseback Agreement. The Company does hereby appoint the Agency as its true and lawful agent to execute such instruments and documents as may be necessary and appropriate to effectuate such termination as aforesaid. Such appointment of the Agency as the agent of the Company shall be deemed to be an agency coupled with an interest and such appointment shall be irrevocable;

(vi) take any other action at law or in equity which may appear necessary or desirable to collect the payments then due or thereafter to become due hereunder to enforce the obligations, agreements or covenants of the Company under this Second Amended and Restated Leaseback Agreement.

(b) No action taken pursuant to this Section 7.2 shall relieve the Company from its obligation to make all payments required hereunder.

(c) After an Event of Default shall have occurred, the Company shall have the right upon notice to the Agency to enter the Facility with agents or representatives of the Agency to remove any equipment or other personalty owned by the Company if such equipment or personalty is not part of the Facility.

Section 7.3 Remedies Cumulative.

No remedy herein conferred upon or reserved to the Agency is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Second Amended and Restated

Leaseback Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Agency to exercise any remedy reserved to it in this Article VII, it shall not be necessary to give any notice, other than such notice as may be herein expressly required in this Second Amended and Restated Leaseback Agreement.

Section 7.4 Agreement to Pay Attorneys' Fees and Expenses.

In the event the Company should default under any of the provisions of this Second Amended and Restated Leaseback Agreement and the Agency should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, on demand therefor, pay to the Agency the fees of such attorneys and such other expenses so incurred.

Section 7.5 No Additional Waiver Implied by One Waiver.

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

Section 7.6 Recapture.

The financial assistance granted by the Agency and the lease of the Facility are subject to a Jobs Creation and Recapture Agreement dated as of May 1, 2018 (the "Jobs Creation Agreement"), which is incorporated herein by reference.

ARTICLE VIII

EARLY TERMINATION OF SECOND AMENDED AND RESTATED LEASEBACK AGREEMENT;

OPTION IN FAVOR OF COMPANY

Section 8.1 Early Termination of Second Amended and Restated Leaseback Agreement.

(a) The Company shall have the option to terminate this Second Amended and Restated Leaseback Agreement at any time upon filing with the Agency a certificate signed by an Authorized Representative of the Company stating the Company's intention to do so pursuant to this Section and the date upon which such payments required by Section 8.2 hereof shall be made (which date shall not be less than 45 nor more than 90 days from the date such certificate is filed) and upon compliance with the requirements set forth in Section 8.2 hereof.

(b) The Agency shall have the option at any time to terminate this Second Amended and Restated Leaseback Agreement and to demand immediate payment in full of the rental reserved and unpaid as described in Section 2.6 hereof upon written notice to the Company of the occurrence of an Event of Default hereunder.

Section 8.2 Conditions to Early Termination of Second Amended and Restated Leaseback Agreement.

In the event the Company exercises its option to terminate this Second Amended and Restated Leaseback Agreement in accordance with the provisions of Section 8.1 hereof, the Company shall make the following payments:

(a) To the Agency or the Taxing Authorities (as such term is defined in the Second Amended and Restated PILOT Agreement), as appropriate pursuant to the terms of the Second Amended and Restated PILOT Agreement: (i) all amounts due and payable under the Second Amended and Restated PILOT Agreement as of the date of the conveyance described in Section 8.3 hereof and (ii) any amounts due and payable under the Jobs Creation Agreement, if any.

(b) To the Agency: an amount certified by the Agency sufficient to pay all unpaid fees and expenses of the Agency incurred under the Agency Documents.

Section 8.3 [Reserved].

Section 8.4 Conveyance on Termination.

Upon termination or expiration of the Lease Term in accordance with Sections 2.5 or 8.1 hereof, the Agency shall deliver to the Company all necessary documents (i) to terminate the Agency's leasehold interest in and to the Property, as such Property exists, subject only to the following: (A) any Liens to which title to such Property was subject when the leasehold interest was conveyed to the Agency, (B) any Liens created at the request of the Company, to the creation of which the Company consented or in the creation of which the Company acquiesced, (C) any Permitted Encumbrances and (D) any Liens resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Second Amended and Restated Leaseback Agreement or arising out of an Event of Default hereunder, and (ii) to release and convey to the Company all of the Agency's rights and interest in and to any rights of action or any Net Proceeds of insurance or Condemnation awards with respect to the Facility (but not including any Unassigned Rights). Upon the termination of the Agency's leasehold interest pursuant to this Article VIII, all Agency Documents shall terminate.

ARTICLE IX
MISCELLANEOUS

Section 9.1 Notices.

All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when delivered and, if delivered by mail, shall be sent by certified mail, postage prepaid, addressed as follows:

To the Agency: Oneida County Industrial Development Agency
584 Phoenix Drive
Rome, New York 13441
Attn.: Executive Director

With a Copy To: Bond, Schoeneck & King, PLLC
501 Main Street
Utica, New York 13501
Attn.: Linda E. Romano, Esq.

To the Company: Matt Brewing Co., Inc.
811 Edward Street
Utica, New York 13502
Attn.: Nicholas O. Matt, Chairman and CEO

With a Copy To: Matt Law Firm, PLC
258 Genesee Street, Suite 305
Utica, New York 13502
Attn.: F.X. Matt, Esq.

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

Section 9.2 Binding Effect.

This Second Amended and Restated Leaseback Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

Section 9.3 Severability.

In the event any provision of this Second Amended and Restated Leaseback Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 9.4 Amendments, Changes and Modifications.

This Second Amended and Restated Leaseback Agreement may not be amended, changed, modified, altered or terminated except in a writing executed by the parties hereto.

Section 9.5 Execution of Counterparts.

This Second Amended and Restated Leaseback Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Only possession of the counterpart marked "Secured Party's Original" shall be effective to perfect the rights of any holder of the Second Amended and Restated Leaseback Agreement as counterparts shall be marked "Duplicate" and no security interest therein can be created except by possession of the "Secured Party's Original" counterpart.

Section 9.6 Applicable Law.

This Second Amended and Restated Leaseback Agreement shall be governed exclusively by the applicable laws of the State without regard or reference to its conflict of laws principles.

Section 9.7 List of Additional Equipment; Further Assurances.

(a) Upon the Completion Date with respect to the Facility and the installation of all of the Equipment therein, the Company shall prepare and deliver to the Agency a schedule listing all of the Equipment not previously described in this Second Amended and Restated Leaseback Agreement. If requested by the Agency, the Company shall thereafter furnish to the Agency within sixty (60) days after the end of each calendar year, a schedule listing all of the Equipment not theretofore previously described herein or in the aforesaid schedule.

(b) The Agency and the Company shall execute and deliver all instruments and shall furnish all information necessary or appropriate to perfect or protect any security interest created or contemplated by this Second Amended and Restated Leaseback Agreement.

Section 9.8 Survival of Obligations.

This Second Amended and Restated Leaseback Agreement shall survive the performance of the obligations of the Company to make payments hereunder and all indemnities shall survive the foregoing and any termination or expiration of this Second Amended and Restated Leaseback Agreement.

Section 9.9 Table of Contents and Section Headings not Controlling.

The Table of Contents and the headings of the several Sections in this Second Amended and Restated Leaseback Agreement have been prepared for convenience of

reference only and shall not control or affect the meaning of or be taken as an interpretation of any provision of this Second Amended and Restated Leaseback Agreement.

Section 9.10 No Broker.

Agency and Company represent and warrant to the other that neither Agency nor Company has dealt with any broker or finder entitled to any commission, fee, or other compensation by reason of the execution of this Second Amended and Restated Leaseback Agreement, and each party agrees to indemnify and hold the other harmless from any charge, liability or expense (including attorneys' fees) the other may suffer, sustain, or incur with respect to any claim for a commission, fee or other compensation by a broker or finder claiming by, through or under the other party.

Section 9.11 Recording and Filing.

This Second Amended and Restated Leaseback Agreement or a memorandum thereof, shall be recorded or filed, as the case may be, in the Office of the Clerk of Oneida County, New York, or in such other office as may at the time be provided by law as the proper place for the recordation or filing thereof.

Section 9.12 Definitions.

All capitalized terms used in this Second Amended and Restated Leaseback Agreement and not otherwise defined shall have the meanings assigned thereto in the Schedule of Definitions attached hereto as Schedule A.

Section 9.13 This Document Controlling.

It is the intent of the Agency and the Company that the Leaseback Agreement be superseded in its entirety by this Second Amended and Restated Leaseback Agreement, except for the indemnities and guarantee of indemnities contained in the Leaseback Agreement, which shall survive.

[signature page follows]

IN WITNESS WHEREOF, the Company and the Agency have caused this **Second Amended and Restated Leaseback Agreement** to be executed in their respective names, all as of the date first above written.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

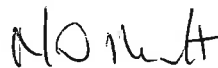
By:



David C. Grow
Chairman

MATT BREWING CO., INC.

