

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

and

ALDER CREEK BEVERAGES, LLC

LEASEBACK AGREEMENT

Dated as of February 1, 2017

Oneida County Industrial Development Agency
2017 Real Estate Lease
(Alder Creek Beverages, LLC Facility)

THIS LEASEBACK AGREEMENT (the "Leaseback Agreement"), dated as of the 1st day of February 2017, by and between **ALDER CREEK BEVERAGES, LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with an address of Box 212, One Nirvana Plaza, Forestport, New York 13338 (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, construct, 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 desires to acquire and renovate a 240,000± square foot building (the "Improvements") situated on a 1,679± acre parcel of land located at One Nirvana Plaza, 12044 State Route 12, Town of Boonville, Oneida County, New York, together with all water rights associated therewith (collectively, the "Land"); and acquire and install equipment in the Improvements (the "Equipment"), all to be used in connection with the manufacture of bottled spring water for distribution to retail sales outlets (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the acquisition, renovation and equipping of the Facility is referred to as the "Project"); and

WHEREAS, Adirondack Bank (the "Bank") financed certain costs of the Facility by making a loan to the Company, secured by a Mortgage and Security Agreement dated December 30, 2015 between the Company and the Bank (the "Mortgage"); and

WHEREAS, in lieu of the Agency and the Company granting a first-priority mortgage to the Agency to secure PILOT Payments to be made by the Company under the Payment-In-Lieu-of-Tax Agreement dated as of February 1, 2017 (the "PILOT Agreement"), the Agency, the Company and the Bank are entering into a PILOT Payment Escrow Account Agreement dated as of February 1, 2017 (the "PILOT Escrow Agreement"); and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to take a leasehold interest in the Land, Improvements and Equipment constituting the Facility and lease said Land, Improvements and Equipment back to the Company pursuant to the terms and conditions contained herein; and

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

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

ARTICLE I

REPRESENTATIONS AND COVENANTS

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 will take title to or a leasehold interest in the Facility, lease the Facility to the Company pursuant to this 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 July 15, 2016, 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 Facility, the Facility would not have a "significant impact" or "significant effect" on the environment within the meaning of the SEQR 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 Leaseback Agreement by the undertaking of the Company to acquire, renovate, equip, maintain and repair the Facility and create or retain 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 limited liability company duly organized and validly existing under the laws of 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

Articles of Organization of the Company, the Operating Agreement 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, 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 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 Leaseback Agreement or any of Company Documents or the transactions contemplated therein.

(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 May 4, 2017, the Company projected that, as a result of the Project, it will create no less than ten (10) full time equivalent positions by the commencement of year three of the Lease Term and maintain them for the remaining duration of the Lease Term, and retain the existing forty-four (44) full time equivalent positions at the Facility for the duration of the Lease Term as a result of undertaking the Facility (the "Employment Obligation"). The Company acknowledges that the financial assistance granted by the Agency in connection with the Facility is conditioned upon achieving 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 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 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. The Company acknowledges that the value of sales tax exemptions authorized by the Agency is limited to \$77,000.00, and any exemptions claimed by the Company that exceed this amount may be subject to recapture by New York State.

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 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 shall terminate at 11:59 p.m. on December 31, 2027 or on such earlier date as may be permitted by Section 8.1 hereof.

(c) The period commencing on the 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 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 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 Leaseback Agreement or (iii) except as provided in Section 8.1 hereof, terminate this 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 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, this Leaseback Agreement, and the 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, modifications or improvements to the Facility or any part thereof, 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 the Property 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 title to 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 becomes 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 any time 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 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 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 Renovation 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 Renovation 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 \$1,000,000 (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 Renovation Period.

(d) During the Renovation 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 additional insured. All policies evidencing the insurance required by Sections 3.4(d)(ii) and (iii) shall name the Agency as additional insured. 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 Leaseback Agreement. The Company shall provide such further information with respect to the insurance coverage required by this 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 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 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 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 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 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 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 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, 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 gross 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 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 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 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, 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 renovate, 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 construct, renovate, 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 construction, renovation, 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 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 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, cleanup 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 acquisition, 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, cleanup 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 acquisition, construction, renovation, 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 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 and consultant fees, investigation and laboratory 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 except any liens existing on the date hereof.

(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 Leaseback Agreement shall be enforceable only out of the Agency's interest under this 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 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 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 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 Leaseback Agreement.

Section 6.3 Assignment and Subleasing.

(a) This 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 (other than a transfer to one or more family members, or to one or more trusts, limited partnerships or other entities owned or controlled by, or for the benefit of, one or more family members) 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 the 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 mortgage, pledge and assign its rights to and interest in this Leaseback Agreement and in all amounts payable by the Company pursuant to Section 2.3 hereof and all other provisions of this 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 6.5 Merger of Agency.

(a) Nothing contained in this 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 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 thirty (30) 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 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;

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

(ix) the invalidity, illegality or unenforceability of the PILOT Escrow Agreement or the failure of the Company to enter into a PILOT Mortgage and Security Agreement within twenty (20) days of termination of the PILOT Escrow Agreement, which mortgage shall have a first-priority lien on the Facility.

(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 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 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 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 Leaseback Agreement shall become immediately due and payable without notice to the Company or the taking of any other action by the Agency;

(ii) [intentionally omitted];

(iii) terminate the leasehold interest in the Facility and terminate the PILOT Agreement. The Agency shall have the right to execute an appropriate termination of 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 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;

(iv) [intentionally omitted];

(v) exercise any remedy afforded the Agency under the Job Creation Agreement;

(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 secure possession of the Facility, and to enforce the obligations, agreements or covenants of the Company under this Leaseback Agreement.

(b) [Intentionally omitted]

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

(d) 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 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 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 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 February 1, 2017 (the "Jobs Creation Agreement"), which is incorporated herein by reference.

ARTICLE VIII

EARLY TERMINATION OF LEASEBACK AGREEMENT;
OPTION IN FAVOR OF COMPANY

Section 8.1 Early Termination of Leaseback Agreement.

(a) The Company shall have the option to terminate this 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. The Company acknowledges that exercising its option to terminate pursuant to this Section shall constitute an Event of Default under the Jobs Creation Agreement.

(b) The Agency shall have the option at any time to terminate this 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 Leaseback Agreement.