By:



Nicholas O. Matt
Chairman and CEO

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

On the 9th day of May 2018 before me, the undersigned a notary public in and for said state, personally appeared **David C. Grow**, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

LAURA S. RUBERTO
Notary Public, State of New York
Appointed in Oneida County
Reg. No. 01RU5031396
Commission Expires August 1, 2018

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

On the 9th day of May 2018 before me, the undersigned a notary public in and for said state, personally appeared **Nicholas O. Matt**, 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

PAULETTE M. CONGDEN
Notary Public, State of New York
Reg. #01CO5022349
Qualified in Otsego County
My Commission Expires 1/10/20

Exhibit A

New Lot 1

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

Beginning at a point in the northerly street line of Court Street, said point being in the division line between the lands now or formerly Matt Brewing Co., Inc. as described in Deed Document 2011-012070 on the west and the lands now or formerly of Matt Brewing Co., Inc. on the east; thence along the said northerly street line of Court Street the following four (4) courses and distances: 1.) North 77 deg. 34 min. 17 sec. West a distance of 71.00 feet to a point; thence 2.) North 77 deg. 18 min. 29 sec. West a distance of 72.04 feet to a point; thence 3.) North 70 deg. 16 min. 42 sec. West a distance of 127.34 feet to a point; and 4.) North 63 deg. 41 min. 47 sec. West a distance of 4.56 feet to a point on the division line between the lands now or formerly Matt Brewing Co., Inc. as described in Deed Document 2011-015073 on the east and the lands now or formerly Jay Bodai MAA Foods, Inc. as described in Deed Document 2006-015960 on the west; thence North 26 deg. 41 min. 46 sec. East along said division line, a distance of 176.00 feet to a point on the division line between the said lands of Matt Brewing Co., Inc. (Deed Document 2011-015073) on the south and the lands now or formerly of Matt Brewing Co., Inc. on the north; thence South 63 deg. 40 min. 22 sec. East along the division line between the said lands of Matt Brewing Co., Inc. (Deed Document 2011-015073), the lands now or formerly Matt Brewing Co., Inc. as described in Deed Document 2012-004265 & the lands now or formerly Matt Brewing Co., Inc. as described in Deed Document 2012-004266, in part by each, on the south and the said lands Matt Brewing Co., Inc. on the north, a distance of 205.98 feet to a point on the division line between the said lands of Matt Brewing Co., Inc. (Deed Document 2011-012070) on the south and said lands Matt Brewing Co., Inc. on the north; thence South 77 deg. 34 min. 17 sec. East along said division line, a distance of 10.00 feet to a point on the said first mentioned division line between the said lands of Matt Brewing Co., Inc. (Deed Document 2011-012070) on the west and the said lands of Matt Brewing Co., Inc. on the east; thence along the said division line the following two (2) courses and distances: 1.) South 02 deg. 08 min. 17 sec. East a distance of 81.30 feet to a point; and 2.) South 12 deg. 25 min. 43 sec. West a distance of 60.00 feet to the point and place of beginning. Containing 39,407.15 square feet of lands, more or less.

LEGAL DESCRIPTION
OF
MATT BREWING CO., INC.
BREWERY

There is currently no formal legal description of the brewery. It must be remembered that the brewery was formed in 1888 and no current living brewery employee remembers a formal legal description. However, back in 1961, the brewery did hire a firm to put the brewery premises layout to paper. This description of the brewery premises is what follows along with its associated exhibit A and exhibit B so attached.

The entire premise is a single area in the city block surrounded by Edward Street, Varick Street, Schuyler Street, Columbia Street, and Wasmer Street in Utica, New York.

This one area is divided into two different sections on the plot sheets for depiction convenience.

The brewery also owns the closed off portion of Edwards Street that ran from Wasmer Street to Schuyler Street as depicted in each exhibit as deeded by the city of Utica to the Brewery.

**LEGAL DESCRIPTION
OF
MATT BREWING CO., INC.
BREWERY**

BREWERY PLAT ATTACHMENT

Exhibit A

This plat's area is depicted as follows:

It begins at Point A which is the southeast corner of the main office building at 811 Edward Street.

Thence northerly	328'	to point B
Thence northwest	287'	to point C
Thence southwest	323'	to point D
Thence southeast	65'	to point E
Thence southwest	21'	to point F
Thence southeast	238'	to point G
Thence southeasterly	35'	to point H
Thence southerly	145'	to point J
Thence southeasterly	185'	to point K
Thence easterly	34'	to point L
Thence northerly	129'	to point M
Thence easterly	110'	to point A

which is the beginning

**LEGAL DESCRIPTION
OF
MATT BREWING CO., INC.
BREWERY**

BREWERY PLAT ATTACHMENT

Exhibit B

This area is depicted as follows:

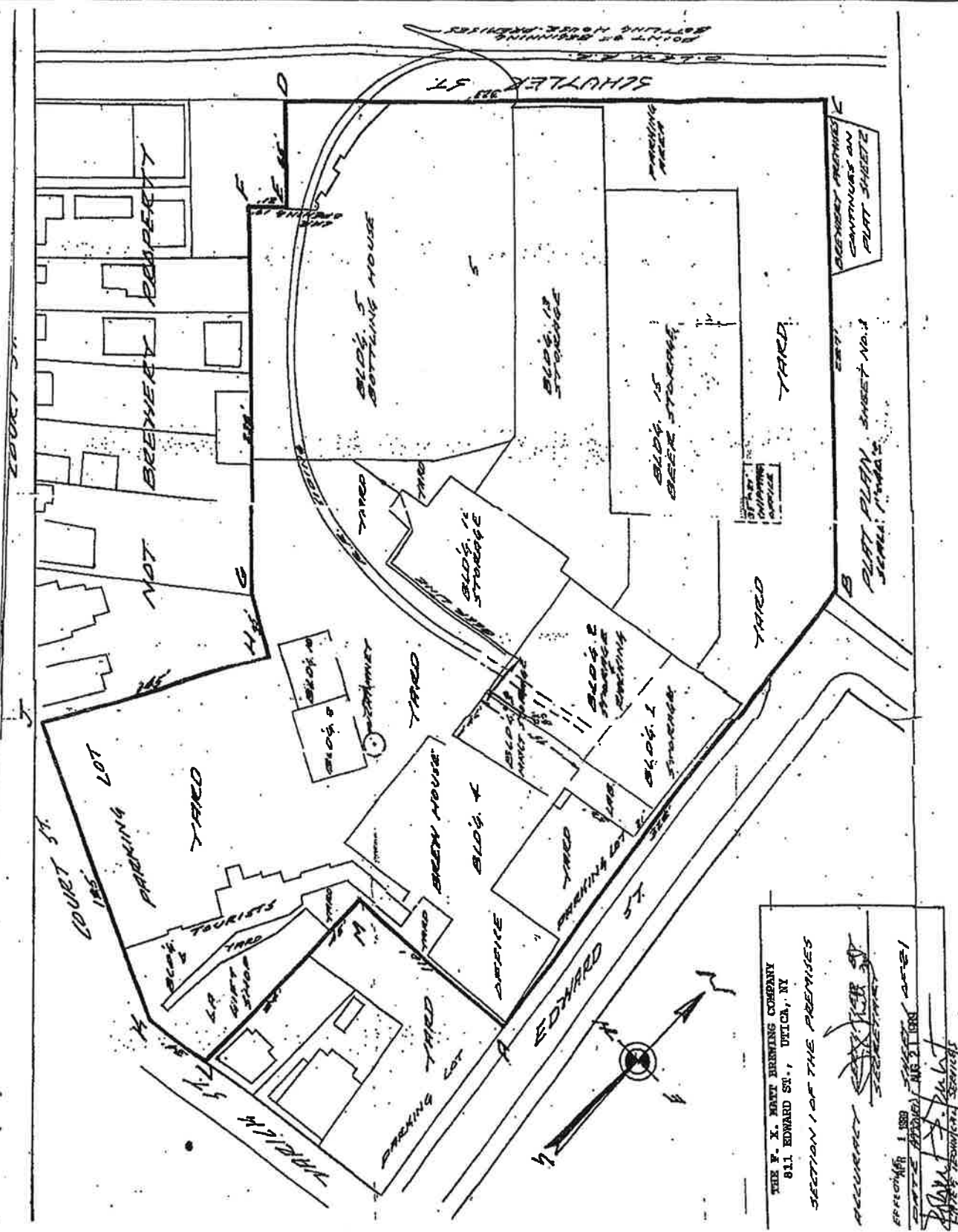
It begins at Point A which is the corner inside the sidewalk of the intersection of Schuyler Street and Columbia Street.

Thence southeast	101'	to point B
Thence southwest	59'	to point C
Thence southeast	162'	to point D
Thence northeast	59'	to point E
Thence southeast	154'	to point F
Thence southerly	30'	to point G
Thence southwesterly	167'	to point H
Thence southwesterly	41'	to point J
Thence westerly	122'	to point K
Thence northwest	340'	to point L
Thence northeast	295'	to point A

which is the beginning

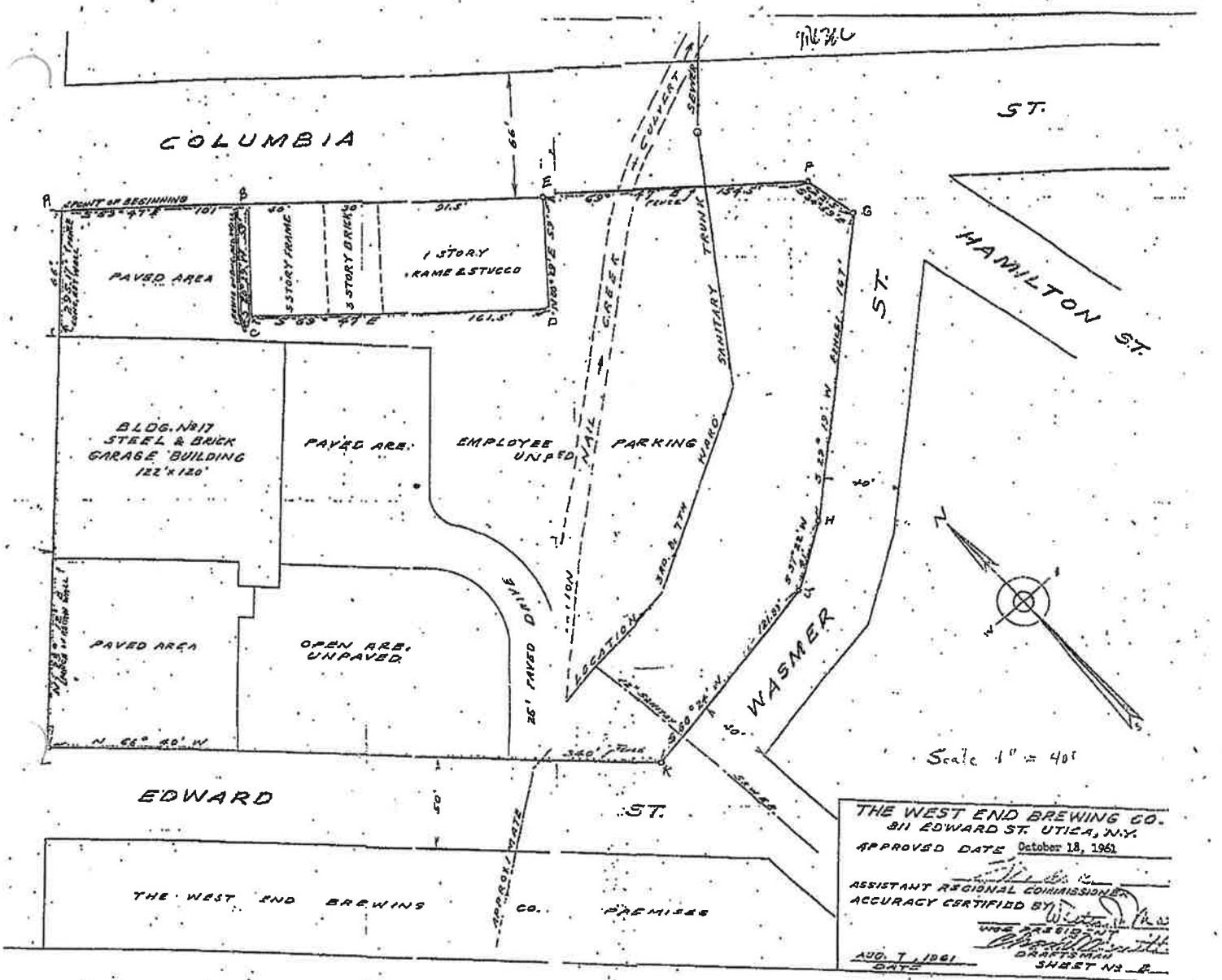
Exhibit B has no brewery operations but may be used for the storage of beer from time to time.

Exhibit A and Exhibit B adjoin at line B through C of Exhibit A and line L through K of Exhibit B.



THE F. X. MATT BREWING COMPANY
 811 EDWARD ST., UTICA, NY
 SECTION 1 OF THE PREMISES
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 APPROVED BY: [Signature]
 DATE: [Date]
 SCALE: 1/4" = 10'

Exhibit A to Legal Description



THE WEST END BREWING CO.
 311 EDWARD ST. UTICA, N.Y.
 APPROVED DATE October 18, 1961
 ASSISTANT REGIONAL COMMISSIONER
 ACCURACY CERTIFIED BY [Signature]
 AUG. 1, 1961
 SHEET NO. 2

PL PLAN
 SC. 1" = 40'

Exhibit B to Legal Description

Matt Brewing Co., Inc.
Property Descriptions of the Parcels Consolidated into the
“Edward Street Land”

806 Edward Street

All that tract or parcel of land situate in the City of Utica, County of Oneida and State of New York and known and distinguished as being part of Lots Nos. 11 and 12, as laid down on map of property formerly belonging to Smith Shultze and Co. and filed in Oneida Co. Clerk's Office. Said premises are more particularly described as follows:

Beginning at a point on the easterly side of Edward Street distant 86 feet northerly from Varick Street and running thence northerly along Edward Street 34 feet to the southerly line of Lot No. 15, as shown on said map, thence easterly at right angles to Edward Street and along the southerly line of said Lot No. 15, 54 feet to the westerly line of land sold to Quentin Young, by Edward Curran and wife and Alrick Hubbell and wife by deed dated February 23, 1847 and recorded on April 23, 1851 in Oneida Co. Clerk's Office in Book 157 of Deeds at page 121, thence south along said last mentioned line 34 feet, thence westerly in a direct line 54 feet to place of beginning.

Said Map filed in the Oneida County Clerk's Office on October 13, 1838 in Book of Maps No. One at page 54.

808 Edward Street

ALL THAT TRACT PARCEL OF LAND situate in the City of Utica, County of Oneida, State of New York, described as follows: to wit: Lot No. 15 as laid out on a map of property formerly belonging to Smith Schultz & Co. in this city. Said lot is 25 ft. front on Edward St. as laid out on said map and extends back to land of Johnson and others; the map above referred to was filed in the Oneida Co. Clerk's Office Oct. 13, 1838

810 Edward Street

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, with the buildings and improvements thereon erected, situate, lying and being in the City of Utica, County of Oneida and State of New York, described as follows, viz: Lot Number Sixteen (16) and the southerly half of Lot Number Seventeen (17), as they are designated on a Map of property formerly belonging to Smith Schultz & Co., filed in the Oneida County Clerk's Office October 13, 1838 in Book 1 of Maps at Page 54. Said Lot Number Sixteen (16) is 25 feet wide in front and rear, and the southerly half of Lot Seventeen (17) is 12 ½ feet wide in front and rear. Both of said lots front on Edward Street in said City.

Matt Brewing Co., Inc.
Property Descriptions of the Parcels Consolidated into the
“Edward Street Land”

814 Edward Street

814 Edward Street

318.32-2-38

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

All of Lot No. Eighteen (18) and the northerly half part of Lot No. Seventeen (17), as laid down on a Map of lots made for Smith Schultz and Co., which Map is now on file in the Office of the Clerk of Oneida County. The above lots are situate on the easterly side of Edward Street in the City of Utica and make together a lot thirty-seven and one-half feet front on Edward Street about thirty-seven and one-half feet in rear and extending in depth from Edward Street to lands formerly owned by A.B. Johnson and others.

605 Wasmer Street

605 Wasmer Street

318.32-2-33

816 Edward Street

ALL THAT TRACT PARCEL OF LAND situate in the City of Utica, County of Oneida, State of New York, bounded and described as follows: Bounded to wit: Beginning at a point located on the northerly line of Edward Street at 220 ft. westerly of the westerly line of Varick Street, running thence from said point of beginning and along the northerly line of Edward Street 30 ft. to an iron spike; running thence in a northeasterly direction 64 ft. to an iron pipe; running thence in a southeasterly direction 30 ft to an iron pipe; running thence southwesterly 64 ft. to an iron pipe marking the point of beginning. The intent is to describe a parcel of land 30 ft. front and rear and 64 ft. deep, located on the northerly side of Edward.

For more particular description, refer to a Survey Map entitled Olczyk & Rafalsky, made by AA Santucci, L.S., dated June 8, 1954. Said Map to be filed in the County Clerk's Office, Oneida County, Utica, New York.

Matt Brewing Co., Inc.
Property Descriptions of the Parcels Consolidated into the
“Edward Street Land”

818 Edward Street

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Utica, County of Oneida, State of New York, bounded and described as follows: Bounded to wit:

Beginning at an iron pipe, said pipe being 64 ft. Northerly from the North line of Edwards Street and 220 ft. Westerly from the Westerly line of Varick Street running thence from said point of beginning 30 ft. in a Northwesterly direction to an iron pipe; thence running in a Northeasterly direction; 70.1 ft. more or less, to an iron post located at an old wooden fence line; running thence in a Southeasterly direction along fence 30 ft. to a wooden post; running thence in a Southwesterly direction 67.3 ft. more or less, to an iron pipe, marking the point of beginning.

The intent is to describe a parcel of land 70.1 ft. on the Westerly side and 67.3 ft. on the Easterly side.

For more particular description, refer to a Survey Map entitled Olczyk & Rafalski, made by A. A. Santucci, L.S. dated June 8, 1954. Said map to be filed in the County Clerk's Office, Oneida County, Utica, New York.

820 Edward Street

All that tract or parcel of land situate in the City of Utica, County of Oneida and State of New York, being a part of Lot No. 20 as laid out on a map of property belonging to Smith, Shultz & Co., filed in the office of the Clerk of Oneida County, October 13, 1838, said Lot No. 20 being originally 25 feet wide in front on the northerly side of Edward Street and running back the same width on its easterly line one hundred twenty-eight (128) feet and on its westerly line one hundred thirty (130) feet, excepting a strip of land five (5) feet in width, taken from said lot No. 20 adjoining the northerly line of Lot No. 19 of the same map.