In the event the Company exercises its option to terminate this 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 PILOT Agreement), as appropriate pursuant to the terms of the PILOT Agreement: all amounts due and payable under the PILOT Agreement as of the date of the conveyance described in Section 8.3 hereof, including all amounts due and payable resulting from a default under the Job 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 Obligation to Terminate Leasehold Interest In Facility. Upon termination or expiration of the Lease Term, in accordance with Sections 2.5 or 8.1 hereof, the Company shall terminate the Agency's leasehold interest for consideration of One Dollar (\$1.00). The Company shall terminate the Agency's leasehold interest in the Facility by giving written notice to the Agency (which may be contained in the certificate referred to in Section 11.1 hereof) (i) declaring the Company's election to terminate and (ii) fixing the date of closing such terminations, which shall be the date on which the Lease Agreement and this Leaseback Agreement are to be terminated or terminate.

Section 8.4 Conveyance on Termination.

Upon termination pursuant to Section 8.3 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 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.: Chairman

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

To the Company: Alder Creek Beverages, LLC
Box 212
One Nirvana Plaza
Forestport, New York 13338
Attn.: Wade M. Abraham, Manager

With a Copy To: The Matt Law Firm, PLLC
1701 Genesee Street
Utica, New York 13501
Attn.: F.X. Matt III, Esq.

To the Bank: Adirondack Bank
185 Genesee Street
Utica, New York 13501
Attn.: Commercial Lending Department

With a Copy To: Kowalczyk & Deery, LLP
185 Genesee Street, 12th Floor
Utica, New York 13501
Attn.: Andrew S. Kowalczyk III, 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 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 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 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 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.

Section 9.6 Applicable Law.

This 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 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 Leaseback Agreement.

Section 9.8 Survival of Obligations.

This 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 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 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 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 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 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 property place for the recordation or filing thereof.

Section 9.12 Definitions.

All capitalized terms used in this 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 Rights of Bank.

(a) There shall be no renewal, cancellation, surrender, acceptance of surrender, material amendment or material modification of this Leaseback Agreement or any other Company Document by joint action of the Agency and the Company alone, without, in each case, the prior consent in writing of Bank, nor shall any merger result from the acquisition by, or devolution upon, any one entity of any fee and/or leasehold estates or other lesser estates in the Facility. Failure of the Bank to consent to a modification of this Leaseback Agreement by the Agency shall constitute an Event of Default.

(b) If the Agency serves a notice of default upon the Company, it shall also serve a copy of such notice upon Bank at the address set forth in Section 9.1.

(c) In the event of any default by the Company under this Leaseback Agreement or any other Company Document, the Bank shall have fifteen (15) days for a monetary default and thirty (30) days in the case of any other default, after notice to the Company and the Bank of such default to cure or to cause to be cured the default complained of and the Agency shall accept such performance by or at the instigation of Bank as if same had been done by the Company. The Agency in its sole discretion will determine whether such action by the Bank amounts to a cure.

(d) Except where Bank or its designee or nominee has succeeded to the interest of the Company in the Facility, no liability for any payments to be made pursuant to this Agreement or the performance of any of the Company's covenants and agreements under this Agreement shall attach to or be imposed upon the Bank, and if the Bank or its nominee or designee succeeds to the interest of the Company in the Project, all of the obligations and liabilities of the Bank or its nominee or designee shall be limited to such entity's interest in the Facility and shall cease and terminate upon assignment of this Leaseback Agreement by the Bank; provided however, that the Bank or its nominee or designee shall pay all delinquent PILOT Payments, if any, prior to said assignment.

(e) Notwithstanding any provision of this Leaseback Agreement or any other Company Document to the contrary, foreclosure of a mortgage or any sale of the Company's interest in this Leaseback Agreement and/or the Facility in connection with a foreclosure, whether by judicial proceedings, or any conveyance of the Company's interest in this Agreement and/or the Facility to Bank by virtue of or in lieu of foreclosure or other appropriate proceedings, or any conveyance of the Company's interest in this Leaseback Agreement and/or the Facility by Bank shall not require the consent or approval of the Agency and failure to obtain the Agency's consent shall not be a default or Event of Default hereunder.

[signature pages follow]

IN WITNESS WHEREOF, the Company and the Agency have caused this **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

ALDER CREEK BEVERAGES, LLC

By:



Wade M. Abraham
Manager

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

On the 7th day of February 2017 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.

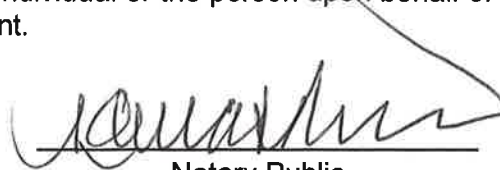


Notary Public

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 7th day of February 2017 before me, the undersigned a notary public in and for said state, personally appeared **Wade M. Abraham**, 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

EXHIBIT A

Parcel 1

All that tract or parcel of land situate in the Town of Boonville, County of Oneida and State of New York, being the South part of Lot No. 200, Beginning at the S.E. corner of Lot No. 199 to a stake 20 lks. S.E. from a beech cornered and marked 199-200 and runs thence N. 1 deg. W. along the bounds of 199 to a stake and stones being the corner of the division of said lot and runs thence S. 81 degs. E. along the division line 36 chs. 50 lks. to a stake, and runs S. 89 degs. 50' W. as was run in 1789 to the place of beginning; containing 115 acres be the same more or less.

Also, part of Lot No. 199, in the Town of Boonville, County of Oneida and State of New York bounded as follows:

Beginning at a stake in the road on said lot and running thence N. 89 degs. E. 13 chs. 64 lks. to a stake and stones standing on the E. line of said lot; thence along the same N. 1 deg. W. 20 chs. 73 lks. to a stake and stones; thence S. 69 degs. W. 15 chs. to a maple; thence S. 1 deg. E. 6 chs. to a stake; thence S. 43 degs. W. 5 chs. and 39 lks. to a stake standing in the road aforesaid; thence along the same S. 36 degs. E. 7 chs. to the place of beginning, containing 26 acres, 3 quarters and 17 rods of land.