**BEING THE SAME PREMISES conveyed to the party of the first
part by Warranty Deed dated and recorded Jan. 6, 2010 in the
Oneida County Clerk's Office at Instrument No.: 2011-007776.**

822 Edward Street

301600 318.32-2-42 NV 2008
PINEDA OSCAR \$452.79
EDWARD ST
3-14-06-019 25X132

318.032-0002-042, 000/0000

All that tract or parcel of land situate in the City of Utica, County of Oneida, State of New York and described as follows:

Laid out on a map of City lots duly filed in the Clerk's Office of Oneida County of property formerly belonging to Smith, Schultz & Co. as Lot Number Twenty-One (21) and is twenty-five feet front on Edward Street, the same width in rear and is about one hundred and thirty feet deep, measuring from the centre of Edward Street.

Matt Brewing Co., Inc.
Property Descriptions of the Parcels Consolidated into the
“Edward Street Land”

824 Edward Street

All that tract or parcel of land situate in the City of Utica, County of Oneida and State of New York, known as Lot No. Twenty Two as described on a map of property formerly belonging to Smith, Schultz & Co., filed in Oneida County Clerk's Office October 13, 1838. Said Lot No. Twenty Two is situate on the northerly side of Edward St. and is twenty-five feet wide in front, one hundred thirty two feet deep on its easterly side and one hundred thirty four feet deep on its westerly side.

826 Edward Street

ALL that tract, parcel, or piece of land situate in the City of Utica, County of Oneida, and State of New York, bounded and described as follows:

All that certain lot or parcel of land known as Lot No. 23 as laid out on a map of property formerly belonging to Smith, Shuts & Co. in the City of Utica, which map was filed in the Oneida County Clerk's Office on October 13, 1838, (1/54) being 25 ft. front on Edward St., and extending back on the northerly line 136 ft. from said Edward St., and on the southerly line parallel to said northerly line 134 ft. to land now or formerly owned by A.B. Johnson, and others as laid out on said map.

828 Edward Street

All that certain plot, piece or parcel of land, with buildings and improvements thereon erected, situate, lying and being in the City of Utica, County of Oneida and State of New York known and distinguished as:

All that lot of land Number twenty four (24) on a map of the property belonging to Smith Shultz & Co. filed in the Office of the Clerk of Oneida County Oct. 13, 1838. Said lot is 25 ft. front and rear and is bounded northerly by Lot No. 25 easterly by land now or formerly of Johnson and others; southerly by Lot No. 23 and westerly by Edward Street as laid down on said Map.

830 Edward Street

All that lot of land situate in the City of Utica, Oneida County, N.Y., known as Lot No. 25 as laid down on a map of property in the City of Utica belonging to Smith Shultze & Co., filed in the Office of the Clerk of the County of Oneida on October 13, 1838. Said lot is 25 feet front on Edward Street and extends back to land now or formerly owned by Johnson and others.

EXHIBIT B

EQUIPMENT

All fixtures, building materials and items of personal property constructed, renovated and installed and/or to be constructed, renovated and installed in connection with the completion of the Matt Brewing Co., Inc. Existing Facility, the AFBF Facility and the 2018 Facility located in the City of Utica, Oneida County, New York, excluding all production machinery and equipment.

EXHIBIT C

EXCEPTIONS TO COMPANY'S REPRESENTATIONS AND WARRANTIES

Section 1.2(f)

Matt Brewing Co. vs Pagano et al.: In this action, the Company has brought suit to resolve a challenge made to its ownership of and to real property (i.e. 834, 900 and 904 Court Street) on which certain aspects of the operation are located. The suit seeks to "quiet title" and declare invalid a challenge made by a former owner (twice removed) of the property. The former owner alleges that the title held by the predecessor owner to the Company was invalid.

The parties have engaged in written and testimonial discovery, and also completed certain motions and attended court conferences. Following the completion of the discovery, the Company filed a motion for summary judgment to prevail on its claims and to dismiss the claims and defenses raised by the prior owner. The Court granted the Company's summary judgment motion. The decision was appealed by the prior owner.

The Company's response to the title challenge has been proactive and appropriate. The Company is preparing to file a motion to dismiss the appeal for failure to prosecute as the Defendant is past the deadline.

SCHEDULE A

SCHEDULE OF DEFINITIONS

"Act" means, collectively, Title 1 of Article 18-A of the General Municipal Law of the State enacted into law as Chapter 1030 of the Laws of 1969 of the State, as amended together with Chapter 372 of the Laws of 1970 of the State, as amended.

"Addition" means the 16,640± square foot addition to the Existing Improvements.

"2018 Equipment" means all machinery, equipment and other personal property used and to be used in connection with the construction, renovation and equipping of the 2018 Facility as described in Exhibit B to the Second Amended and Restated Leaseback Agreement, excluding all production machinery and equipment.

"2018 Facility" means the Edward Street Land, the 2018 Improvements and the 2018 Equipment leased to the Company under the Second Amended and Restated Leaseback Agreement.

"2018 Improvements" means (a) construction of a 15,000± square foot fermenting and aging cellar (the "Aging Cellar") situated on a 1± acre vacant parcel of land located at 806 – 832 (consolidated to 814) Edward Street, City of Utica, New York (the "Edward Street Land"); (b) construction on the Existing Land of a two-story, 4,800 square foot addition to the existing brew house (the "Brew House Addition"); (c) construction of an overhead pipe bridge over Edward Street to connect the Aging Cellar with the Existing Facility (the "Pipe Bridge"); (d) removal of a portion of the parking lot and restriping of the parking lot (i) affixed or attached to or to be constructed on the Land and (ii) not part of the 2018 Equipment, all as they may exist from time to time.

"2018 Project" means the construction, renovation and equipping by the Company of the 2018 Facility.

"AFBD Equipment" means all machinery, equipment and other personal property used and to be used in connection with the construction, renovation and equipping of the AFBD Facility as described in Exhibit B to the Second Amended and Restated Leaseback Agreement, excluding all production machinery and equipment.

"AFBD Facility" means the AFBD Land, the AFBD Improvements and the AFBD Equipment leased to the Company under the Second Amended and Restated Leaseback Agreement.

"AFBD Improvements" means the compact Anaerobic Fluidized Bed Digester system for wastewater treatment and on-site energy generation and the small control building (i) affixed or attached to the or to be constructed on the AFBD Land and (ii) not part of the AFBD Equipment, all as they may exist from time to time.

"AFBD Land" means the AFBD Land leased by the Company to the Agency pursuant to the AFBD Lease Agreement and more particularly described in Exhibit A

attached thereto and leased by the Agency to the Company pursuant to the First Amended and Restated Leaseback Agreement.

"AFBD Lease Agreement" means the AFBD Lease Agreement dated as of May 1, 2012 by and between the Company, as lessor, and the Agency, as lessee, with respect to the AFBD Facility, as the same may be amended from time to time.

"AFBD Project" means the construction, renovation and equipping by the Company of the AFBD Facility.

"Agency" means the (i) Oneida County Industrial Development Agency, its successors and assigns, and (ii) any local governmental body resulting from or surviving any consolidation or merger to which the Agency or its successors may be a party.

"Agency Documents" means the Lease Agreement, the AFBD Lease Agreement, the Edward Street Lease Agreement, the Second Amended and Restated Leaseback Agreement, the Second Amended and Restated PILOT Agreement and the Second Amended and Restated Environmental Compliance and Indemnification Agreement.

"Authorized Representative" means, in the case of the Agency, the Chairman, Vice Chairman, Secretary, Assistant Secretary or Executive Director of the Agency; in the case of the Company, its Chairman and CEO; and in the case of both, such additional persons as, at the time, are designated to act on behalf of the Agency or the Company, as the case may be, by written certificate furnished to the Agency or the Company, as the case may be, containing the specimen signature of each such person and signed on behalf of (i) the Agency by the Chairman, Vice Chairman, Secretary, Assistant Secretary or Executive Director of the Agency and (ii) the Company by Nicholas O. Matt.

"Authorizing Resolution" means the resolutions adopted by the Agency on the 20th day of November 2008 with respect to the Existing Facility, on July 21, 2011 and September 16, 2011 with respect to the AFBD Facility and on November 17, 2017 with respect to the 2018 Facility authorizing the execution and delivery of the Agency Documents as such resolutions may be amended and supplemented from time to time.

"Business Day" means any day other than a Saturday, a Sunday, a legal holiday or a day on which banking institutions in New York, New York are authorized by law or executive order to remain closed.

"Closing Date" means the date of delivery of the Second Amended and Restated Leaseback Agreement.

"Company" means Matt Brewing Co., Inc., a New York corporation with an address of 811 Edward Street, Utica, New York 13502, and its successors and assigns.

"Company Documents" means the Lease Agreement, the AFBD Lease Agreement, the Edward Street Lease Agreement, the Second Amended and Restated Leaseback Agreement, the Second Amended and Restated Environmental Compliance and Indemnification Agreement, the Second Amended and Restated PILOT Agreement and the Jobs Creation Agreement.

"Completion Date" means the date of completion of the 2018 Facility.

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

"Construction Period" means the period (a) beginning on the earlier of (i) the date of commencement of construction, renovation and equipping of the 2018 Facility, which date shall not be prior to October 20, 2017, or (ii) the Closing Date and (b) ending on the Completion Date.

"Environmental Compliance and Indemnification Agreement" means the Environmental Compliance and Indemnification Agreement dated July 1, 2009 by and between the Agency and the Company, as the same may be amended from time to time.

"Edward Street Land" means the land leased by the Company to the Agency pursuant to the Edward Street Lease Agreement and more particularly described in Exhibit A attached thereto and leased by the Agency to the Company pursuant to the Second Amended and Restated Leaseback Agreement.

"Edward Street Lease Agreement" means the Edward Street Lease Agreement dated as of May 1, 2018 by and between the Company, as lessor, and the Agency, as lessee, with respect to the 2018 Facility, as the same may be amended from time to time.

"Equipment" means all machinery, equipment and other personal property used and to be used in connection with the construction and equipping of the Existing Facility, the AFBD Facility and the 2018 Facility as described in Exhibit B to the Second Amended and Restated Leaseback Agreement, excluding all production machinery and equipment.

"Event of Default" means any of the events defined as Events of Default by Section 7.1 of the Second Amended and Restated Leaseback Agreement.

"Existing Equipment" means all machinery, equipment and other personal property used and to be used in connection with the construction and equipping of the Existing Facility as described in Exhibit B to the Second Amended and Restated Leaseback Agreement, excluding all production machinery and equipment.

"Existing Facility" means the Existing Land, the Existing Improvements and the Existing Equipment leased to the Company under the Second Amended and Restated Leaseback Agreement.

"Existing Improvements" means the 15,000± square foot bottling facility and the 25,000± square foot finished goods warehouse facility (i) affixed or attached to the or to be constructed on the Existing Land and (ii) not part of the Existing Equipment, all as they may exist from time to time.

"Existing Land" means the Existing Land leased by the Company to the Agency pursuant to the Lease Agreement and more particularly described in Exhibit A

attached thereto and leased by the Agency to the Company pursuant to the Second Amended and Restated Leaseback Agreement.

"Existing Project" means the construction, renovation and equipping by the Company of the Existing Facility.

"Facility" means the Existing Facility and the 2018 Facility leased to the Company under the Second Amended and Restated Leaseback Agreement.

"Facility Services" means all services necessary for the acquisition, demolition, construction, renovation and equipping of the Facility.

"First Amended and Restated Environmental Compliance and Indemnification Agreement" means the First Amended and Restated Environmental Compliance and Indemnification Agreement dated May 1, 2012 by and between the Agency and the Company, as the same may be amended from time to time.

"First Amended and Restated Leaseback Agreement" means the First Amended and Restated Leaseback Agreement dated as of May 1, 2012 by and between the Agency, as lessor, and the Company, as lessee, with respect to the Facility, as the same may be amended from time to time.

"First Amended and Restated PILOT Agreement" means the First Amended and Restated Payment-in-Lieu-of-Tax Agreement dated as of May 1, 2012 between the Company and the Agency, as amended from time to time.

"Hazardous Substance" means, without limitation, any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), Articles 15 and 27 of the New York State Environmental Conservation Law or any other applicable Environmental Law and the regulations promulgated thereunder.

"Improvements" means, collectively, the Existing Improvements, the AFBD Improvements and the 2018 Improvements (i) affixed or attached to or to be constructed on the Land and (ii) not part of the Equipment, all as they may exist from time to time.

"Independent Counsel" means an attorney or attorneys or firm or firms of attorneys duly admitted to practice law before the highest court of any state of the United States of America or in the District of Columbia and not a full time employee of the Agency or the Company.

"Jobs Creation Agreement" means the Jobs Creation and Recapture Agreement dated as of May 1, 2018 by the Company for the benefit of the Agency, as the same may be amended from time to time.

"Land" means the Existing Land, the AFBD Land and the Edward Street Land leased by the Agency to the Company pursuant to the Second Amended and Restated Leaseback Agreement and more particularly described in Exhibit A attached thereto.

"Lease Agreement" means the Lease Agreement dated as of July 1, 2009 by and between the Company, as lessor, and the Agency, as lessee, with respect to the Existing Facility, as the same may be amended from time to time.

"Lease Term" means the duration of the leasehold estates created in the Lease Agreement, the AFBD Lease Agreement and the Edward Street Lease Agreement as specified in Section 3 of the Lease Agreement, the AFBD Lease Agreement and the Edward Street Lease Agreement and shall be coterminous with the term of the Second Amended and Restated Leaseback Agreement.

"Leaseback Agreement" means the Leaseback Agreement dated as of July 1, 2009 by and between the Agency, as lessor, and the Company, as lessee, with respect to the Existing Facility, as the same may be amended from time to time.

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

"Permitted Encumbrances" means (i) exceptions to title set forth in the Title Report, (ii) the Second Amended and Restated Leaseback Agreement, (iii) utility, access and other easements and rights-of-way, restrictions and exceptions that do not materially impair the utility or the value of the Property affected thereby for the purposes for which it is intended, (iv) mechanics', materialmen's, warehousemen's, carriers' and other similar Liens which are approved in writing by the Agency or its Counsel, and (v) Liens for taxes not yet delinquent.

"Person" or "Persons" means an individual, partnership, corporation, trust or unincorporated organization, and a government or agency or political subdivision or branch thereof.

"PILOT Agreement" means the Payment-in-Lieu-of-Tax Agreement dated as of July 1, 2009 between the Company and the Agency, as amended from time to time.

"Plans and Specifications" means the plans and specifications for (a) the Existing Facility, prepared for the Company and approved by the Agency in accordance with the Leaseback Agreement; (b) the AFBD Facility, prepared for the Company and approved

by the agency in accordance with the First Amended and Restated Leaseback Agreement and (c) the 2018 Facility, prepared for the Company and approved by the Agency, as revised from time to time in accordance with the Second Amended and Restated Leaseback Agreement.

"Project" means the Existing Project, the AFBF Project and the 2018 Project.

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

"Public Purposes" shall mean the State's objective to create industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and to empower such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial, recreation or industrial facilities, including industrial pollution control facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living.

"Schedule of Definitions" means the words and terms set forth in this Schedule of Definitions attached to this Second Amended and Restated Leaseback Agreement, as the same may be amended from time to time.

"Second Amended and Restated Environmental Compliance and Indemnification Agreement" means the Second Amended and Restated Environmental Compliance and Indemnification Agreement dated May 1, 2018 by and between the Agency and the Company, as the same may be amended from time to time.

"Second Amended and Restated Leaseback Agreement" means the Second Amended and Restated Leaseback Agreement dated as of May 1, 2018 by and between the Agency, as lessor, and the Company, as lessee, with respect to the Facility, as the same may be amended from time to time.

"Second Amended and Restated PILOT Agreement" means the Second Amended and Restated Payment-in-Lieu-of-Tax Agreement dated as of May 1, 2018 between the Company and the Agency, as amended from time to time.

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

"State" means the State of New York.

"Substitute Facilities" means facilities of substantially the same nature as the proposed Facility.

"Transaction Counsel" means the law firm of Bond, Schoeneck & King, PLLC.

"Transaction Documents" means the Agency Documents and the Company Documents.

"Unassigned Rights" means the rights of the Agency and moneys payable pursuant to and under Sections 2.6(b), 3.4(b) and (c), 3.7, 5.2, 5.8, 7.2(a)(v), 7.2(a)(vi), 7.4 and 8.2(b) of this Second Amended and Restated Leaseback Agreement.



ONEIDA COUNTY – STATE OF NEW YORK
SANDRA J. DEPERNO COUNTY CLERK
800 PARK AVENUE, UTICA, NEW YORK 13501

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



INSTRUMENT #: R2018-000602

Receipt#: 2018842469
Clerk: LG
Rec Date: 05/16/2018 02:07:37 PM
Doc Grp: MR
Descrip: LEASE (ANY)
Num Pgs: 15

Party1: ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY
Party2: MATT BREWING CO INC
Town: UTICA

Recording:

Cover Page	20.00
Number of Pages	75.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00

Sub Total: 120.00

Transfer Tax	
Transfer Tax	0.00

Sub Total: 0.00

Total: 120.00

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

***** Transfer Tax *****

Transfer Tax #: 5422
Transfer Tax
Consideration: 0.00

Total: 0.00

Record and Return To:

BOND SCHOENECK & KING PLLC
501 MAIN STREET
UTICA NEW YORK 13501

WARNING***

I hereby certify that the within and foregoing was recorded in the Oneida County Clerk's Office, State of New York. This sheet constitutes the Clerks endorsement required by Section 316 of the Real Property Law of the State of New York.

Sandra J. DePerno
Oneida County Clerk

Memorandum of Second Amended and Restated Leaseback Agreement

This MEMORANDUM OF SECOND AMENDED AND RESTATED LEASEBACK AGREEMENT dated as of May 1, 2018, by and between **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices at 584 Phoenix Drive, Rome, New York 13441 (the "Agency") and **MATT BREWING CO., INC.**, a corporation duly organized and validly existing under the laws of the State of New York with an address of 811 Edward Street, Utica, New York 13502 (the "Company").

The Agency and the Company entered into a Second Amended and Restated Leaseback Agreement dated as of May 1, 2018 (the "Second Amended and Restated Leaseback Agreement") whereby the Agency leases to the Company premises described in Exhibit A attached hereto and made a part hereof and equipment described in Exhibit B attached hereto and made a part hereof.