Also, all that certain other piece or parcel of land lying and being in the Town of Boonville aforesaid and being the north part of said Lot No. 200 in Boon's Patent and described as follows:

Beginning at the west line of said lot at a stake and stones running thence S. 81 degs. E. 36 chs. and 55 lks. to the N. corner of said lot; thence S. 1 deg. W. along the west line of said lot 36 chs. and 40 lks. to the place of beginning. Containing 65 acres and 30 rods of land, being the same premises conveyed to Reuben Churchill by John S. Churchill and Ann, his wife, by deed dated Feb. 14, 18_4.

Also, all that certain other piece or parcel of land situate and being in Adgate's Western Tract on the west side of Black River in the Town of Boonville, aforesaid and bounded as follows:

Beginning at the S.E. corner of the lot and runs thence N. 1 deg. W. 8 chs. to a stake; thence S. 89 degs. W. 15 $\frac{82}{100}$ chs.; thence S. 25 degs. E. 8 $\frac{76}{100}$ chs. to the S. of the lot; thence N. 89 degs. E. 12 $\frac{50}{100}$ chs. along the south line of the lot to the place of beginning. Containing 11 acres, 1 rood and 12 rods of land, be the same more or less.

Excepting and reserving, in fee, all that certain piece or parcel of land situate, lying and being in Lot No. 199 in Adgate's Western Tract on the west side of Black River in the Town of Boonville, County of Oneida and State of New York and bounded and described as follows:

Beginning at the S.E. corner of the lot and runs from thence N. 1 deg. W. 8 chs. to a stake; thence S. 89 degs. W. 15 28/100 chs.; thence S. 25 degs. E. 8 and 76/100 chs. to the south line of the lot; thence N. 89 degs. E. 12 50/100 chs. along the south line of the lot to the place of beginning, containing 11 acres, 1 rood and 12 rods of land, more or less. The portion of the above described premises hereby intended to be conveyed being all that portion thereof lying and being on the west side of the center of the Plank Road or highway leading from Boonville to Alder Creek, New York.

Also, conveys, in fee, all that certain or parcel of land situate in the Town, County and State aforesaid being a portion of the land conveyed to the parties of the first part by Reuben Churchill and wife (now or formerly) and lying on the westerly side of the Plank Road leading from Boonville to Alder Creek bounded on the north by lands of Thomas Traffarn (now or formerly) E by Plank Road and S by lands hereinbefore conveyed to Thomas Traffarn, containing one half an acre, more or less.

Parcel 2

All that certain piece or parcel of land lying and being in the Town of Boonville and County of Oneida and State of New York, known and distinguished by a survey thereof made by B. Wright in 1795 and on a map of said lands filed in the Clerk's Office of the County of Oneida as Lot No. 38 in Adgate's Western Tract the west side of Black River, the part hereby intended to be deeded is bounded and described as follows:

Beginning at the S.W. corner of the lot; running thence N. 42° W. on the west line of the lot 15 chains 50 links to the N.W. corner of the lot; thence N. 62° E. on the north line of the lot 33 chains 44 links; thence S. 42° east parallel with the west line of the lot 15 chains 50 links to the south line of the lot; thence S. 62° W. on the south line of the lot 33 chains 44 links to the place of beginning. Containing fifty acres of land.

Also, all that certain piece or parcel of land situate in Boonville distinguished and known by before mentioned survey, filed as aforesaid, as part of Lot No. 37 in Adgate's Western Tract on west side of Black River, bounded as follows:

Beginning at the S.W. corner of said lot, thence N. 42° W. on the west line of the lot 15 chains 50 links to the northwest corner of the lot, thence N. 62° E. on the north line of the lot 33 chains 44 links; thence S. 42° E. 15 chains 50 links to the south line of the lot; thence S. 62° W. on the south line of the lot 33 chains 44 links to the place of beginning, containing 50 acres of land.

Excepting and reserving therefrom, all that piece of parcel of land lying between Black River Canal Feeder and Black River, formerly belonging to this 27¼ acres, but heretofore sold to Philip Kane.

Also, excepting and reserving any lands hereinbefore described, if any, lying between the Black River and Black River Canal Feeder.

Excepting and reserving from the above, the following described premises:

All that piece or parcel of real property lying and being part of Lot 38 of Adgate's Western Tract, Town of Boonville, County of Oneida and State of New York and bounded and described as follows:

Beginning at a point in the centerline of the Miller's Woods Road at its intersection with the centerline of the Kerwin Road; thence along the centerline of the Kerwin Road; S. 70° 01' 37" W. 361.44 ft. to the intersection with the division line between Lot 200 on the west and Lot 38 on the east; thence along said division line and a stone wall and fence line N. 30° 46' 59" W. 1,000.50 feet to an iron pipe set and passing through an iron pipe set 25.13 feet from the centerline of the Kerwin Road; thence N. 70° 01' 37" E. 524.43 feet to a point in the centerline of the Miller's Woods Road and passing through an iron pipe set 24.76 feet from the centerline of the Miller's Woods Road; thence along the centerline of the Miller's Woods Road S. 21° 24' 34" E. 983.05 feet to the point of beginning, containing 9.993 acres of land.

Also excepting, all that piece or parcel of real property lying and being part of Lot 38 of Adgate's Western Tract, Town of Boonville, County of Oneida and State of New York and bounded and described as follows:

Beginning at a point in the centerline of the Miller's Woods Road at its intersection with the centerline of the Kerwin Road thence along the Miller's Woods Road N. 21° 24' 34" W. 225.36 feet to a point; thence N. 68° 35' 26" E. 200.00 feet to an iron pipe set and passing through an iron pipe set 24.75 feet from the centerline of the Miller's Woods Road; thence S. 21° 24' 34" E. 247.50 feet to an iron pipe set in the fence line, said fence line being the division line between Lot 38 on the north and Lot 39 on the south; thence along said division line S. 73° 59' 06" W. 200.89 feet to a point in the centerline of the Miller's Woods Road and passing through an iron pipe set 24.75 feet from the centerline of the Miller's Woods Road N. 21° 24' 34" W. 3.25 feet to the point of beginning, containing 1.093 acres of land.