The Second Amended and Restated Leaseback Agreement provides for the rental of the premises by the Agency to the Company for a term commencing the 1st day of July 2009 and terminating at 11:59 p.m. on June 30, 2029 (the "Lease Term").

The Second Amended and Restated Leaseback Agreement is available for inspection during normal business hours at the offices of the Agency indicated above.

This Memorandum of Second Amended and Restated Leaseback Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[signature page follows]

Record and Return to:
Bond, Schoeneck & King, PLLC
501 Main Street
Utica NY 13501

2018842469 Clerk: LG

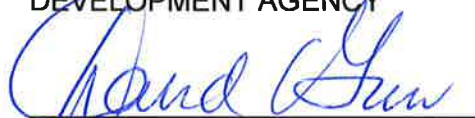
R2018-000602
05/16/2018 02:07:37 PM
LEASE (ANY)
15 Pages
Sandra J. DePerno, Oneida County Clerk

3128735.2 5/8/2018

IN WITNESS WHEREOF, the Agency and the Company have caused this **Memorandum of Second Amended and Restated Leaseback Agreement** to be executed in their respective names on May 9, 2018.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

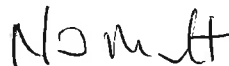
By:



David C. Grow
Chairman

MATT BREWING CO., INC.

By:



Nicholas O. Matt
Chairman and CEO

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

On the 9th day of May 2018 before me, the undersigned a notary public in and for said state, personally appeared **David C. Grow**, 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.

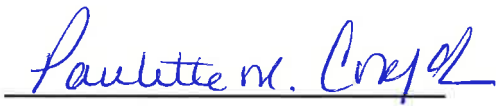


Notary Public

LAURA S. RUBERTO
Notary Public, State of New York
Appointed in Oneida County
Reg. No. 01RU5031396
Commission Expires August 1, 2018

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

On the 9th day of May 2018 before me, the undersigned a notary public in and for said state, personally appeared **Nicholas O. Matt**, 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

PAULETTE M. CONGDEN
Notary Public, State of New York
Reg. #01CO5022349
Qualified in Otsego County
My Commission Expires 1/10/22

Exhibit A

New Lot 1

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

Beginning at a point in the northerly street line of Court Street, said point being in the division line between the lands now or formerly Matt Brewing Co., Inc. as described in Deed Document 2011-012070 on the west and the lands now or formerly of Matt Brewing Co., Inc. on the east; thence along the said northerly street line of Court Street the following four (4) courses and distances: 1.) North 77 deg. 34 min. 17 sec. West a distance of 71.00 feet to a point; thence 2.) North 77 deg. 18 min. 29 sec. West a distance of 72.04 feet to a point; thence 3.) North 70 deg. 16 min. 42 sec. West a distance of 127.34 feet to a point; and 4.) North 63 deg. 41 min. 47 sec. West a distance of 4.56 feet to a point on the division line between the lands now or formerly Matt Brewing Co., Inc. as described in Deed Document 2011-015073 on the east and the lands now or formerly Jay Bodai MAA Foods, Inc. as described in Deed Document 2006-015960 on the west; thence North 26 deg. 41 min. 46 sec. East along said division line, a distance of 176.00 feet to a point on the division line between the said lands of Matt Brewing Co., Inc. (Deed Document 2011-015073) on the south and the lands now or formerly of Matt Brewing Co., Inc. on the north; thence South 63 deg. 40 min. 22 sec. East along the division line between the said lands of Matt Brewing Co., Inc. (Deed Document 2011-015073), the lands now or formerly Matt Brewing Co., Inc. as described in Deed Document 2012-004265 & the lands now or formerly Matt Brewing Co., Inc. as described in Deed Document 2012-004266, in part by each, on the south and the said lands Matt Brewing Co., Inc. on the north, a distance of 205.98 feet to a point on the division line between the said lands of Matt Brewing Co., Inc. (Deed Document 2011-012070) on the south and said lands Matt Brewing Co., Inc. on the north; thence South 77 deg. 34 min. 17 sec. East along said division line, a distance of 10.00 feet to a point on the said first mentioned division line between the said lands of Matt Brewing Co., Inc. (Deed Document 2011-012070) on the west and the said lands of Matt Brewing Co., Inc. on the east; thence along the said division line the following two (2) courses and distances: 1.) South 02 deg. 08 min. 17 sec. East a distance of 81.30 feet to a point; and 2.) South 12 deg. 25 min. 43 sec. West a distance of 60.00 feet to the point and place of beginning. Containing 39,407.15 square feet of lands, more or less.

LEGAL DESCRIPTION OF MATT BREWING CO., INC. BREWERY

There is currently no formal legal description of the brewery. It must be remembered that the brewery was formed in 1888 and no current living brewery employee remembers a formal legal description. However, back in 1961, the brewery did hire a firm to put the brewery premises layout to paper. This description of the brewery premises is what follows along with its associated exhibit A and exhibit B so attached.

The entire premise is a single area in the city block surrounded by Edward Street, Varick Street, Schuyler Street, Columbia Street, and Wasmer Street in Utica, New York.

This one area is divided into two different sections on the plot sheets for depiction convenience.

The brewery also owns the closed off portion of Edwards Street that ran from Wasmer Street to Schuyler Street as depicted in each exhibit as deeded by the city of Utica to the Brewery.

LEGAL DESCRIPTION
OF
MATT BREWING CO., INC.
BREWERY

BREWERY PLAT ATTACHMENT

Exhibit A

This plat's area is depicted as follows:

It begins at Point A which is the southeast corner of the main office building at 811 Edward Street.

Thence northerly	328'	to point B
Thence northwest	287'	to point C
Thence southwest	323'	to point D
Thence southeast	65'	to point E
Thence southwest	21'	to point F
Thence southeast	238'	to point G
Thence southeasterly	35'	to point H
Thence southerly	145'	to point J
Thence southeasterly	185'	to point K
Thence easterly	34'	to point L
Thence northerly	129'	to point M
Thence easterly	110'	to point A

which is the beginning

**LEGAL DESCRIPTION
OF
MATT BREWING CO., INC.
BREWERY**

BREWERY PLAT ATTACHMENT

Exhibit B

This area is depicted as follows:

It begins at Point A which is the corner inside the sidewalk of the intersection of Schuyler Street and Columbia Street.

Thence southeast	101'	to point B
Thence southwest	59'	to point C
Thence southeast	162'	to point D
Thence northeast	59'	to point E
Thence southeast	154'	to point F
Thence southerly	30'	to point G
Thence southwesterly	167'	to point H
Thence southwesterly	41'	to point J
Thence westerly	122'	to point K
Thence northwest	340'	to point L
Thence northeast	295'	to point A

which is the beginning

Exhibit B has no brewery operations but may be used for the storage of beer from time to time.

Exhibit A and Exhibit B adjoin at line B through C of Exhibit A and line L through K of Exhibit B.