Parcel 3

All that tract or parcel of land situate in the Town of Boonville, in the County of Oneida and State of New York known by a survey thereof made by Benj. Wright in the year 1794 and on a map of said lands filed in the Clerk's Office of said County by Lot No. 199 Adgate's Western Tract, west side of Black River; beginning at the N.E. corner of Lot No. 198 at a stake 14 links W. from an elm tree cornered and marked; thence N. 89° E. along the bounds of Lot No. 171, 40 chains to a black maple sapling thence along the bounds of Lot No. 200 S. 1° E. 38 chains 35 links to a stake 20 links S.E. from a birch cornered and marked 199, 2000; thence S. 89° 15' W. as run in 1789, 40 chs. to a stake 9 links N.E. from a birch sapling; thence N. 1° W. along the bounds of No. 198, 39 chains to the place of beginning, containing 154³/₄ acres, more or less.

Excepting and reserving, 38 acres and 29 perches from the S.E. corner of said lot of land, being the premises described in a deed from James Davis and wife to Thomas Traffarn by deed dated May 20, 1858 and recorded in Oneida County Clerk's Office in Book 209 at page 368 of Deeds.

Also is hereby conveyed, all that certain piece or parcel of land, situate in Adgate's Western Tract, in the Town of Boonville, County of Oneida and State of New York, on the west side of Black River, and known and distinguished in a survey made thereof by Benjamin Wright in the year A.D. 1794 and on a map thereof filed in the clerk's office of said county by Lot No. 171 bounded as follows:

Beginning at the N.E. corner of Lot No. 145, a soft maple cornered and marked 145.171 and running from thence S. 62° E. along a line of marked trees to a stake 20 links E. from a rock maple sapling marked 171-200; thence S. 89° W. along the north line of Lot No. 199 to the north-west corner thereof a stake 16 links S.W. from an elm marked 170, 171, 198, 199 thence N. 1° W. along the bounds of Lot No. 170 & 145 to the place of beginning, containing 195 acres of land, be the same more or less.

Excepting and reserving, all that piece or parcel of real property lying and being in Lot No. 199 of Adgate's Western Patent, Town of Boonville, County of Oneida and State of New York and bounded as follows:

Beginning at a point on the easterly margin of New York State Route 12, Alder Creek-Lewis County Line S.H. 5307 at its intersection with the division line between the property of Anna Stocklosa Borwick on the north and Mansur Rafizadeh (reputed owner) on the south; thence N. 31° 20' 32" W. 14.96 feet along said highway margin to a concrete monument; thence continuing N. 31° 20' 32" W. 201.15 feet along said highway margin to a concrete monument; thence N. 29° 44' 53" W. 400.00 feet along said highway margin to a concrete monument; thence N. 31° 38' 02" W. 349.62 feet along said highway margin to an iron pipe set; thence N. 71° 20' 34" E. 525.77 feet through the lands of Anna Stocklosa Borwick to an iron pipe set; thence S. 24° 53' 59" E. 663.56 feet through the lands of Anna Stocklosa Borwick to an iron pipe set in a stone wall on the aforementioned division line between the premises of Anna Stocklosa Borwick on the north and the property of Mansur Rafizadeh (reputed owner) on the south; thence S. 35° 35' 13" W. 486.77 feet along said division line being a stone wall fence line and tree line to the point of beginning, being 8.894 acres of land.

Excepting and reserving from the hereinbefore described land any portion thereof lying on the westerly side of New York State Highway Route 12.

Also, excepting and reserving any and all land appropriated by the State of New York or conveyed to the County of Oneida for highway purposes.

Parcel 4

All that certain piece or parcel of land situate in the Town of Boonville, County of Oneida and State of New York, bounded and described as follows:

Bounded N by Wilcox land; E by Humphrey P. Jones land; S by the road leading from the Plank Road to Thomas Traffarns and Plank Road and W by the Plank Road, being the N.E. corner of Lot No. 8, Matchin's Patent on the E side of the Boonville Plank Road, containing about 2 acres of land, more or less.

Parcel 5

All that tract or parcel of land, situate in the Town of Boonville, County of Oneida and State of New York, and known and distinguished on a map of Adgate's Western Tract made by B. Wright in 1794 and filed in the Oneida County Clerk's Office as Lots Nos. 31-32-33 and 34 situate on the west side of the Black River bounded northerly by Lot No. 30; southerly by Lot No. 35; westerly by Lot No. 171 and easterly by the Black River; excepting therefrom that part of Lot No. 34 conveyed to Edward Curran by Rutger B. Miller and wife by deed dated December 2, 1848 and recorded in the Oneida County Clerk's Office March 29, 1864, in Book of Deeds No. 251, page 141; being the same premises conveyed to Morris S. Miller by two certain deeds from Rutger B. Miller, Jr. and wife, one dated August 5, 1876, and recorded November 7, 1876, in Book of Deeds No. 336, page 491, the other dated June __, 1877, recorded June 20, 1877 in Book of Deeds No. 372, page 92.

Also conveys, all that other tract or parcel of land situate in the Town, County and State aforesaid, and known on the map hereinbefore described as the westerly part of Lot No. 30 containing about 40 acres of land and being the same premises conveyed to Morris S. Miller by Mary G. Sicard and Stephen Sicard, her husband, by warranty deed dated April 17, 1878, recorded in the Oneida County Clerk's Office May 3, 1878, in Book of Deeds No. 378, page 468.

Also conveys, all that other tract or parcel of land situate in the Town, County and State aforesaid, being part of Lot No. 30 as shown on a map hereinbefore described and containing about 77¼ acres of land, situate on the west side of the Black River Canal, being the same premises conveyed to Morris S. Miller by John H. Edmonds and Eugenie Edmonds, his wife, by Warranty Deed dated September 18, 1877, and recorded on September 24, 1877, in Book of Deeds No. 373, page 423.

Also conveys, all that tract or parcel of land situate in the Town, County and State aforesaid, being part of Lot No. 35 as shown on a map hereinbefore described, bounded and described as follows:

On the east by the Black River Canal Feeder, on the north by part of Lot No. 34 above described, being the same premises conveyed to Morris S. Miller by Henry S. Miller and Cornelia P. Miller, his wife, by Warranty Deed dated February 11, 1870, recorded on March 8, 1870 in Book of Deeds No. 300, page 158.

Excepting and reserving from the above described premises, all that part thereof taken by the State of New York for the construction of a feeder for the Black River Canal.