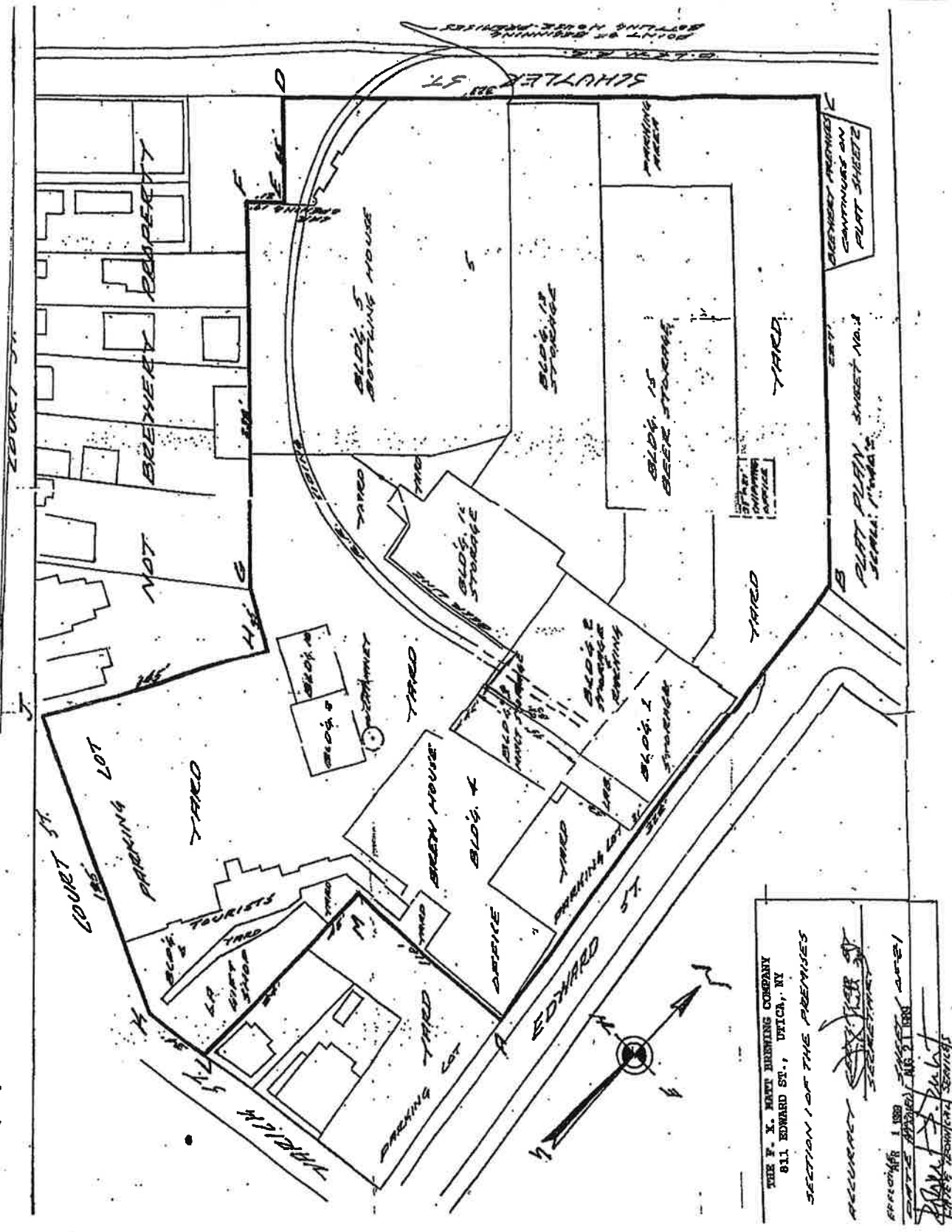
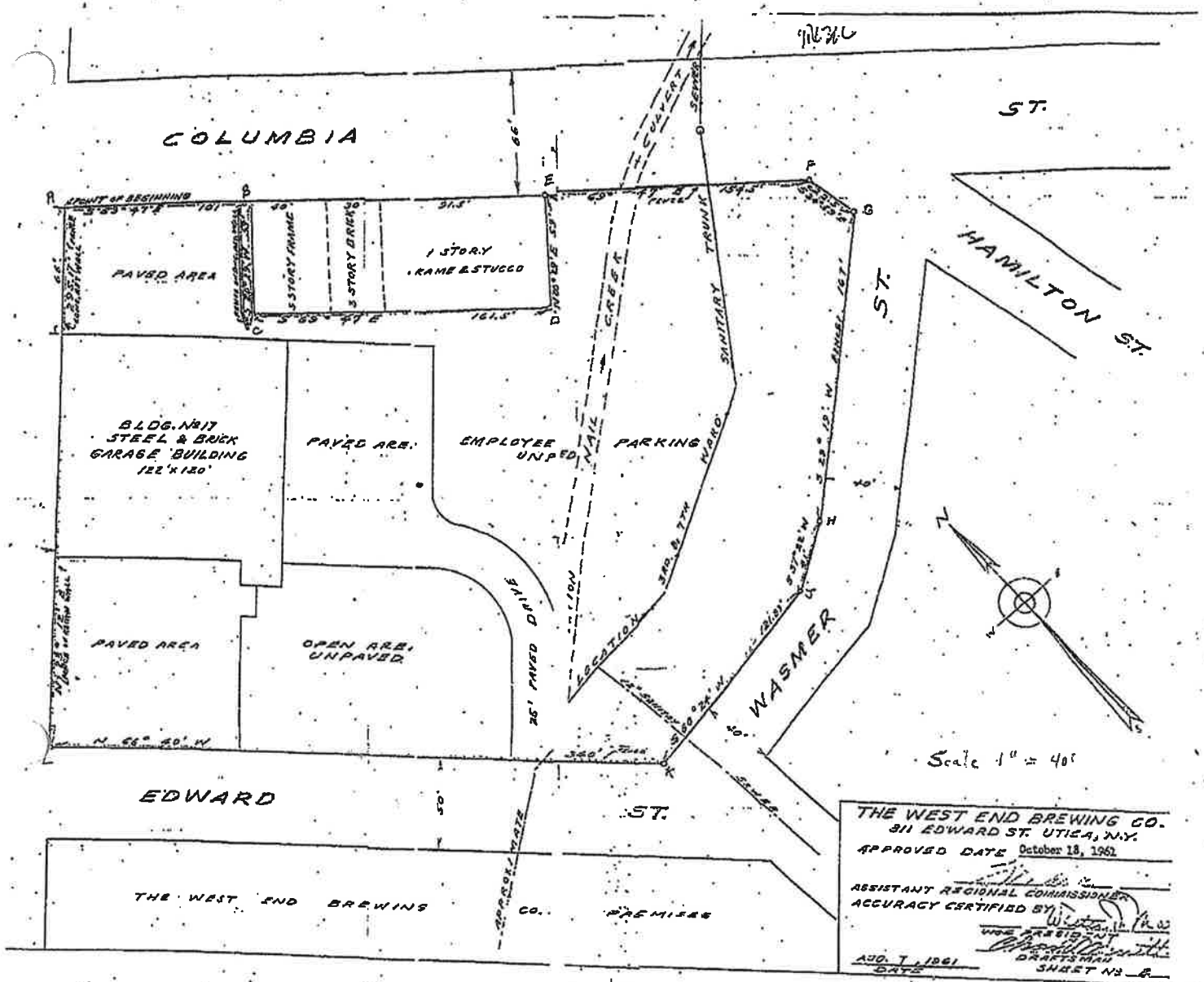


Exhibit A to Legal Description



PL PLAN
50' 1" = 40 FT.

Exhibit B to Legal Description

Matt Brewing Co., Inc.
Property Descriptions of the Parcels Consolidated into the
“Edward Street Land”

806 Edward Street

All that tract or parcel of land situate in the City of Utica, County of Oneida and State of New York and known and distinguished as being part of Lots Nos. 11 and 12, as laid down on map of property formerly belonging to Smith Shultze and Co. and filed in Oneida Co. Clerk's Office. Said premises are more particularly described as follows:

Beginning at a point on the easterly side of Edward Street distant 86 feet northerly from Varick Street and running thence northerly along Edward Street 34 feet to the southerly line of Lot No. 15, as shown on said map, thence easterly at right angles to Edward Street and along the southerly line of said Lot No. 15, 54 feet to the westerly line of land sold to Quentin Young, by Edward Curran and wife and Alrick Hubbell and wife by deed dated February 23, 1847 and recorded on April 23, 1851 in Oneida Co. Clerk's Office in Book 157 of Deeds at page 121, thence south along said last mentioned line 34 feet, thence westerly in a direct line 54 feet to place of beginning.

Said Map filed in the Oneida County Clerk's Office on October 13, 1838 in Book of Maps No. One at page 54.

808 Edward Street

ALL THAT TRACT PARCEL OF LAND situate in the City of Utica, County of Oneida, State of New York, described as follows: to wit: Lot No. 15 as laid out on a map of property formerly belonging to Smith Schultz & Co. in this city. Said lot is 25 ft. front on Edward St. as laid out on said map and extends back to land of Johnson and others; the map above referred to was filed in the Oneida Co. Clerk's Office Oct. 13, 1838

810 Edward Street

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, with the buildings and improvements thereon erected, situate, lying and being in the City of Utica, County of Oneida and State of New York, described as follows, viz: Lot Number Sixteen (16) and the southerly half of Lot Number Seventeen (17), as they are designated on a Map of property formerly belonging to Smith Schultz & Co., filed in the Oneida County Clerk's Office October 13, 1838 in Book 1 of Maps at Page 54. Said Lot Number Sixteen (16) is 25 feet wide in front and rear, and the southerly half of Lot Seventeen (17) is 12 ½ feet wide in front and rear. Both of said lots front on Edward Street in said City.

Matt Brewing Co., Inc.
Property Descriptions of the Parcels Consolidated into the
“Edward Street Land”

814 Edward Street

814 Edward Street

318.32-2-38

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

All of Lot No. Eighteen (18) and the northerly half part of Lot No. Seventeen (17), as laid down on a Map of lots made for Smith Schultz and Co., which Map is now on file in the Office of the Clerk of Oneida County. The above lots are situate on the easterly side of Edward Street in the City of Utica and make together a lot thirty-seven and one-half feet front on Edward Street about thirty-seven and one-half feet in rear and extending in depth from Edward Street to lands formerly owned by A.B. Johnson and others.

605 Wasmer Street

605 Wasmer Street

318.32-2-33

816 Edward Street

ALL THAT TRACT PARCEL OF LAND situate in the City of Utica, County of Oneida, State of New York, bounded and described as follows: Bounded to wit: Beginning at a point located on the northerly line of Edward Street at 220 ft. westerly of the westerly line of Varick Street, running thence from said point of beginning and along the northerly line of Edward Street 30 ft. to an iron spike; running thence in a northeasterly direction 64 ft. to an iron pipe; running thence in a southeasterly direction 30 ft to an iron pipe; running thence southwesterly 64 ft. to an iron pipe marking the point of beginning. The intent is to describe a parcel of land 30 ft. front and rear and 64 ft. deep, located on the northerly side of Edward.

For more particular description, refer to a Survey Map entitled Olczyk & Rafalsky, made by AA Santucci, L.S., dated June 8, 1954. Said Map to be filed in the County Clerk's Office, Oneida County, Utica, New York.