Also conveys, all that tract or parcel of land situate in the Town of Boonville, County of Oneida and State of New York, known and distinguished by a survey thereof made by B. Wright in the year 1794 and on a map of said lands filed in the Clerk's Office of Oneida County by being 25 acres in Lot No. 29 on the west side of Black River in Adgate's Western Tract, bounded easterly by the center of the road across said lot; southerly by the southerly line of said Lot No. 29, being

the bounds of land deeded to Peter Schuyler, northerly by a line through the center of the lot parallel with the north and south lines of the lot; and westerly by a line parallel with the west line of the lot, drawn so as to include within the aforesaid bounds twenty-five acres of land.

Also conveys, all that tract or parcel of land, situate in the Town of Boonville, County of Oneida and State of New York, known and distinguished by a survey thereof made by B. Wright in 1795 and on a map of said land filed in the Clerk's Office of the County of Oneida, as being part of Lot No. 35 in Adgate's Western Tract on the west side of the Black River, bounded and described as follows:

Beginning at the northwest corner of said Lot No. 35, and running thence N. 62° E. on the bounds of Lot 34, 48.25 chains; thence S. 42° E. parallel with the west line of said lot, 15.84 chains to the south line of said Lot No. 35; thence S. 62° W. along the south line of the lot, 16.09 chains; thence N. 42° W. in a line parallel with the west line of the lot, 7.92 chains; thence S. 62° W. on a line parallel with the north line of the lot, 32.17 chains to the west line of the lot; thence N. 42° W. on the west line of the lot, 7.94 chains to the place of beginning, containing 50 acres of land, more or less.

Also conveys, all that certain tract or parcel of land situate in the Town of Boonville, Oneida County, New York, known and distinguished as being the "Mill Lot" formerly owned by Rutger B. Miller on the Black River on which on the third day of November, 1860, stood the saw mill then under leased to one Hiram Holman and the dwelling house near said mill. Said lot lies between the Black River Canal Feeder and the Black River and is bounded on the north by Lambert Dauback's lands and on the west bank of the river to the bridge of the public highway, thence on the centre of the highway 35 rods, thence to the west bank of the Mill pond to Morris Miller's land, thence along Morris Miller's land to the highway, thence along the highway to the canal, thence along the canal to the place of beginning and contains about 40 acres be the same more or less, excepting and reserving from the above described premises sufficient banking ground on the said Canal Feeder, for the accommodation of any lands heretofore owned by John H. Edmonds, deceased, on the east side of said river.

Also, all that certain piece or parcel of land situate in the Town of Boonville, Oneida County, New York, known and distinguished by a survey thereof made by B. Wright in the year 1794 and on a map of said land filed in the Clerk's Office of Oneida County by being part of Lot No. 28 on the west side of the Black River in Adgate's Tract, being also known on a map of land made for Henry Neejer and Ward Hunt May 1, 1849, by Mr. Phelps of Boonville, filed in the Oneida County Clerk's Office May 17, 1849, as Subdivision Lot No. 25, containing 30 acres, bounded as follows:

Beginning on the S line of land owned by Neejer and Hunt of Lot No. 28 and N with the line of the canal at sufficient width with the line parallel with the S line of said lot to the E line of said lot to contain 30 acres of land.

Excepting and reserving from the foregoing described premises, that 48.108 acres of land as shown on a "Survey Map, Property of Katharine Schumacher, et al, Town of Boonville, Oneida County, New York" dated July 12, 1978 by LaFave, Huntley, White & McGivern.

Parcel 6

All that tract or parcel of land, situate in the Town of Boonville, County of Oneida and State of New York, known and distinguished by a survey, made by B. Wright in the year 1794, and on a map of said land filed in the Clerk's Office of the County of Oneida by Lot No. 121 and subdivided by John Dunston, according to which subdivision that part of the lot hereby intended to be conveyed is bounded as follows:

Beginning at the center of the turnpike road; running from thence S. 72° W. along a line between Subdivision No. 3 & 4 of said lot, 31 chains & 45 links, to the west line of said lot; thence S. 1 deg. E. along W line of the lot 6 chains 20 lks. to the S.W. corner of the lot, thence N. 72 degs. E. along a line between Subdivision no. 4 & 5, 36 chains & 13 links to the center of the turnpike; thence N. 45 degs. W. along the turnpike 6 chains 35 links to the place of beginning, containing 20 acres of land, more or less.

Also, all that other piece or parcel of land situate in the Town of Boonville, County & State aforesaid, known and distinguished by a survey made by B. Wright in the year 1794 and on a map of said land filed in the Clerk's Office of the County of Oneida by Lot No. 120 Adgate's Western Tract, west side of Black River and subdivided by Cliff French in the year 1823; according to which subdivision, that part of said lot intended to be conveyed is bounded as follows:

Beginning at a stake 10 links from a rock maple cornered and marked 119, 120, 141, 142, from thence N. 89 degs. E. along the north bounds of the Lot No. 142, 23 chains and 34 links to a rock maple; thence N. 12 degs. W. 12 chs. 54 lks. to a beech sapling, cornered, standing on the W. bank of a creek; thence S. 89 degs. W. 20 chs. & 33 lks.; and to a stake in the west line of Lot No. 120; thence S. 1 deg. E. 12 chs. and 50 lks. to the place of beginning, containing 27 acres and 29/100 of an acre of land, more or less.

Also, that other piece or parcel of land, situate in the Town, County and State aforesaid, known and distinguished by a survey made by B. Wright in the year 1795 and on a map of said land filed in the Clerk's Office of the County of Oneida by Lot No. 120; the part here intended to be conveyed is the south part and bounded as follows:

Beginning at the S.E. corner of said lot at a stake 25 lks. N.W. from a rock maple, cornered and marked 120, 121, 142, 143, thence S. 89 degs. W. along a line of marked trees 40 chs. 81 lks. to a stake 10 lks. S.E. cornered and marked 119, 120, 141, 142, thence N. 1 deg. E. along a line of marked trees 12 chs. 20 lks. to a stake; thence N. 89 degs. E. along a line of marked trees 40 chs. and 81 lks. to a stake and stones on the east line of said lot; thence S. 1 deg. E. along a line of marked trees 12 chs. 26 lks. to the place of beginning, containing 50 acres of land more or less.

Excepting and reserving 27 acres and a quarter heretofore sold to James Weaver from the west end of the lot. Reserving also from the above described premises, all that portion of land heretofore deeded to the Black River & Utica R. Road Company.

Also conveys, all that certain piece or parcel of land, situate in the Town of Boonville, County of Oneida and State of New York, described as follows:

About one acre of land in the S.W. corner of Lot No. 102 in Adgate's Patent, said one acre is all of the Lot No. 102 situated on the southwesterly side of the turnpike road to Boonville.

Also, all that certain piece or parcel of land situate in the Town of Boonville, in the County of Oneida being part of Lot No. 121 in Adgate's Patent on the west side of Black River; that part of said Lot No. 21 hereby intended to be conveyed is 5 acres of land more or less situated in the N.W. corner of said lot on the southwesterly side of the turnpike road, and is bounded by the center of the turnpike as described in a certain deed made Oct. 13, 1835 by Abraham Varick and wife to Ezeikiel Kout.

Also conveys, all that certain piece or parcel of land situate, lying and being in the Town of Boonville, County of Oneida and State of New York, known and distinguished by a survey made by Benjamin Wright in the year 1794 and on a map of said land filed in the Clerk's Office of the County of Oneida by Lot No. 101, and bounded as follows:

On the north by Lot No. 85; west by Lot No. 100; south by Lot No. 120; east by Lot No. 102, containing 165 and $\frac{3}{4}$ acres more or less.

Excepting and reserving 20 acres formerly deeded to Lebits Ford, 20 acres formerly deeded to John Taylor and fifty acres formerly deeded to Morgan Phillips. The premises hereby conveyed being the same formerly owned by Luke Fisher.

Also, excepting and reserving out of said Lot No. 101 and about 29 $\frac{60}{100}$ acres of land heretofore conveyed by Garrett P. Baker and wife to George P. Langdon by deed dated Sept. 9, 1868 and rec. April 11, 1870 in Liber 300 of Deeds, pg. 377 in Oneida County Clerk's Office.

Also, excepting and reserving from the above described premises that part thereof deeded April 15, 1915 by John Sampson and Mary Sampson, his wife, to William Stefhon and therein described as follows, viz:

All that tract or parcel of land situate in the Town of Boonville, Oneida County, New York, lying and being in Great Lots Nos. 120 & 121 of Adgate's Western Tract west side of Black River; Beginning in the center of the highway leading from Alder Creek to the Village of Boonville running thence S. 37 degs. E. 6.34 chains to the lands of William Stefhon; thence S. 79 degs. W. along said Stefhon's land 37.45 chs. to the lands of G. Hartman, thence N. 84 degs. W. along said Hartman's land 40.75 chs. to the lands of E. Marcy; thence along said Marcy's land N. 6 degs. E. 12.50 chs. to the lands occupied by Peebles; thence S. 84 degs. E. 40.58 chs. to the corner of stone wall, thence S. 6 degs. W. 5.22 chs. to corner of stone wall thence along the Taylor place (so called) N. 79 degs. E. 30.87 chs. to the place of beginning, containing 70 acres of land, be the same more or less.

Also conveys, all those 52 and 15/100 acres of land being part of Lot No. 121 in Adgate's Patent and on a map of said land filed in the Clerk's Office of said County. That part of said Lot No. 121 intended to be conveyed is bounded as follows:

Beginning at the north boundary of the turnpike road leading from Utica to Leyden, thence running N. 19½ degs. E. 6 chs. and 32 lks. to the north line of said lot a maple stump for a corner, thence N. 89 degs. E. along the north boundary of said Lot 26 chs. and 30 lks. to the northeast corner of Lot No. 121 a stake and stones for a corner; thence S. 1 deg. E. along the east boundary of said lot 23 chs. and 73 lks. to a stake standing a few lks. east of a large rock, thence S. 77½ degs. W. 9 chs. and 50 lks. to the north boundary of the turnpike road, thence N. 45 degs. W. along the north boundary of said turnpike 27 chs. to the place of beginning, containing 52 acres and 15/100 of an acre of land, being the same premises described in a deed from Luke Fisher of Boonville, N.Y. to John Taylor of Boonville, N.Y. dated May 19, 1817 and rec. July 25, 1817 in Oneida County Clerk's Office in Book Y of Deeds at page 447.

Excepting and reserving from above described premises, all that piece or parcel of land, situate, lying and being in Great Lot No. 121, Adgate's Patent, west side of the Black River, Town of Boonville, Oneida County, N.Y., beginning at a point in the center of the highway leading from Alder Creek to the Village of Boonville where the west line of land occupied by Sarah Beatty intersects same, thence N. 38½ degs. W. along the center of said highway 8.39 chs., thence N. 57½ degs. E. along a stone wall 10.60 chs. to another stone wall; thence S. 40¾ degs. E. along the center of said stone wall 11.28 chs. to the end of said wall; thence S. 4 degs. W. 1.40 chs. to center of wall; thence S. 28¼ degs. W. 2 chs. to center of stone wall; thence S. 83 degs. W. along center of said wall 8.60 chs. to place of beginning, containing 14.12 acres of land be the same more or less, as surveyed by C.E. Phelps, Surveyor, April 23, 1915.

Also conveys, all that certain piece or parcel of land situated and lying in the said Town of Boonville, in the County and State aforesaid, being the east subdivision of Lot No. 102 in Adgate's Western Tract, bounded as follows:

Beginning at the northeast corner of said lot a spruce tree marked 102, 122, thence S. 1 deg. E. along the east line of said lot 42 chs. and 10 lks. to a stake 9 lks. S.E. from a rock maple cornered and marked 102, 121, thence S. 89 degs. W. along the south line of said lot, 14 chs. and 87 lks. to a stake 40 lks. N. 10 degs. E. from a birch tree cornered, thence N. 1 deg. W. along a line parallel to the east line, 58 chs. and 80 lks. to a stake and stones, thence S. 42 degs. E. 22 chs. and 50 lks. to the place of beginning, containing 75 acres of land be the same more or less.

Also, all that certain piece or parcel of land lying in the Town of Boonville aforesaid being part of Lot No. 122 in Adgate's Western Tract on the west side of Black River, beginning at a stake standing in the west line of said Lot No. 122, 28 chs. south from the most northerly corner thereof and running from thence N. 45 degs. E. (as the needle now points) 18 chs. 50 lks. to a stake, thence along the east line of said lot S. 40 degs. E. 16 chs. 49 lks. to a stake, thence S. 33 degs. 10' W. 45 chs. to a stake, thence along the W line of said lot N. 2 degs. east 37 chs. 47 lks. to the place of beginning, containing 59 73/100 acres of land being the northerly half of the lot formerly owned by William W. Pritchard.