Matt Brewing Co., Inc.
Property Descriptions of the Parcels Consolidated into the
“Edward Street Land”

818 Edward Street

ALL THAT TRACT OR PARCEL OF LAND situate in the City of Utica, County of Oneida, State of New York, bounded and described as follows: Bounded to wit:

Beginning at an iron pipe, said pipe being 64 ft. Northerly from the North line of Edwards Street and 220 ft. Westerly from the Westerly line of Varick Street running thence from said point of beginning 30 ft. in a Northwesterly direction to an iron pipe; thence running in a Northeasterly direction; 70.1 ft. more or less, to an iron post located at an old wooden fence line; running thence in a Southeasterly direction along fence 30 ft. to a wooden post; running thence in a Southwesterly direction 67.3 ft. more or less, to an iron pipe, marking the point of beginning.

The intent is to describe a parcel of land 70.1 ft. on the Westerly side and 67.3 ft. on the Easterly side.

For more particular description, refer to a Survey Map entitled Olczyk & Rafalski, made by A. A. Santucci, L.S. dated June 8, 1954. Said map to be filed in the County Clerk's Office, Oneida County, Utica, New York.

820 Edward Street

All that tract or parcel of land situate in the City of Utica, County of Oneida and State of New York, being a part of Lot No. 20 as laid out on a map of property belonging to Smith, Shultz & Co., filed in the office of the Clerk of Oneida County, October 13, 1838, said Lot No. 20 being originally 25 feet wide in front on the northerly side of Edward Street and running back the same width on its easterly line one hundred twenty-eight (128) feet and on its westerly line one hundred thirty (130) feet, excepting a strip of land five (5) feet in width, taken from said lot No. 20 adjoining the northerly line of Lot No. 19 of the same map.

BEING THE SAME PREMISES conveyed to the party of the first part by Warranty Deed dated and recorded Jan. 6, 2010 in the Oneida County Clerk's Office at Instrument No.: 2011-007776.

822 Edward Street

301600 318.32-2-42 NV 2008
PINEDA OSCAR \$452.79
EDWARD ST
3-14-06-019 25X132

318.032-0002-042, 000/0000

All that tract or parcel of land situate in the City of Utica, County of Oneida, State of New York and described as follows:

Laid out on a map of City lots duly filed in the Clerk's Office of Oneida County of property formerly belonging to Smith, Schultz & Co. as Lot Number Twenty-One (21) and is twenty-five feet front on Edward Street, the same width in rear and is about one hundred and thirty feet deep, measuring from the centre of Edward Street.

Matt Brewing Co., Inc.
Property Descriptions of the Parcels Consolidated into the
“Edward Street Land”

824 Edward Street

All that tract or parcel of land situate in the City of Utica, County of Oneida and State of New York, known as Lot No. Twenty Two as described on a map of property formerly belonging to Smith, Schultz & Co., filed in Oneida County Clerk’s Office October 13, 1838. Said Lot No. Twenty Two is situate on the northerly side of Edward St. and is twenty-five feet wide in front, one hundred thirty two feet deep on its easterly side and one hundred thirty four feet deep on its westerly side.

826 Edward Street

ALL that tract, parcel, or piece of land situate in the City of Utica, County of Oneida, and State of New York, bounded and described as follows:

All that certain lot or parcel of land known as Lot No. 23 as laid out on a map of property formerly belonging to Smith, Shuts & Co. in the City of Utica, which map was filed in the Oneida County Clerk’s Office on October 13, 1838, (1/54) being 25 ft. front on Edward St., and extending back on the northerly line 136 ft. from said Edward St., and on the southerly line parallel to said northerly line 134 ft. to land now or formerly owned by A.B. Johnson, and others as laid out on said map.

828 Edward Street

All that certain plot, piece or parcel of land, with buildings and improvements thereon erected, situate, lying and being in the City of Utica, County of Oneida and State of New York known and distinguished as:

All that lot of land Number twenty four (24) on a map of the property belonging to Smith Shultz & Co. filed in the Office of the Clerk of Oneida County Oct. 13, 1838. Said lot is 25 ft. front and rear and is bounded northerly by Lot No. 25 easterly by land now or formerly of Johnson and others; southerly by Lot No. 23 and westerly by Edward Street as laid down on said Map.

830 Edward Street

All that lot of land situate in the City of Utica, Oneida County, N.Y., known as Lot No. 25 as laid down on a map of property in the City of Utica belonging to Smith Shultze & Co., filed in the Office of the Clerk of the County of Oneida on October 13, 1838. Said lot is 25 feet front on Edward Street and extends back to land now or formerly owned by Johnson and others.

Exhibit B

Equipment

All fixtures, building materials and items of personal property constructed, renovated and installed and/or to be constructed, renovated and installed in connection with the completion of the Matt Brewing Co., Inc. Existing Facility, AFBD Facility, and 2018 Facility located in the City of Utica, Oneida County, New York, excluding all production machinery and equipment.



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

Recording office time stamp

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

Schedule A – Information relating to conveyance

Grantor/Transferor <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input checked="" type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantor) ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY Mailing address 584 PHOENIX DRIVE City State ZIP code ROME NY 13441 Single member's name if grantor is a single member LLC (see instructions)	Social security number Social security number Federal EIN 16-6158201 Single member EIN or SSN
Grantee/Transferee <input type="checkbox"/> Individual <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Estate/Trust <input type="checkbox"/> Single member LLC <input type="checkbox"/> Other	Name (if individual, last, first, middle initial) (<input type="checkbox"/> check if more than one grantee) MATT BREWING CO., INC. Mailing address 811 EDWARD STREET City State ZIP code UTICA NY 13502 Single member's name if grantee is a single member LLC (see instructions)	Social security number Social security number Federal EIN 16-1343803 Single member EIN or SSN

Location and description of property conveyed

Tax map designation – Section, block & lot (include dots and dashes)	SWIS code (six digits)	Street address	City, town, or village	County
SEE ATTACHED		SEE ATTACHED	UTICA	ONEIDA

Type of property conveyed (check applicable box)

1 <input type="checkbox"/> One- to three-family house 2 <input type="checkbox"/> Residential cooperative 3 <input type="checkbox"/> Residential condominium 4 <input type="checkbox"/> Vacant land	5 <input checked="" type="checkbox"/> Commercial/Industrial 6 <input type="checkbox"/> Apartment building 7 <input type="checkbox"/> Office building 8 <input type="checkbox"/> Other _____	Date of conveyance <table style="width: 100%; border: 1px solid black;"> <tr> <td style="width: 33%; text-align: center;"> </td> <td style="width: 33%; text-align: center;"> </td> <td style="width: 33%; text-align: center;"> </td> </tr> <tr> <td style="text-align: center; font-size: small;">month</td> <td style="text-align: center; font-size: small;">day</td> <td style="text-align: center; font-size: small;">year</td> </tr> </table>				month	day	year	Percentage of real property conveyed which is residential real property _____ 0 % (see instructions)
month	day	year							

Condition of conveyance (check all that apply)

a. <input type="checkbox"/> Conveyance of fee interest b. <input type="checkbox"/> Acquisition of a controlling interest (state percentage acquired _____ %)	f. <input type="checkbox"/> Conveyance which consists of a mere change of identity or form of ownership or organization (attach Form TP-584.1, Schedule F) g. <input type="checkbox"/> Conveyance for which credit for tax previously paid will be claimed (attach Form TP-584.1, Schedule G)	i. <input type="checkbox"/> Option assignment or surrender m. <input type="checkbox"/> Leasehold assignment or surrender n. <input checked="" type="checkbox"/> Leasehold grant o. <input type="checkbox"/> Conveyance of an easement p. <input type="checkbox"/> Conveyance for which exemption from transfer tax claimed (complete Schedule B, Part III)
c. <input type="checkbox"/> Transfer of a controlling interest (state percentage transferred _____ %)	h. <input type="checkbox"/> Conveyance of cooperative apartment(s)	q. <input type="checkbox"/> Conveyance of property partly within and partly outside the state
d. <input type="checkbox"/> Conveyance to cooperative housing corporation	i. <input type="checkbox"/> Syndication j. <input type="checkbox"/> Conveyance of air rights or development rights	r. <input type="checkbox"/> Conveyance pursuant to divorce or separation
e. <input type="checkbox"/> Conveyance pursuant to or in lieu of foreclosure or enforcement of security interest (attach Form TP-584.1, Schedule E)	k. <input type="checkbox"/> Contract assignment	s. <input checked="" type="checkbox"/> Other (describe) <u>IDA LEASEBACK</u>

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

Part I – Computation of tax due

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

1.		1 00
2.		00
3.		00
4.		00
5.		00
6.		00

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

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

1.		
2.		
3.		

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

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

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

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

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

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

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

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

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

Other (attach detailed explanation).

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

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

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

ONEIDA COUNTY INDUSTRIAL DEV'T AGENCY

MATT BREWING CO., INC.

BY: 
Grantor signature

CHAIRMAN
Title

BY: 
Grantee signature

CHAIRMAN/CEO
Title

Grantor signature

Title

Grantee signature

Title

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

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

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

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

Part I - New York State residents

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

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

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

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

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

Part II - Nonresidents of New York State

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

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

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

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

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

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

Attachment to NYS Form TP-584
Grantor: Oneida County Industrial Development Agency
Grantee: Matt Brewing Co., Inc

Tax Map Identifiers:

318.040-1-5.1
318.040-1-5.2
318.032-2-38

Property Address:

811 Edward Street, City of Utica

828, 830, 832, 834, 900, 904 and 908 Court Street, City of Utica

806– 832 (consolidated to 814) Edward Street, City of Utica