Also conveys, all that tract or parcel of land situate in the Town of Boonville, Oneida County and State of New York, situated in Adgate's Western Tract, west side of Black River being part of Lots Nos. 102 and 121, beginning in the centre of the Boonville and Utica Plank Road where it is intersected by the west line of Lot No. 102 from thence N. 2 degs. E. as the needle now points 16 chs. and 14 lks. ($16 \frac{14}{100}$) to the centre of Fish Creek so called, from thence S. 89 degs. E. 2 chs. and 87 lks. ($2 \frac{87}{100}$) to a stake from thence N. 2 degs. W. $3\frac{1}{2}$ chs. to a stake from thence S. 89 degs. E. $2 \frac{45}{100}$ chs. to a stake from thence N. 2 degs. E. along a line of marked trees 18 chs. from thence S. 88 degs. $\frac{1}{2}$ E. 18 chs. and 20 lks. to the line of land owned by Robert Farley from thence along said line S. 2 degs. W. 14 chs. and 49 lks. ($42 \frac{49}{100}$) to a stone the southwest corner of said Farley's land from thence N. 89 degs. W. 11 chs. and 44 lks. ($11 \frac{44}{100}$) along the Farley Road to a stake from thence still along Farley Road S. 24 degs. W. 6 chs. and 85 lks. ($6 \frac{85}{100}$) to the centre of the Boonville & Utica Plank Road from thence along the centre of the Plank Road N. 43 degs. W. 15 chs. and 52 lks. ($15 \frac{52}{100}$) to the place of beginning, containing 89 acres and 96 rods ($89 \frac{96}{100}$) acres of land.

Excepting and reserving, all that tract or parcel of land bounded and described as follows, viz:

Being a part of the Robert Farley, Sr. farm situate in the Town of Boonville, Oneida Co., N.Y., beginning at a willow tree in the east line of land owned by John Farley and running from thence S. 3 degs. W. $8 \frac{20}{100}$ chs. along John Farley's line to a stake, thence N. 81 degs. E. $15 \frac{24}{100}$ chs. along I. Taylor's north line to a stake, thence S. 3 degs. W. $31 \frac{50}{100}$ chs. along said Taylor's east line to a stake, thence N. 33 degs. E. $39 \frac{54}{100}$ chs. along the line of land owned by L. Lovell to a stake, thence S. $83\frac{1}{2}$ degs. W. $37 \frac{73}{100}$ chs. to the place of beginning, containing 50 acres of land be the same more or less as surveyed by John Wilson July 19, 1867 and being the same premises conveyed to Sarah J. Beatty by Will of the said Robert Farley, Sr.

Also, excepting and reserving, all that tract or parcel of land situate, lying and being in the Town of Boonville, Oneida County, N.Y., and being a strip of land two rods wide off of the west and north side of lands formerly owned by John Taylor, beginning on the highway leading from Boonville to Utica at the southwest corner of John Farley's land, and running thence northerly along said Farley's east line to the north line of said Taylor's land thence easterly along said Taylor's north line to the west line of land formerly owned by Robert Farley, Sr. and being the same piece of land conveyed by John Taylor and Robert Farley, and used as a private highway by said Farley.

Also, excepting and reserving, all that tract or parcel of land situate in the Town of Boonville, County of Oneida and State of New York, bounded and described as follows:

Beginning at an iron pin driven in the ground at the intersection of what is known as the State Highway and the old Baker Road, at the southwesterly corner of premises now owned by Romeyn Vaughn, running thence northeasterly along the line of the old Baker Road to an iron pin driven in the ground at the corner of the premises owned by said Vaughn and Central N.Y. Fur Co. thence continuing on the same course to the center of what is known as Kent's Creek, thence along the center of said creek to the north line of premises owned by Sarah J. Beatty, a distance of about 64 ft. thence following the said Beatty line to an iron pin driven in the ground

on the bank of said creek, thence westerly along said Beatty's north line to an iron pin driven in the ground at the edge of the State Road, thence continuing westerly on said course to the center of said State Road, thence northwesterly along the center of said State Road to a point opposite the place of beginning, thence easterly on the same course as the line first hereinbefore mentioned to the place of beginning.

It being the intention of first parties to grant and convey all the Old Baker Road where it crosses first parties premises, and also a piece of land adjoining said road to be taken off from first parties premises so as to continue the southerly line of the premises hereby conveyed in a straight line from the iron pin at the edge of said State Highway to the iron pin driven in the ground of the bank of said Kent's Creek.

Excepting and reserving, all that tract or parcel of land situate in the Town of Boonville, in the County of Oneida and State of New York, bounded and described as follows, viz:

Beginning at a willow tree in the east line of land owned by John Farley and running thence South 3 degrees W. 8 $\frac{21}{100}$ chains along John Farley's line to a stake; thence N. 81 degs. E. 15 $\frac{24}{100}$ chs. along J. Taylor's line to a stake; thence S. 3 degs. W. 31 $\frac{50}{100}$ chs. along said Taylor's east line to a stake; thence N. 33 degs. E. 39 $\frac{54}{100}$ chains along the line of land owned by L. Lovel to a stake; thence S. 83 $\frac{1}{2}$ degs. W. 37 $\frac{73}{100}$ chains to the place of beginning, containing 50 acres of land more or less as surveyed by J. Wilson July 19, 1867.

Also conveys, all that other piece of land situate as the above and described as follows, viz:

Being a strip of land two rods wide off the west and north side of land formerly owned by John Taylor; beginning on the highway leading from Boonville to Utica at the southwest corner of John Farley's land and running from thence northerly along said Farley's east line to the north line of said Taylor's land; thence easterly along said Taylor's north line to the west line of lands formerly owned by R. Farley.

Excepting and reserving to the grantor herein, its successors and assigns, all that piece or parcel of land situate in the Town of Boonville, County of Oneida, State of New York, in Lot 102 Adgate's Patent west of the Black River, bounded and described as follows:

Beginning at a 4" square top State Highway granite monument located in the northeasterly bounds of State Highway #12, 106.4 ft. from the center line thereof; and located 24.75 ft. southerly from the center line of the Baker Road, abandoned, this latter center line being the presumed westerly line of Lot 102, Adgate's Patent west of the Black River; running thence N. 8° 8' E. (as the compass pointed June 14, 1966) along the easterly bounds of said Baker Road 335.6 ft. to an iron pipe driven into the ground; thence S. 40° E. along land now belonging to Ebony-White Sales, Inc., 471 ft. to an iron pipe driven into the ground; thence S. 50° W. along land now belonging to said Ebony-White Sales 250 ft. to a similar State Highway granite monument; thence N. 40° W. along the northeasterly bounds of said State Highway 247.2 ft. to the place of beginning; containing 2 $\frac{5}{100}$ acres of land, be the same \pm as surveyed by Tharratt G. Best, Professional Land Surveyor, State License #1767.

EXCEPTING AND RESERVING, all that piece or parcel of real property lying and being part of Great Lot 121 of Adgate's Western Patent, Town of Boonville, County of Oneida and State of New York and bounded and described as follows:

Beginning at a point on the northeasterly bounds of New York State Route No. 12 at its intersection with the division line between the lands of John and Verna L.B. Kimsky on the southeast and the lands of Millers Wood Development Corp. on the northwest; thence along the northeasterly bounds of New York State Route No. 12, N. 36° 55' 19" W., 4.53 feet to a highway monument found; thence continuing N. 36° 55' 19" W., 495.47 feet to a rebar set; thence N. 54° 32' 20" E., 610.04 feet to a point; thence S. 36° 55' 19" E., 500.00 feet to a point; thence to and along the division line between the lands of John and Verna L.B. Kimsky on the southeast and the lands of Millers Wood Development Corp. on the northwest, a stone wall and tree line S. 54° 32' 20" W., 610.04 feet to the point of beginning containing 7.000 acres of land.

Excepting and reserving from the above described and conveyed parcels of land three fee title appropriations on and along N.Y. State Route 12, a/k/a The Alder Creek-Lewis County Line State Highway, as evidenced by certain Notices of Appropriation made by the New York State Department of Public Works (Bureau of Rights of Way and Claims) as more particularly described as follows:

- 1) Notice of Appropriation given to Romeyn Vaughn and Bessie Vaughn, et. al., dated October 14, 1959 and recorded in the Oneida County Clerk's Office on October 26, 1959 in Book 1638 of Deeds at page 271.
- 2) Notice of Appropriation given to Robert P. Nelson and Anna Nelson, et. al., as evidenced by a Certain Notice of Appropriation, dated March 17, 1959 and recorded in the Oneida County Clerk's Office on July 6, 1959 in Book 1625 of Deeds at page 164.
- 3) Notice of Appropriation given to Charles J. Zeigler and Fred H. Reams, et. al., as evidenced by a certain Notice of Appropriation, dated July 7, 1959 and recorded in the Oneida County Clerk's Office on July 7, 1959 in Book 1628 of Deeds at page 23.

EXHIBIT B

EQUIPMENT

All fixtures, building materials and items of personal property acquired, renovated and installed and/or to be acquired, renovated and installed in connection with the completion of the Alder Creek Beverages, LLC Facility located in the Town of Boonville, Oneida County, New York, excluding however all existing machinery and equipment used in the production, bottling and packaging of bottled water.

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.

"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 Leaseback Agreement, the PILOT Agreement, the PILOT Escrow Agreement and the 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, Wade M. Abraham; 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 or (ii) the Company by a manager.

"Authorizing Resolution" means the resolution adopted by the Agency on the 15th day of July 2017 authorizing the execution and delivery of the Agency Documents as such resolution may be amended and supplemented from time to time.

"Bank" shall mean Adirondack Bank, a New York banking corporation, with offices at 185 Genesee Street, Utica, New York 13501, and its successors and assigns.

"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 Leaseback Agreement.

"Company" means Alder Creek Beverages, LLC, a New York limited liability company with an address of Box 212, One Nirvana Plaza, Forestport, New York 13338, and its successors and assigns.

"Company Documents" means the Lease Agreement, the Leaseback Agreement, the PILOT Agreement, the PILOT Escrow Agreement, the Environmental Compliance and Indemnification Agreement and the Job Creation Agreement.

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

"Environmental Compliance and Indemnification Agreement" means the Environmental Compliance and Indemnification Agreement dated as of February 1, 2017 between the Company and the Agency, 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 renovation and equipping of the Facility as described in Exhibit B to the Leaseback Agreement, excluding however all existing equipment used in the production, bottling, and packaging of bottled water.

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

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

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

"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 all those buildings, improvements, structures and other related facilities (i) affixed or attached to 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 February 1, 2017 by the Company for the benefit of the Agency, as the same may be amended from time to time.

"Land" means the property leased by the Agency to the Company pursuant to the Leaseback Agreement and more particularly described in Exhibit A attached thereto.

"Lease Agreement" means the Lease Agreement dated as of February 1, 2017 by and between the Company, as lessor, and the Agency, as lessee, with respect to the Facility, as the same may be amended from time to time.

"Lease Term" means the duration of the leasehold estate created in the Lease Agreement as specified in Section 3 of the Lease Agreement and shall be coterminous with the term of the Leaseback Agreement.

"Leaseback Agreement" means the Leaseback Agreement dated as of February 1, 2017 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.

"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 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, (v) the Mortgage and (vi) 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 February 1, 2017 between the Company and the Agency, as amended from time to time.

"PILOT Escrow Agreement" means the PILOT Payment Escrow Account Agreement dated February __, 2017 by and among the Agency, the Company and the Bank, as amended from time to time.

"Plans and Specifications" means the plans and specifications for the Improvements, prepared for the Company and approved by the Agency, as revised from time to time in accordance with the Leaseback Agreement.

"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.

"Renovation Period" means the period (a) beginning on the earlier of (i) the date of commencement of renovation and equipping of the Facility, which date shall not be prior to May 20, 2016, or (ii) the Closing Date and (b) ending on the Completion Date.

"Schedule of Definitions" means the words and terms set forth in this Schedule of Definitions attached to the Leaseback Agreement, as the same may be 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(a) and (b), 3.4, 3.7, 5.2, 5.8, 7.2, 7.4 and 8.2 of the Leaseback Agreement.